



**Testimony of
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AS PREPARED FOR DELIVERY

**Hearing on Language Access for Education Amendment Act
DC Council Committee on Education
David Grosso, Committee on Education, Chairman**

**July 1, 2015
11 a.m., Wilson Building Room 123**

Good morning, and thank you for the opportunity to testify today on the Language Access for Education Amendment Act. We share the commitment of this Committee to ensuring that all public schools in the District effectively serve English Language Learners,

and are welcoming places to all students and families, regardless of the language they speak at home. However, several of the proposed amendments to the Language Access Act cross over into the domain of classroom instruction and blur the lines of responsibility for oversight.

I'd like to start by framing this discussion within the two domains of compliance as we see them and identifying the entities with oversight responsibility:

1. Compliance with the Language Access Act of 2004
2. Compliance with federal education requirements for serving English Language Learner (ELL) students

The purpose of the Language Access Act is to provide greater access and participation in public services, programs, and activities for residents of the District of Columbia with limited or no-English proficiency. The focus is on business transactions with District government agencies and dissemination of information by District

Government agencies. Implementation of the law happens primarily through translation of documents and interpretation for constituents. Oversight is the responsibility of the Office of Human Rights (OHR).

Federal education requirements derive primarily from Title VI of the Civil Rights Act of 1964 and the Equal Education Opportunities Act of 1974. Together, these acts require school officials to provide equal educational opportunities for all, regardless of one's nationality, race, or color, including requiring specific instruction for students less than proficient in the English language. Additionally, communication between students' parents and the school is to be conducted in a language understood by the parents. Oversight is conducted by PCSB, the Office of the State Superintendent for Education (OSSE), and ultimately by the U.S. Department of Education's Office for Civil Rights (OCR).

I will share a few examples of the oversight measures that are in place as they relate to both instruction and language access.

- All applicants wishing to start a public charter school in the District must submit a detailed plan outlining how the school will ensure their school is open and able to serve all students and families. This plan is a vital component for the Board in determining whether or not a new school may open.
- PCSB includes questions about English Language Learners in their annual compliance reviews that must be completed by all schools.
- PCSB currently works collaboratively with OSSE to ensure that all public charter schools are in compliance with relevant laws, particularly Title VI, that are related to English Language Learners.

Of the 62 public charter school LEAs, there is significant variety in the demographics of the student populations, the number of LEP

students and the instructional approaches used. In SY 2014-15, DC public charter schools overall served 2,598 students with limited English proficiency, or 7% of the total number of students at public charter schools.

Some public charter schools have no ELL students enrolled and many provide exemplars for how to effectively serve English Language Learners.

For example, Latin American Montessori Bilingual, or LAMB, serves a population that is 37% limited-English proficient in a language immersion setting. By combining the proven Montessori approach with proven bilingual instruction, LAMB has achieved a Tier 1 rating from PCSB and continues to have a long waiting list every year.

At Capital City PCS, which serves 18% students with limited-English proficiency, the school has used focused and individualized interventions to help move students out of ELL status and into

general education. Using that approach, in SY 2013-14 they once again were rated as a Tier 1 public charter school and had 100% of their graduates accepted into a college or university, a process that starts with their inspiring “College Walk” where each of their graduating seniors walks to the mailbox together to drop off their first batch of college applications.

At Briya PCS, they educate both PK students and their parents, many of whom have only recently entered the country and have limited English proficiency. There the parents can acquire the skills they need to find good jobs and engage in their children’s education, while their young scholars can receive the early childhood education that we know leads to better outcomes later in life.

At PCSB, our goal is to ensure that public charter schools can continue that success, as well as support other schools as they seek to improve. While this bill aims to achieve a similar goal, the implementation of this legislation as is may actually hinder the

ability of public charter schools to successfully serve all students and their parents.

We have shared a full breakdown of our proposed revisions to the act with the Committee, but I will highlight a few today.

First, two of the provisions move beyond ensuring access to language services by public charter schools and instead infringes on the important flexibility provided to public charter schools in the School Reform Act to have exclusive control over their own personnel matters. One provision of the act requires a school to have an English as a Second Language (ESL) certified member on staff if the percentage of students who are ELL is more than 10% of the total student population. While many schools use and value ESL certified instructors, this staff may not be proficient in a language other than English and are trained in a specific instructional approach that should not be imposed on all schools. For example, the District's many bilingual schools use dual language instruction

rather than ESL, hence ESL certified instructors are not typically hired as they may not be able to teach content in the target language of the school. The Council should not interfere with the success of many of these schools.

The second provision requires that public charter schools designate a full time equivalent whose primary role is to be the designated language access coordinator, and who shall report directly to the director of the entity, in this case a public charter school. While we do not object to having a point of contact at each school to be considered the language access coordinator, as written this provision is too prescriptive on how the school might fulfill this requirement.

In addition, the act would also place a significant financial burden on schools. For example, the act would require that all contracts entered into by public charter schools with vendors who produce materials for dissemination to teachers, parents, and

children must include language in the contract that specify that all materials be published in any language that may be spoken by 3% or 500 individuals of the population served by the school. As written, this would include financial audits, employee handbooks, and even textbooks. Implementation would be cost prohibitive, often with very little return on the investment. This provision should be amended to clarify that it applies to vital documents or what might be called “outward facing documents,” such as discipline policies, field trip permission forms or enrollment forms.

Finally, we request that the Committee examine the current private cause of action provision in the legislation. We understand the need for incentives to ensure that schools are accessible to English Language Learners and their families and in compliance with language access pursuant to Title VI of the Civil Rights Act, however a private right of action could bankrupt a public charter school, which does not have the benefit of being defended by the

Office of the Attorney General as other District agencies do, but would have to pay for private defense.

The act as written also sets up a perverse incentive, in which the OHR has the authority of determining a violation of the Act, and also has the authority to charge a fee for such a finding. This fee then goes directly into their own account. This puts OHR in a conflict, where they are given a financial reward for finding violations. We recommend placing a different agency in charge of finding these violations, or put the funds from those violations back into public schools.

Overall, we would like to emphasize that ensuring an excellent education for all ELL students, and appropriate communication for their families, is a goal that requires the continued hard work of school leaders, teachers, students and families, as well as effective oversight from relevant city agencies, particularly PCSB and OSSE.

However, we do not believe it is a goal that needs to be further legislated.

Through this continued rigorous oversight and the hard work of teachers and school leaders, we are confident that we can improve outcomes for all students, including English Language Learners, and ensure that public charter schools in DC are open and welcoming to all families who seek to make that choice.

We look forward to working together with this Committee to critically examine this legislation with that mutual goal in mind. Thank you for the opportunity to testify today, I am happy to take any questions you may have.