

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require the Office of the State Superintendent of Education, the Deputy Mayor for Education and each local education agency to partner with Office of Human Rights the to provide training for staff, teachers, and counselors; require the Office of the State Superintendent of Education, and each local education agency to have at least one English as a Second Language certified member on staff if the percentage of English language learners is ten percent or higher; require that contracts for materials for teachers, students, and parents that the Office of the State Superintendent of Education, the Deputy Mayor for Education, or each local education agency enter into must be published in the top five spoken languages; amend the Language Access Act of 2004 to include the Executive Office of the Mayor, the District of Columbia Council, and any local education agency; require that all covered entities annually publicize the list of oral language services provided; require that covered entities designate a full-time equivalent whose primary role is language access coordinator; provide persons with limited or no-English proficiency adequate relief for the denial of oral or written language services by the District government; and create a civil penalty fund to advance the development of the District as accessible to persons with limited or no-English proficiency.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this bill may be cited as the “Language Access for Education Amendment Act of 2015.”

Sec. 2. Language access for students

“(a) Each local education agency shall have an English as a second language (ESL) certified member on staff if the percentage of students who are English language learners is more than 10% of the total student population.

39           “(b) The Office of State Superintendent of Education, the Deputy Mayor for Education,  
40 and each local education agency must consult with the Office of Human Rights to provide  
41 training for front office staff and support staff, teachers, and counselors at each local education  
42 agency for instruction on how to use the Language Access Line; how to work with interpreters;  
43 best practices for interacting and integrating English language learning students and their  
44 families; and how to assist with school lottery websites.

45           “(c) All request for proposals and contracts that the Office of State Superintendent of  
46 Education, the Deputy Mayor for Education, and each local education agency enter into with  
47 vendors who produce materials for dissemination to teachers, parents, and children must include  
48 language in the contract that specifies that all materials to be published in print or online must  
49 include translation of languages pursuant to § 2-1933(a).

50           Sec. 3. The Language Access Act of 2004, effective April 20, 2004 (D.C. Law 15-167;  
51 D.C. Official Code § 2-1931 et seq.) is amended as follows:

52           (a) Section 2(3)(B) (D.C. Official Code § 2-1931(3)(B)) is amended as follows:

53                   (1) Sub-subparagraph (xxv) is amended by striking the word “and”.

54                   (2) Sub-subparagraph (xxvi) is amended by striking the period and  
55 inserting the phrase “; and” in its place.

56                   (3) New sub-subparagraphs are added to read as follows:

57                           “(xxvii) The Executive Office of the Mayor;

58                           “(xxviii) The Council; and

59                           “(xxviii) Each local education agency.

60           (b) Section 2(c)(1) (D.C. Official Code Section § 2-1932(c)(1)) is amended to  
61 add:

62           “(G) Through cooperation with the Office of Human Rights all covered entities shall  
63 annually make public and post the list of oral language services provided.

64           (c) Section 2(b) (D.C. Official Code § 2-1934(b)) is amended to read as follows:

65           “(b) A covered entity with major public contact shall dedicate a full time equivalent  
66 whose primary role is the designated language access coordinator who shall report directly to the  
67 director of the entity.”

68           Sec. 4. Private cause of action

69           “(a) Any person suffering a legal wrong, or adversely affected or aggrieved by a finding  
70 of the Office of Human Rights in a language access complaint pursuant to D.C. Official Code  
71 D.C. Law 15-167, §6, § 2-1935(b)(2) is entitled to judicial review thereof in the Office of  
72 Administrative Hearings.

73           “(1) Any person claiming to be aggrieved by a violation of the D.C. Language  
74 Access Act of 2004 shall have a cause of action in any court of competent jurisdiction for  
75 damages and other appropriate remedies, unless such person has filed a complaint with the  
76 Office of Human Rights, in accordance with § 2-1935(b)(2); provided, that where the Office has  
77 dismissed or where the complainant has withdrawn such complaint before the Office has made a  
78 finding regarding compliance, such person shall maintain all rights to bring suit as if no  
79 complaint had been filed.

80           “(2) No person who maintains, in a court of competent jurisdiction, any action  
81 based upon an act or failure to act which would be a violation of the D.C. Language Access Act  
82 of 2004 may file the same complaint with the Office.

83           “(3) A private cause of action pursuant to this chapter shall be filed in a court of

84 competent jurisdiction within one year of the violation of the D.C. Language Access Act of  
85 2004, or the discovery thereof.

86 “(4) A timely filed complaint with the Office shall stop the running of the  
87 statute of limitations while the complaint is pending.

88 “(5) The court may grant any relief it deems appropriate, including, but not  
89 limited to:

90 “(A) Issuing temporary restraining orders and preliminary injunctions  
91 against the respondent; and

92 “(B) Requiring the respondent to take affirmative action, including,  
93 but not limited to:

94 “(i) An order enjoining such acts or failure to act that that violated  
95 the D.C. Language Access Act of 2004;

96 “(ii) The payment of compensatory damages, both monetary and  
97 in-kind, to the person aggrieved by the violation; and

98 “(iii) The payment of court costs and reasonable attorney fees.”

99 Sec. 5. Language access education and awareness fund.

100 “(a) There is established as a special fund the Language Access Education and  
101 Awareness Fund (“Fund”), which shall be administered by the Office of Human Rights in  
102 accordance with subsections (c) and (d) of this section

103 “(b) Revenue from the following sources shall be deposited into the Fund:

104 “(1) When a covered entity is found by the Office of Human Rights to have  
105 violated or any rules promulgated under the Language Access Act shall be subject to a civil  
106 money penalty of not more than five hundred dollars per pay period for each violation, which is

107 rendered with due consideration for the penalty amount in terms of the size of the covered  
108 entities' business, the gravity of the violation, the good faith of the covered entity, and the  
109 history of previous violations.

110 “(c) Money in the Fund shall be used for the following purposes:

111 “(1) For technical assistance with increasing the Office of Human Right’s  
112 capacity for monitoring language access education for covered entities; and

113 “(2) For the publication and circulation of language access materials relating to  
114 educating the public about their rights under the law.

115 “(d) Money in the Fund may not be used for the following purposes:

116 “(1) General operations for the Office of Human Rights that are already allocated  
117 from the General Fund.

118 “(e) The money deposited in the Fund, and interest earned, shall not revert to the  
119 unrestricted fund balance of the General Fund of the District of Columbia at the end of the fiscal  
120 year, or any other time.

121 “(1) Subject to authorization in an approved budget and financial plan, any funds  
122 appropriated in the Fund shall be continually available without regard to fiscal year limitation.

### 123 Sec. 6. Fiscal Impact Statement

124 The Council adopts the fiscal impact statement in the committee report as the fiscal  
125 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,  
126 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)), and  
127 publication in the District of Columbia Register.

### 128 Sec. 7. Effective Date

129           This act shall take effect following approval by the Mayor (or in the event of veto by the  
130 Mayor, action by the Council to override the veto) a 30-day period of Congressional review as  
131 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
132 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
133 Columbia Register.