STATE OF NEW YORK

2939--A

2019-2020 Regular Sessions

IN SENATE

January 30, 2019

Introduced by Sens. SERRANO, BAILEY, KAVANAGH, SANDERS, SAVINO, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to establishing the education equity act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "education equity act".

§ 2. The education law is amended by adding a new article 67 to read as follows:

ARTICLE 67

EDUCATION EQUITY ACT

Section 3330. Definitions.

3331. School-based language assistance plans.

3332. Determination of primary language.

3333. Interpretation services required.

3334. Translation services required.

3335. Notice to parents and guardians.

3336. Certification of translation.

3337. Department of education website.

3338. Reporting.

3339. General provisions.

§ 3330. Definitions. Wherever used in this article, the following terms shall have the respective meanings hereinafter set forth or indicated:

1. Covered languages. The term "covered languages" means two of the most commonly spoken languages, other than English, being spoken by at

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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least two percent, rounded to the nearest percentile, of the population in a school district within a city, village or town having a population of less than one hundred twenty-five thousand inhabitants, two of the most commonly spoken languages, other than English, being spoken by at least two percent, rounded to the nearest percentile, of the population in a school district within a city having a population of one hundred twenty-five thousand inhabitants or more, eight of the most commonly spoken languages, other than English, being spoken in a community district, as defined in article fifty-two-A of this chapter, within a city having a population of one million or more inhabitants. Such information shall be reported by a source deemed reliable by the local department of education, except that in a city having a population of one million or more inhabitants, such information shall be deemed reliable by the New York city department of city planning or such other city agency as the New York city department of education deems a reliable source of such information.

2. Primary language. The term "primary language" means the primary language spoken by a student's parents or guardians, as expressed to the department by such parents or guardians.

3. School district. The term "school district" means each school district within the state of New York including those within a city having a population of one hundred twenty-five thousand or more inhabitants and each community district of the city district, as defined in article fifty-two-A of this chapter. School district further means the office or agency designated by the school district to administer the program set forth in this article.

4. School. The term "school" means any public school within the jurisdiction of any school district as defined in subdivision three of this section.

5. Translation. The term "translation" means the act of communication between speakers of two or more covered languages wherein the written words of one person are communicated to others in writing in a different language.

§ 3331. School-based language assistance plans. Each school district shall annually prepare a language assistance plan which shall contain, at a minimum, an assessment of the language assistance needs of the school district, the ability of the school district to fulfill such needs and the resources required for the school district to fulfill such needs. Each school district shall collect and review such language assistance plans at a date sufficiently early in each fiscal year to be able to consider the contents of such plans in formulating school-based budgets for the coming fiscal year.

§ 3332. Determination of primary language. Each school district shall determine, upon enrollment or within thirty days of enrollment, the primary language spoken by the parents or guardians of each student enrolled in a public school within such district and whether, if such language is not English, such parent or guardian requires language assistance services in order to communicate effectively with the school district.

§ 3333. Interpretation services required. 1. Each school district shall ensure that during regular business hours a sufficient number of individuals are available by telephone to provide interpretation services in each of the covered languages to meet the expected needs of parents or guardians who seek to communicate with their child's school. Where resources allow, such services shall also be available through staff members who shall be present at schools, regional or other depart-

mental offices, and other locations where parents and guardians may interact with the school district, but may be provided at such locations by telephone in the event that a person fluent in the necessary covered language is not available at such location.

2. For cities having a population of one million or more inhabitants, the department shall provide interpretation services at meetings of the panel for educational policy events at which four hundred or more persons are expected to attend and meetings or events at which the department reasonably believes that ten percent or more of the persons expected to attend speak primary languages that are covered languages other than English. Such interpretation services shall be provided in whichever of the covered languages the department expects will be spoken as the primary language of the persons attending such meeting or event.

§ 3334. Translation services required. 1. Each school district shall translate the following documents into each of the covered languages and disseminate such documents to each public school within such district for dissemination to parents and guardians in whichever of the covered languages, if any, is their primary language, as determined by such district pursuant to section thirty-three hundred thirty-two of this article:

a. The standardized text on report cards and permission slips; and

b. Documents disseminated to one thousand or more parents or guardians that require a parent or guardian to respond to the department, or that require a parent or guardian to take an action in order to obtain or preserve a right or benefit with respect to their child's education, or that provide notification of an upcoming event that concerns their child's education.

2. With respect to any document that the school district produces for distribution to all or substantially all parents and guardians of students in such school district and that it does not distribute to all parents or guardians in the primary language of such parents or guardians, as determined by the school district pursuant to section thirty-three hundred thirty-two of this article, and which document concerns discipline or students' health, safety, right to attend school or any other legal right granted to students or to the parents or guardians by local, city, state or federal law, the school district shall provide either a cover letter or a statement on the face of such document, indicating in each covered language how to obtain a free translation or interpretation of such document from the school district.

3. With respect to any document not prepared for broad distribution that concerns an individual student's health, safety, legal or disciplinary matter, right to continue to receive public education or placement in any special education, English language learner or non-standard academic program the school district shall, if not required to do otherwise by state or federal law, rule or regulation, provide such student's parents or guardians whose primary language is a covered language other than English with a translation of such document into the appropriate covered language, or shall provide either a cover letter or a statement on the face of the document, indicating in the appropriate covered language how to obtain a free translation or interpretation of such document from the school district.

4. Each school district shall provide a mechanism by which its public school employees can fax documents of a reasonable length to a person or service and receive back a translation of such documents in accordance with the sender's instructions. Such mechanism shall be designed such that, under ordinary circumstances, a principal or teacher can obtain a

translation of a single-page note or letter within twenty-four hours or by the conclusion of the next business day, whichever is later.

§ 3335. Notice to parents and guardians. 1. Each school district shall prepare in each of the covered languages a short, concise document setting forth the rights of parents and guardians with respect to translation and interpretation services as required by this article and by any other applicable law, rule or regulation, and explaining how to obtain such services. Such document shall be provided, in the appropriate covered language, if any, to each parent or guardian who, as determined by the local school district pursuant to section thirty-three hundred thirty-two of this article, requires language assistance services. Copies of such document in each covered language shall be placed in each public school or office to which the public has access in sufficient quantity that it can be provided to any member of the public who enters such school or office and requires language assistance services.

2. A sign written in each of the covered languages shall be displayed in a conspicuous location in each public school, school district office or other departmental office building to which the public has access, indicating the availability and location in such school or building of the document required pursuant to subdivision one of this section.

3. In the event that the school district determines that ten percent or more of the parents or guardians of the students attending any individual school speak a primary language that is not a covered language, then at such individual school, the document and sign required by this section shall be prepared and made available at such school in such other language in addition to the covered languages.

§ 3336. Certification of translation. In the school district's discretion, it may satisfy the translation requirements of this article with respect to any document concerning a student's education that must be completed with information provided by a parent or guardian whose primary language, as determined by the school district pursuant to section thirty-three hundred thirty-two of this article, is not the language in which the document is printed, if such document is completed by either a parent or guardian or by a school district employee, and signed by the parent or guardian, provided that such school district employee certifies on the face of such document or upon an attached document, in such form and manner as determined by the school district, that such employee provided or secured interpretation or translation services for each parent or guardian signing the document, the employee believes that each such person understood the purpose of the document and the information being provided in the document and conveyed in the interpretation or translation and each such person received a copy of such document and such certification.

§ 3337. Department of education website. The department shall create a special website which shall contain, on its homepage and on such other web pages as the department shall determine is appropriate, information in each of the covered languages sufficient to direct any user whose primary language is a covered language other than English to a resource on the department's website that contains an explanation of the rights of parents and guardians to translation and interpretation services as required by this article and by any other applicable law, rule or regulation, and explaining how to obtain such services.

§ 3338. Reporting. 1. Except as provided in subdivision two of this section, each school district shall report annually to the local board of education on or before the first day of December of each year, begin-

ning in December, two thousand twenty-one, the number of parents or guardians who had children in the public school system during the immediately preceding school year whose primary language, as determined pursuant to section thirty-three hundred thirty-two of this article, was not English, and, for each covered language other than English, the number of such parents and guardians speaking such language.

2. In cities having a population of one million or more inhabitants, each community district shall report to the city council of the city of New York on or before the first day of December of each year, beginning in December, two thousand twenty-one, the number of parents or guardians who had children in the New York city public school system during the immediately preceding school year whose primary language, as determined pursuant to section thirty-three hundred thirty-two of this article, was not English, and, of each covered language other than English, the number of such parents and guardians speaking such language.

3. Such report shall also state, with respect to such reporting period:

a. Number of distinct documents that the school district translated into the covered languages and the general nature of such documents;

b. Number of meetings at which the school district provided interpretation services and the languages for which it provided such services;

c. Annual budget for language assistance services;

d. Number of employees whose primary job function is to provide such language assistance services; and

e. Number of times interpretation services were provided by telephone, and the languages in which such services were provided.

§ 3339. General provisions. Nothing in this article shall:

1. Preclude a parent or guardian from having an adult volunteer, a relative sixteen years of age or older, a spouse or a domestic partner provide translation or interpretation services for such individual.

2. Be construed as preventing the school district from complying with any provision of state or federal law concerning translation or interpretation.

3. Be construed as prohibiting the school district from exceeding the mandates of this article, from relying upon the resources of other city, state or federal agencies, or from translating documents into, or providing interpretation services in, languages other than the covered languages.

4. Be construed as prohibiting the school district from utilizing BOCES as a designated agency to administer the program set forth in this article or as a source of financial aid for such program.

5. Require the school district to translate documents or provide interpretation for matters that do not concern a student's education, or that are prolix or are unintelligible.

6. Require the school district to translate or interpret legal documents not otherwise required to be translated by this chapter, including, but not limited to, legal documents generated by or for use in a proceeding not held by the school district, except to provide upon request a general explanation of the nature of such documents if such documents concern the public education of the parent's or guardian's child.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section

or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein provided it does not materially alter the effect of this legislation.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.