

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 964

(Senator Rosapepe)

Education, Health, and Environmental Affairs

Ways and Means

County Boards of Education - Equal Access to Public Services for Individuals
With Limited English Proficiency

This bill requires each local board of education to take reasonable steps to provide equal access to public services for individuals with limited English proficiency (LEP). Reasonable steps include (1) provision of oral language services for LEP parents and guardians, which must be through face-to-face, in-house oral language services if in-person contact is on a weekly or more frequent basis and (2) translation of vital documents ordinarily provided to the public in any language spoken by any LEP population that constitutes 3% of the overall population within the county as measured by the U.S. Census. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: None.

Local Effect: Local school system expenditures are not substantially impacted, as explained further below, given current federal and State requirements.

Small Business Effect: None.

Analysis

Current Law:

State Equal Access Requirements

Specified State departments, agencies, and programs are required to take reasonable steps to provide equal access to public services for individuals with limited English proficiency. Reasonable steps include the following methods:

- providing oral language services for LEP individuals, which must be through face-to-face, in-house oral language services if contact is on a weekly or more frequent basis;
- translating vital documents ordinarily provided to the public in any language spoken by any LEP population that constitutes at least 3% of the overall population within the State as measured by the U.S. census, and providing such documents to any local office as necessary; and
- any other additional methods or means necessary to achieve equal access to public services.

Each State department, agency, or program not specified in statute must monitor its operations to determine if it should take reasonable steps to achieve equal access to public services for LEP individuals. All State departments, agencies, and programs must provide equal access versions of websites in any language spoken by an LEP population that constitutes at least 0.5% of the overall State population if the websites can be translated free of charge, according to standards developed by the Department of Information Technology.

The Department of Human Resources, in consultation with the Office of the Attorney General, must provide central coordination and technical assistance to State departments, agencies, and programs to aid in compliance with these provisions.

Federal and State Requirements – Limited English Proficient Students

State regulations require each local school system to establish an English language development program for those students who have been identified as English language learners by means of a home language survey as well as the State-approved English language proficiency placement assessment. Each program must involve certified English for Speakers of Other Languages teachers. Parent and community involvement must be one of many specified components of the program.

Several federal laws and directives mandate language assistance to LEP individuals. These laws and directives include Title VI of the Civil Rights Act of 1964, the Equal Educational Opportunities Act (EEOA), and the Voting Rights Act. Collectively, these civil rights laws and directives attempt to provide meaningful language access to voting and government services and combat unlawful discrimination on the basis of national origin. The Title IV prohibition on national origin discrimination requires state education agencies (SEAs) and local education agencies (LEAs) to take affirmative steps to address language barriers so that English learner students may participate meaningfully in schools' educational programs. The EEOA requires SEAs and LEAs to take appropriate action to overcome language barriers that impede equal participation by students in instructional programs.

SEAs and LEAs must ensure meaningful communication with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity of the SEA or LEA that is communicated to non-LEP parents. SEAs and LEAs must provide effective language assistance to LEP parents with appropriate and competent staff or appropriate and competent outside resources.

Under Title III of the federal Every Student Succeeds Act, the federal government provides financial support to states to improve the education of English language learners and immigrant youth to learn English and meet challenging state academic standards and to implement effective language instruction programs. According to a “Dear Colleague” letter from the U.S. Departments of Justice and Education in 2015, grants to school districts for these purposes must supplement other funding and therefore may *not* be used to fund activities chosen to implement the civil rights obligations of SEAs and school districts.

Federal and State Requirements – Special Education Students

The federal Individuals with Disabilities Education Act (IDEA) requires that necessary actions be taken to ensure that the parent understands the proceedings of an individualized education program (IEP) team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English. IDEA also requires that parents are provided with notice of the decisions made at IEP and individualized family service plan (IFSP) meetings in “understandable language.” Specifically, the notice must be written in a language understandable to the general public and provided in the native language of the parent or other mode of communication (including nonwritten communication) used by the parent, unless it is clearly infeasible to do so.

Chapters 204 and 205 of 2016, authorized the parents of a child with a completed IEP or IFSP to request that the IEP or IFSP be translated into the parents’ native language, if that language is spoken by more than 1% of students in the local school system. School personnel must provide the parents with the translated document within 30 days after the date of the request. By August 1, 2018, each local board must report to MSDE on the number of requests received for translated documents, the costs of these requests, and whether and to what extent it would be feasible for the number of requests to increase.

Background: The proposed fiscal 2020 State budget includes \$311.1 million in State formula aid to support education of public school LEP students. The proposed State budget also includes \$10.4 million in federal Title III English language acquisition grants.

Exhibit 1 shows information by county regarding the number of public school students identified as LEP and on LEP enrollment as a percentage of full-time equivalent enrollment. The number of public school LEP students ranges from less than 100 in each of Allegany, Garrett, and Kent counties to over 25,000 in both Montgomery and

Prince George's counties. Montgomery and Prince George's counties have more than 10% of their student population identified as LEP.

Local Expenditures: Current law requires MSDE and local boards of education to assure equal access to public education, take appropriate action to overcome language barriers that impede equal participation by students in instructional programs, and ensure meaningful communication with, and adequate notification of services to, LEP parents in a language they can understand. Thus, by complying with current law, local school systems are already meeting most if not all of the bill's requirements. Therefore, the Department of Legislative Services advises that the bill will have minimal impact on local school boards.

Talbot County Public Schools advises that it currently provides the required services. Baltimore City Public Schools finds that they currently comply with provisions of the bill, but adds that the bill may require additional costs for translation services. Anne Arundel County Public Schools (AACPS) and Montgomery County Public Schools (MCPS) also anticipate that translation costs may increase under the bill. Definite cost estimates were not provided, though AACPS indicates a rate of \$25 per hour for in-person translation services and MCPS indicates an annual cost of \$93,800 to hire one translation specialist.

Additional Information

Prior Introductions: None.

Cross File: HB 1144 (Delegate Lehman, *et al.*) - Ways and Means.

Information Source(s): Anne Arundel County Public Schools; Baltimore City Public Schools; Montgomery County Public Schools; Talbot County Public Schools; Maryland State Department of Education; U.S. Department of Justice; U.S. Department of Education; Department of Legislative Services

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Exhibit 1
Students Identified as Limited English Proficient
Fiscal 2019 and 2020

County	Fiscal 2019	Fiscal 2020	Percent Difference	LEP Students as Percent of FTE Enrollment		Change in LEP Students	
Allegany	15	15	0.0%	1. Prince George's	20.9%	1. Talbot	26.9%
Anne Arundel	5,310	5,835	9.9%	2. Montgomery	17.0%	2. Queen Anne's	20.3%
Baltimore City	4,951	5,401	9.1%	3. Talbot	9.2%	3. Cecil	15.6%
Baltimore	6,840	7,642	11.7%	4. Caroline	7.8%	4. Charles	15.0%
Calvert	141	145	2.8%	5. Wicomico	7.8%	5. Washington	14.3%
Caroline	397	429	8.1%	6. Baltimore City	7.3%	6. Harford	13.9%
Carroll	315	322	2.2%	7. Anne Arundel	7.2%	7. Wicomico	13.8%
Cecil	262	303	15.6%	8. Baltimore	7.0%	8. Kent	12.9%
Charles	668	768	15.0%	9. Frederick	6.6%	9. Baltimore	11.7%
Dorchester	185	183	-1.1%	10. Howard	5.8%	10. Garrett	11.1%
Frederick	2,569	2,714	5.6%	11. Dorchester	4.0%	11. Anne Arundel	9.9%
Garrett	9	10	11.1%	12. Kent	3.9%	12. Baltimore City	9.1%
Harford	624	711	13.9%	13. Somerset	3.9%	13. Caroline	8.1%
Howard	3,081	3,286	6.7%	14. Queen Anne's	3.8%	14. Howard	6.7%
Kent	62	70	12.9%	15. Charles	2.9%	15. Frederick	5.6%
Montgomery	26,289	26,787	1.9%	16. Washington	2.6%	16. Prince George's	4.8%
Prince George's	25,391	26,614	4.8%	17. Worcester	2.2%	17. Calvert	2.8%
Queen Anne's	236	284	20.3%	18. Cecil	2.1%	18. Carroll	2.2%
St. Mary's	267	270	1.1%	19. Harford	1.9%	19. Worcester	2.2%
Somerset	113	106	-6.2%	20. St. Mary's	1.6%	20. Montgomery	1.9%
Talbot	320	406	26.9%	21. Carroll	1.3%	21. St. Mary's	1.1%
Washington	496	567	14.3%	22. Calvert	0.9%	22. Allegany	0.0%
Wicomico	979	1,114	13.8%	23. Garrett	0.3%	23. Dorchester	-1.1%
Worcester	136	139	2.2%	24. Allegany	0.2%	24. Somerset	-6.2%
Total	79,656	84,121	5.6%	Statewide	9.7%	Statewide	5.6%

LEP: Limited English Proficient; FTE: full-time equivalent