

# HOUSE BILL REPORT

## ESHB 1130

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### As Passed Legislature

**Title:** An act relating to language access in public schools.

**Brief Description:** Addressing language access in public schools.

**Sponsors:** House Committee on Education (originally sponsored by Representatives Orwall, McCaslin, Pollet, Ryu, Lovick, Stanford and Valdez).

#### **Brief History:**

##### **Committee Activity:**

Education: 2/14/19, 2/19/19 [DPS].

##### **Floor Activity:**

Passed House: 3/4/19, 97-0.

Senate Amended.

Passed Senate: 4/12/19, 47-0.

House Concurred.

Passed House: 4/18/19, 95-0.

Passed Legislature.

#### **Brief Summary of Engrossed Substitute Bill**

- Directs the Office of the Superintendent of Public Instruction and the Office of the Education Ombuds to jointly convene a work group to improve meaningful, equitable access for public school students and their family members who have language access barriers, and report findings and recommendations to the Legislature by October 1, 2020, subject to state funding.
- Requires school districts to document the preferred language of families of special education students and whether a qualified interpreter was provided at certain meetings.

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### HOUSE COMMITTEE ON EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 19 members: Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz,

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Assistant Ranking Minority Member; Bergquist, Caldier, Callan, Corry, Harris, Kilduff, Kraft, Ortiz-Self, Rude, Stonier, Thai, Valdez and Ybarra.

**Staff:** Megan Wargacki (786-7194).

**Background:**

Limited English Proficiency. Limited English proficiency (LEP) is the limited ability to read, speak, write, or understand English by those for whom English is not their primary language.

Civil Rights Laws. Federal and state civil rights laws prohibit discrimination based on national origin, and based on the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, among other things. Public schools must provide aids and services needed to communicate effectively with people who have hearing, vision, or speech disabilities. Courts have held that failure to provide meaningful access to a person with LEP constitutes national origin discrimination. Under state and federal laws, parents of students have the right to information about their children's education in a language and format that they can understand and at no cost to themselves.

Language Access Plan and Resources. In 2015 the Washington State School Directors Association was directed to create a model policy and procedure for language access by parents with LEP. The model policy and procedures must at a minimum address:

- guidance and procedures for timely and accurate identification of parents with LEP and their language access needs;
- a recommended process and procedures for when and how to access an interpreter;
- a prohibition on the use of students or children as interpreters for school-related communications;
- procedures to ensure appropriate staff are aware of the parents' need for language assistance, and when and how to access an interpreter or translation services in a timely manner; and
- a process for communicating with parents about their right to be provided with accessible information that allows them to make informed choices regarding their child's education and how to access the resources and services available to them.

Also in 2015, the Office of the Superintendent of Public Instruction (OSPI) was directed to work with stakeholders to develop sample materials for school districts to disseminate to both staff and parents regarding parents' rights under the model policy and the resources available to assist parents in accessing the services available to them; adopt rules regarding school districts' communication of the language access policy and procedure to parents, students, staff, and volunteers; and publish on the OSPI's website a listing of language access services providers available to school districts.

Interpretation and Translation Services. The Department of Enterprise Services has a contract for written translation and oral interpretation that public schools and school districts can arrange to use. The OSPI provides guidance to public schools and school districts on

using interpretation and translation services. This guidance includes the following suggestions:

- An interpreter should be offered whenever requested by a student's parent or when a staff member anticipates an interpreter might be needed to meaningfully communicate with the parent about their child.
- Only competent interpreters who are fluent in English and in the parent's language should be used; students or children should not be used as interpreters. Interpreters should understand any terms or concepts that will be used during the meeting, and should, without bias, communicate everything said during the conversation.
- All important documents should be translated into the most common languages spoken in each school. If a small number of students' parents require important information in a language other than English, the important information can be provided via oral interpretation of the documents.
- Automated, machine translation is only appropriate if the translated document accurately conveys the meaning of the document. To ensure that the information has been accurately translated, machine translations should be reviewed, and edited as needed, by a qualified translator.

The OSPI generally translates materials developed for parents into the top 10 most common languages in Washington. The OSPI also translates sample forms and resources that public schools and school districts provide to parents.

Interpreter Standards and Training Programs. There are no minimum standards or training requirements specified in law for foreign language interpreters working in educational settings.

*Sign Language Interpreters.* The Professional Educator Standards Board is required to adopt standards for school district employees who provide sign language interpretation for students who are deaf, deaf-blind, or hard of hearing; and to establish a minimum performance standard for each sign language interpreter assessment.

*Foreign Language Education Interpreter Training Program Report.* In 2015 the Governor's Office of the Education Ombuds (OEO) submitted a report to the Legislature with the results of a feasibility study for developing a state foreign language education interpreter training program. This program would create a pool of trained interpreters who would provide services for public schools to communicate effectively with parents with LEP. The study includes data relating to the current need for interpreters, information from school districts and community members regarding current practices in the provision of foreign language interpreters, an inventory of interpreter training programs and community resources in Washington, and an overview of applicable federal and state laws.

Technical Assistance, Monitoring Activities, and Complaint Resolution. The OSPI's Equity and Civil Rights Office (Equity Office) provides technical assistance, training, and resources on language access. The Equity Office also provides information for students and their parents about their rights and has resources translated into multiple languages.

The Equity Office also performs periodic reviews of public schools' and school districts' compliance with state and federal civil rights laws. The Equity Office looks for sufficient

evidence of a description of the process: (1) used to identify parents with LEP, including use of a home language survey or questions about home language on student enrollment forms; (2) used to ensure that interpreters and translators are qualified and competent; and (3) used to ensure that interpretation and translation services are provided to communicate important information with parents with LEP.

Students or their parents may file a complaint of discrimination, including complaints of inadequate language access assistance, to their public school, school district, or a number of state and federal agencies, such as the Equity Office, the OEO, or the federal Office for Civil Rights.

### **Summary of Engrossed Substitute Bill:**

Subject to state funding, the Office of the Superintendent of Public Instruction (OSPI) and the Office of the Education Ombuds (OEO) must jointly convene a work group to improve meaningful, equitable access for public school students and their family members who have language access barriers. The work group must advise the OSPI and the Washington State School Directors' Association (WSSDA) on the following topics:

- the elements of an effective language access program for systemic family engagement and a plan for the implementation of this program;
- the components of a technical assistance program for language access and a plan for the implementation of this program;
- the development and sharing of a tool kit to help public schools assess the language needs of their communities and develop, implement, and evaluate their language access plans and language services;
- the development and sharing of educational terminology glossaries that improve all families' access to the public school system; and
- the development and sharing of best practices or strategies for improving meaningful, equitable access for public school students and their family members who have language access barriers, including effective use of interpreters and when to provide translated documents in other formats.

The work group must develop recommendations for practices and policies that should be adopted at the state or local level to improve meaningful, equitable access for public school students and their family members who have language access barriers, including recommendations on the following topics:

- standards for interpreters working in education settings, including familiarity with legal concepts related to, and service requirements of federal special education laws;
- development and assessment of interpreters' knowledge of education terminology;
- the feasibility and cost-effectiveness of adapting another state agency's interpreter program to test, train, or both, interpreters for educational purposes;
- updates to the WSSDA's model language access policy;
- use of remote interpreter services including, the conditions under which remote interpreter services may be used to provide high quality interpreter services; and
- data collection and use necessary to create and improve state and local language access programs.

Up to 25 work group members must be selected who: (a) are geographically diverse and represent people with a variety of language access barriers; and (b) represent the Educational Opportunity Gap Oversight and Accountability Committee; the state School for the Blind; the Childhood Center for Deafness and Hearing Loss; the Special Education Advisory Council at the OSPI; the WSSDA; a state association of teachers; a state association of principals; a state association of parents; the state commissions on African-American Affairs, Asian Pacific American Affairs, and Hispanic Affairs; the Governor's Office of Indian Affairs; interpreters working in education settings; interpreter unions; families with language access barriers; and community-based organizations supporting families with language access barriers.

The OSPI and the OEO must provide staff support to the work group. The work group may form subcommittees and consult with necessary experts.

By October 1, 2020, the work group must report its findings and recommendations to the Legislature.

School districts must document the preferred language of families of special education students and whether a qualified interpreter was provided at any planning meeting related to a student's individualized education program or section 504 plan or meetings related to school discipline and truancy. "Qualified interpreter" means someone who is able to interpret effectively, accurately, and impartially, both receptively and expressively using any necessary specialized vocabulary.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) One of the ways we can support students is by welcoming their families to participate in the educational process. Best practices need to be shared with school districts that are struggling to ensure that all families are welcome and to use qualified interpreters and translation. There is a lot of special language in education that needs to be part of the knowledge of interpreters. Students should not be interpreting for their families.

This bill is in response to concerns that multicultural families have expressed over the years. The bill is a collaboration of multiple agencies, community advocates, and diverse families. Many families are having difficulties expressing their concerns about and for providing support for the bill because they have barriers to civic engagement. Each electronic mail and phone call in support of the bill represents the voices of many other families who were unable to express support.

With over 200 different language spoken in the state by students, it is past time to figure out an effective way to provide interpretation systems for the public schools. It may be as simple

as accessing an online or telephone interpreter. A parent is the first educator and best advocate for their child, but if no one at a school speaks the parent's language, then the parent cannot advocate for their child. Interpreters need to have academic vocabulary, so that they understand educational needs and can correctly translate for students and families with limited English proficiency (LEP).

There are many bilingual educators and they are often called away from their classrooms to provide interpreter services. These interpretation duties sometimes go late into the night because that is when the students' families are available for the meetings. By providing dedicated interpreters, these bilingual educators could stay in their classrooms with their students and the families who need interpretation can receive it from qualified interpreters.

Existing civil rights laws require school districts to provide meaningful access to families with LEP. The new technical assistance program and resources proposed in the bill will help school districts make systemic changes to improve access for families with LEP because it emphasizes the need to implement systemic family engagement strategies, which is a foundational step toward addressing language access issues in schools. There are serious communication barriers for families with LEP, and families who are deaf, deaf-blind, or hard of hearing. The Consolidated Program Reviews performed by the Office of the Superintendent of Public Instruction every five years are not enough to ensure compliance with state and federal laws.

The test of interpreting skills in the simultaneous and consecutive modes is expensive to design, maintain, and grade. The good news is that the Department of Social and Health Services (DSHS) and the Administrative Office of the Courts (AOC) have been doing it for 30 years in a wide range of languages. What is lacking is training and testing in education terminology, protocols, and processes. This could be done in a multiple-choice format.

This bill requires the state to go through a private entity to design a curriculum and maybe a test. In other states, nonprofit organizations create state approved trainings and tests that are copyrighted by nonprofit organizations, which then charges interpreters hundreds of dollars for training and to administer the test. In contrast, the DSHS charges applicants \$75 for a written and oral exam, and six hours of mandatory orientation. The AOC charges \$375 for the test, and 16 hours of mandatory orientation.

The work group is too big, but it should have more interpreters.

About half of school districts have adopted the Washington State School Directors' Association's model language access policy. Even for those districts that have adopted the model, full implementation of the recommended policies and practices continues to be a struggle. It is the students and their families that continue to be negatively impacted.

(Opposed) None.

**Persons Testifying:** Representative Orwall, prime sponsor; Lucinda Young, Washington Education Association; Sara Albertson, Office of the Superintendent of Public Instruction; Milena Calderair-Waldron, Interpreters United Local 1671 and Seattle American Federation

of State, County and Municipal Employees Council 28; Joy Sebe and Ky Ly, Open Doors for Multicultural Families; and Jennifer Cole, Washington State Coalition for Language Access.

**Persons Signed In To Testify But Not Testifying:** None.