

TO: House Committee on Health and Government Operations

BILL: HB1473 -State Government-Equal Access to public Services for Individuals with Limited English Proficiency and Individuals with Disabilities

DATE: March 11, 2025

POSITION: Information

The Maryland State Department of Education (MSDE) is sending this letter of information on **HB1473 - State Government-Equal Access to public Services for Individuals with Limited English Proficiency and Individuals with Disabilities**. This bill alters provisions of law relating to equal access of public services for individuals with limited English proficiency (LEP) to include individuals with disabilities (IWD); establishes certain requirements for equal access to public services for certain state agencies, including developing and updating a detailed language access plan biennially; requires the Governor's Office on Immigrant Affairs to oversee, monitor, investigate, and enforce certain provisions of law; requires State departments, agencies, and programs to implement certain provisions of law on or before certain dates; including translating vital documents ordinarily provided to the public into any language spoken by LEP populations that constitutes 0.5% of the overall population of the State as measured by the US Census; and generally relating to equal access to public services for individuals with LEP and disabilities.

Current Practice

MSDE, through its divisions, routinely interacts with individuals with LEP and disabilities. MSDE provides strategic direction, leadership, policy making, resource allocation and engagement and advocacy to 24 local education agencies, interacts with and encounters over 7,000 childcare providers, thousands of participants in pre-employment transition services and adult vocational rehabilitation services, Social Security disability determination applicants, and innumerable constituents, including those who are LEP and IWD, statewide.

MSDE adheres to the state and federal regulations that ensure equal access to its programs and services. Specifically, Title VI of the Civil Rights Act and Md. Code, State Government § 10-1101 through § 10-1105 require state agencies to provide meaningful language access to the public who are LEP. Titles I and II of the Americans with Disabilities Act Amendments Act, Section 504 of the Rehabilitation Act of 1973, Title 20 of the State Government Article, Annotated Code of Maryland, and the Maryland Information Technology Nonvisual Access (MD IT NVA) Regulatory Standards require provisions to provide effective communication to individuals with disabilities. Governor's Executive Order 01.01. 2007.16 – Code of Fair Employment Practices states, *“in performing services to the public, employees of this State will not discriminate against the public or individuals for any reason prohibited by law, nor shall they authorize the use of State facilities in the furtherance of any unlawfully discriminatory purpose or by any organization which unlawfully discriminates in its membership or policies”*

MSDE publishes its non-discrimination statement on its website, along with an ADA Policy and Complaint Procedure and allows website translation into approximately 100 languages. Individuals

interested in filing a grievance about ineffective communication within MSDE's programs and services may contact MSDE's Office of Equity Assurance and Compliance.

In addition, Md. Code Ann., Educ. 26-704 prohibits discrimination in education. Failure to provide meaningful language access, absent undue hardship, to individuals who are LEP and IWD may be discriminatory. Md. Code Ann., Educ. 26-705 currently permits individuals to file a complaint with the State Superintendent alleging discrimination on said protected categories against a county board, public prekindergarten program, public primary or secondary school, nonpublic school programs that receive State funds. MSDE also publishes its Non-Discrimination in Education Complaint Procedure on its website.

MSDE also trains and provides its staff with written guidance on providing accessible services to individuals who are LEP and IWD. MSDE also has an accessibility division to ensure its documents are compliant with applicable accessibility regulations.

Without the revisions cited in HB1473, MSDE has expended approximately \$226,000.00 in effective communication services for IWD and \$175,000.00 in foreign language interpretation and translation services for LEP populations within approximately 18 months. Specifically, for Fiscal Year 2024, MSDE spent \$111,654.18 in American Sign Language, Live Captioning, and Document Remediation. For Fiscal Year 2025, MSDE spent \$114,233.25 for the same services thus far. Regarding Foreign Language Interpretation and Translation services, MSDE has spent \$174,417.43 for Fiscal Year 2024 and \$50,408.13 for Fiscal Year 2025 thus far.

HB1473

HB1473 will impact divisions within MSDE responsible for licensing and certification. MSDE's Division of Educator Effectiveness (DEE) certifies teachers and other professional personnel; oversees the preparation of educator candidates; and approves the educational programs of nonpublic schools. The Division of Early Childhood (DEC) oversees all licensure activities for child care providers in Maryland. Unless there were changes to the exemptions for translating "vital documents" in HB1473, multiple applications overseen by DEE and DEC would need to be altered.

HB1473 will have a fiscal and operational impact on all state agencies, including MSDE. MSDE has submitted the analysis along with fiscal impact. American Sign Language (ASL) interpretation for events that last two or more hours requires the use of two interpreters to prevent interpreter fatigue. Foreign language interpreters are an additional cost. Notably, since the 2019 pandemic, on-site interpreters are more challenging to obtain and video remote interpretation services are more readily available.

To provide effective communications to constituents, agencies must provide these services by either hiring qualified interpreters or relying on oral interpretation and written document translation services from a vetted third-party vendor at no cost to the public. Relying on friends or family members of the constituent is strongly discouraged and traditionally prohibited under federal guidance due to privacy, confidentiality and accuracy concerns.

HB1473 seeks to revise State Government Article 10-1103 to remove significant text. Specifically, rather than cite, "*... the translation of vital documents ordinarily provided to the public into any language*

spoken by any limited English proficient population that constitutes 3% of the overall population within the geographic area served by a local office of a State program as measured by the United States Census;...”, HB1473 lowers the percentage of the overall population and removes the distinction that departments, agencies and programs shall consider languages spoken within the geographic area served by a local office of a state program and requires programs consider languages spoken by 0.5% of Maryland.

While this approach is well-intended and would simplify the review conducted internally to determine the population likely to be served, the removal of this verbiage could impact the detailed examination entities have traditionally followed as part of a four-factor analysis.

The four-factor analysis is a tool used by recipients receiving federal funding to determine how to provide meaningful language access in accordance with Title VI. The four-factor analysis allows agencies to consider:

- 1.) The number or proportion of LEP persons served or encountered in the eligible service population;
- 2.) The frequency with which LEP persons encounter the program;
- 3.) The nature and importance of the program, activity, or service
- 4.) The resources available and costs to the recipient.

The ways each element is achieved ranges among and within agencies and a key component is each program's answer to Factor #1 based on the geographical area. For instance, the population of and frequency that state offices located in Montgomery County interacts with a Spanish-speaking population may be greater than state offices located on the Eastern Shore. The Montgomery County office, after conducting a four-factor analysis may determine that its best to hire an interpreter and regularly have all vital documents translated into Spanish on a routine basis whereas the Eastern Shore office might elect to use contracted vendors and translate documents, upon request. If both offices were to adhere to the HB1473 revised language insisting on translation based on the overall state calculation, it could result in an ineffective allocation of fiscal and operational resources.

Moreover, generally, the State has not grouped IWD with LEP populations. Currently, LEP persons are protected under Title VI of the Civil Rights Act and IWD are protected under the Americans with Disabilities Act Amendments Act. The distinction between the groups has resulted in applications and examinations not considered “vital documents” from being translated into foreign languages; however, due to separate legal requirements for IWD, state agencies have been required to provide reasonable accommodations, as necessary, to provide equal access to examinations and assessments, as required under applicable laws.

The distinction between LEP and disability protection laws has also resulted in state agencies procuring separate contracts for ASL and foreign language services. This adds an additional operational expense as staff are required to contact multiple vendors for various services although the services are available from the contracted vendor. This impacts the productivity and operational needs of the agency and can delay effective communication with the public.

The State of Maryland has a statewide Foreign Language Interpretation and Translation Services (FLITS) contract managed by the Maryland Department of General Services (DGS) for foreign language interpretation and translation services and previously had a Visual Communications Services contract for state agencies to use for ASL, captioning and other services assisting those with disabilities. It could be helpful to state agencies if DGS re-introduced and expanded this contract to include large print, braille and plain language translation as it would streamline the process, reduce expenses and operational challenges, and promote consistency statewide among agencies.

We respectfully request that you consider this information as you deliberate **HB1473**. Please contact Delinda Johnson Blake, delinda.blake1@maryland.gov for any additional information.