



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
CIVIL RIGHTS BUREAU

August 22, 2014

**Re: Hampton Bays Union Free School District's Language
Access Procedures for Persons of Limited English Proficiency**

The purpose of this letter is to memorialize the Hampton Bays Union Free School District's ("District") cooperation with the Office of the Attorney General ("OAG"), and commitment to procedures for ensuring that students and their parents/guardians of limited English proficiency ("LEP") are provided meaningful access to District services regardless of the individual's LEP status.

Data maintained by the New York State Education Department indicates that approximately 12% of students in the District are LEP. As language for LEP individuals can be a barrier to accessing important educational services, the District recognizes the need for timely, effective, and accurate communication between District employees and the LEP communities they serve. The District has strengthened and formalized procedures to better serve the District's LEP student and family populations and, in turn, the community at large.

Accordingly, the District agrees to adopt the Language Access Procedures annexed hereto as Attachment 1, and to provide annual training to all District personnel responsible for conducting the various functions covered by the Language Access Procedures. As summarized below and reflected in the Procedures, the District agrees to the following:

1. **Screening**: When screening a new entrant for possible LEP status, the District will ensure it has a copy of the Home Language Questionnaire ("HLQ") in the native language of the student/guardian, either by obtaining it from NYSED or using an independent translation service. As part of such screening, the District shall also ensure that an interpreter appropriately trained and qualified in the student/guardian's native language is available to conduct an informal interview.
2. **Parental notification**: When providing written notification to the parent/guardian of an LEP-designated student – *e.g.*, notification of placement in a bilingual/ESL program, of orientation for such a program, of a student's evaluation for special education services, of the results of such evaluations, or of the District's intent to discipline a student with a punishment of suspension or something greater – the District shall provide notification in the parent/guardian's native language, as indicated on the HLQ.

3. **Interpreters:** When communicating orally with the parent/guardian of an LEP-designated student – e.g., at District orientations for bilingual/ESL programs or Committee on Special Education meetings – the District shall inquire of the need for, and shall provide, interpreters fluent in the parent/guardian’s native language, as indicated on the HLQ.
4. **Disciplinary hearings:** When the District convenes a disciplinary hearing for an LEP-designated student facing a proposed suspension longer than five days, the District shall inquire of the need for, and shall provide, an interpreter fluent in the parent/guardian’s native language, as indicated on the HLQ. In the event the parent/guardian requires an interpreter for such hearing, the District shall request the parent/guardian’s consent to use a District employee as interpreter prior to using a District employee for such purpose.
5. **Translation of publicly-available information:** The District also agrees that it will make all general information on its website available in languages other than English through, e.g., the inclusion of a web-based translation tool on the website. Provision of such a tool does not relieve the District from the additional requirements set forth in the Language Access Procedures.
6. **Language Access Coordinator:** The District further agrees to designate a Language Access Coordinator for the District and to provide the name and contact information of that individual on the District’s website. The Language Access Coordinator will be responsible for facilitating the District’s compliance with state and federal laws regarding language access, and for communicating with students, parents, teachers, and administrators about issues relating to the District’s language access policies.
7. **Staff training:** The District shall provide annual training on its language access procedures to those personnel responsible for conducting the various functions covered by the Language Access Procedures, including teachers and administrators.
8. **Enrollment Procedures:** The District is aware that documentation requirements at student enrollment/registration can also operate as a barrier to educational access for LEP students. Accordingly, the District agrees to adopt the Enrollment Procedures annexed hereto as Attachment 2, and to provide annual training to all District personnel responsible for conducting the various functions covered by the Enrollment Procedures.
9. **Reporting:** The District agrees to convene periodically with the OAG’s Civil Rights Bureau in order to discuss the District’s provision of language access services to LEP students and parents, including those efforts outlined in this letter and in the attached procedures. During those meetings, the OAG and the District will jointly discuss and review: (a) any materials, forms, or documents generated pursuant to the procedures set forth in Attachments 1 and 2; and (b) any complaints the District may have received regarding the provision of language access services, and the resolution of those complaints.

IT IS FURTHER UNDERSTOOD AND AGREED THAT the acceptance of this Letter Agreement does not constitute an admission of wrongdoing on the part of the District, or any violation of any laws, regulations, or administrative pronouncements applicable to the District.

AND IT IS FURTHER UNDERSTOOD AND AGREED THAT no person or entity is intended to be a third-party beneficiary of the provisions of this Letter Agreement for purposes of any civil, criminal, or administrative action. Nor shall any person or entity be permitted to assert any claim or right as a beneficiary or protected class under this Letter Agreement. Nothing contained in this Letter Agreement shall be construed to deprive any person, corporation, association, agency, or other entity of any right provided by law, regulation or administrative pronouncement.

AND IT IS FURTHER UNDERSTOOD AND AGREED THAT this Letter Agreement is a public document. Upon request, a copy of this document or any information contained in it shall be made available to any person by the District or the Office of the Attorney General.

AND IT IS FURTHER UNDERSTOOD AND AGREED THAT this Letter Agreement sets forth the entire agreement of the parties and may be modified only by the subsequent execution of a written agreement by its parties.

WHEREFORE, the following signatures are affixed hereto:

**HAMPTON BAYS UNION
FREE SCHOOL DISTRICT**

By: Lars Clemensen
Lars Clemensen
Superintendent of Schools
86 East Argonne Road
Hampton Bays, NY 11946

Date: 8/25/14

**ERIC T. SCHNEIDERMAN,
ATTORNEY GENERAL OF
THE STATE OF NEW YORK**

By: Kristen Clarke
Kristen Clarke
Civil Rights Bureau Chief
Justin Deabler
Assistant Attorney General
120 Broadway, 23rd Floor
New York, New York 10271

Date: 11/5/14

ATTACHMENT 1: LANGUAGE ACCESS PROCEDURES

Definitions:

The following defined terms are used throughout the Language Access Procedures:

1. “**Commissioner**” means the Commissioner of the New York State Education Department.
2. “**CSE**” means Committee on Special Education.
3. “**District**” means the Hampton Bays Union Free School District and schools within the Hampton Bays Union Free School District.
4. “**ESL**” means English as a second language.
5. “**HLQ**” means the Home Language Questionnaire generated by the New York State Department of Education.
6. “**LEP**” means limited English proficient.
7. “**NYSED**” means the New York State Education Department.
8. “**NYSESLAT**” means the New York State English as a Second Language Achievement Test.
9. “**NYSITELL**” means the New York State Initial Test for English Language Learners.

Procedure: Initial Screening for, and Annual Evaluation of, LEP Students

This procedure shall be used during the enrollment process when District personnel screen students for English language proficiency, as well as when District personnel annually assess the English language proficiency of LEP-designated students, pursuant to Parts 117 and 154, respectively, of the New York State Regulations on Identification and Services to LEP Students (8 NYCRR §§ 117, 154).

Initial screening: The District will administer the HLQ to the student/guardian present at enrollment. The District shall provide a copy of the HLQ in English or in the student/guardian’s native language, when necessary. The District shall have present an interpreter appropriately trained and qualified in the student/guardian’s native language in order to conduct an informal interview and complete the student’s screening for English proficiency.

In the event the District does not have a copy of the HLQ in a student/guardian’s native language, either from NYSED or another source, the District shall make an appointment for the student/guardian to return at a later time to complete enrollment, and shall also determine whether, at that later appointment, the student/guardian needs an interpreter for such appointment. Prior to a student/guardian’s second enrollment appointment, the District shall use an independent translation service to create a copy of the HLQ in the student/guardian’s native language. At the student/guardian’s second enrollment appointment, the District shall have present an interpreter appropriately trained and qualified in the student/guardian’s native language in order to conduct an informal interview and complete the student’s screening for English proficiency.

Annual assessment: Annually, the District will administer the NYSESLAT to each LEP-designated student. The District shall provide notification to the parent/guardian of each LEP-designated student of the results of such assessment and the District's determination as to whether the student should continue receiving ESL/bilingual services. Such notification shall be provided in English and the parent/guardian's native language, if it is a language other than English, as indicated on the HLQ. If the District does not have personnel fluent in the parent/guardian's native language who can translate the notification into such language, the District shall contract with an independent translation service to create a copy of the notification in the parent/guardian's native language.

Procedure: Parental Notification of Student Placement in District Bilingual/ESL Program

This procedure shall be used to notify a student's parent/guardian upon the District's determination that a student qualifies for placement in a bilingual or free-standing ESL program, pursuant to Part 154 of the New York State Regulations on Identification and Services to LEP Students (8 NYCRR § 154).

Following a District assessment that a student qualifies for a bilingual or ESL program (e.g., via NYSITELL), the District shall notify the student's parent/guardian of this placement in both English and the language the parent/guardian understands, if it is a language other than English, as indicated on the HLQ. In the event the District does not have the notification in the language indicated by the parent/guardian on the HLQ, the District shall contact NYSED to obtain the notification in such language. In the event the District cannot obtain the notification in such language from NYSED, the District shall use an independent translation service to translate the notification into the language indicated by the parent/guardian on the HLQ.

Procedure: Notifications and Interpreters for District Bilingual/ESL Program Orientations

This procedure shall be used when the District provides parents/guardians of new-entrant LEP students an orientation on standards and program requirements for District bilingual/ESL programs, pursuant to Part 154 of the New York State Regulations on Identification and Services to LEP Students (8 NYCRR § 154).

The District shall provide notification to the parents/guardians of LEP-designated students of orientation event(s) concerning District bilingual/ESL programs. Such notification shall be provided in English and the parent/guardian's native language, if it is a language other than English, as indicated on the HLQ. If the District does not have personnel fluent in the parent/guardian's native language who can translate the notification into such language, the District shall contract with an independent translation service to create a copy of the notification in the parent/guardian's native language. In such notification, the District shall ask whether the parent/guardian requires an interpreter to be present at the orientation event and shall provide instructions as to how the parent/guardian may request an interpreter from the District, at no cost to the parent/guardian. In the event the District does not employ personnel fluent in the

parent/guardian's native language who can attend and interpret at an orientation event, the District shall contract with an independent interpreting service to provide an interpreter for such event.

Procedure: Parental Notification of Evaluation for Special Education Services

This procedure shall be used when the District communicates with the parents/guardians of students being referred, evaluated, or placed for special education services in the District, pursuant to Part 200 of the New York Codes, Rules, and Regulations (8 NYCRR § 200).

The District shall provide notification to a student's parent/guardian of the District's intent to evaluate the student for a disability. Such notification shall be in English and in the language used by the parent, if it is a language other than English, as indicated on the HLQ. If the District does not have personnel fluent in the language used by the parent/guardian and who can translate the notification into such language, the District shall contract with an independent translation service to create a copy of the notification in such language. At the time of the District's initial referral of a student for evaluation, the District shall also provide a copy of the Commissioner's procedural safeguards notice in English and the parent/guardian's native language, if it is a language other than English, as indicated on the HLQ. If the District cannot obtain the procedural safeguards notice in the parent/guardian's native language from NYSED, the District shall contract with an independent translation service to create a copy of the notice in the parent/guardian's native language.

Procedure: Evaluation for Special Education Services, Parental Notification of Results, and Parental Participation in CSE Meetings

This procedure shall be used when the District refers, evaluates, or places LEP-designated students for special education services, pursuant to Part 200 of the New York Codes, Rules, and Regulations (8 NYCRR § 200).

Evaluation: When an LEP-designated student is being evaluated for special education services, the District shall use an evaluator fluent in the student's native language, as indicated on the HLQ. If the District does not employ personnel both qualified to evaluate the student and fluent in the student's native language, the District shall contract with an independent service to obtain an evaluator fluent in such language to conduct the evaluation.

Notification of results: The District shall provide the results of such evaluation to the student's parent/guardian in his/her native language, as indicated on the HLQ. If the results are communicated in written form, the District shall translate the results into the parent/guardian's native language. If the District does not have personnel who can translate the results into such language, the District shall contract with an independent translation service to do so. If the results are communicated orally to the parent/guardian, the District shall provide an interpreter

who is fluent in the parent/guardian's native language and can interpret the results for such parent/guardian. In the event the District does not employ personnel fluent in the parent/guardian's native language, the District shall contract with an independent interpreting service to provide an interpreter to communicate the results of the student's evaluation.

Participation in CSE meetings: Once an LEP-designated student has been evaluated for special education services, the District shall provide notification to the student's parent/guardian of a CSE meeting and request the parent/guardian's attendance at such meeting. Such notification shall be provided in English and the parent/guardian's native language, if it is a language other than English, as indicated on the HLQ. If the District does not have personnel fluent in the parent/guardian's native language who can translate the notification into such language, the District shall contract with an independent translation service to create a copy of the notification in the parent/guardian's native language. In such notification, the District shall ask whether the parent/guardian requires an interpreter to be present at the CSE meeting and shall provide instructions as to how the parent/guardian may request an interpreter from the District, at no cost to the parent/guardian. In the event the District does not employ personnel fluent in the parent/guardian's native language who can attend the CSE meeting, the District shall contract with an independent interpreting service to provide an interpreter for such meeting.

Procedure: Parental Notification of Disciplinary Action; Disciplinary Hearings

This procedure shall be used with LEP-designated students facing possible disciplinary action by the District, pursuant to New York Education Law § 3214 and Part 100 of the New York Codes, Rules, and Regulations (8 NYCRR § 100).

Notification: Whenever the District proposes a suspension or disciplinary action against an LEP-designated student, the District shall provide written notification to the student's parent/guardian. Such notification shall be in English and in the dominant language or mode of communication used by the parent/guardian, if it is a language other than English, as indicated on the HLQ. If the District does not have personnel fluent in the dominant language used by the parent/guardian who can translate the notification, the District shall contract with an independent translation service to translate the notification.

The notification shall (i) provide a description of the incident(s) for which suspension is proposed, (ii) inform the student's parent/guardian of his/her right to request an informal conference with the school principal, in the case of proposed suspensions of five days or less, (iii) ask whether the parent/guardian requires an interpreter to be present at such an informal conference, and (iv) provide instructions as to how the parent/guardian may request an interpreter from the District for such conference, at no cost to the parent/guardian. In the event the District does not employ personnel fluent in the parent/guardian's native language who can attend such an informal conference, the District shall contract with an independent interpreting service to provide an interpreter for such event.

Hearings: Whenever the District intends to convene a disciplinary hearing for an LEP-designated student facing a proposed suspension longer than five days, the District shall provide written notification to the student's parent/guardian. Such notification shall be in English and in the dominant language or mode of communication used by the parent/guardian, if it is a language other than English, as indicated on the HLQ. If the District does not have personnel fluent in the language used by the parent/guardian who can translate the notification, the District shall contract with an independent translation service to translate the notification.

The notification shall (i) ask whether the parent/guardian requires an interpreter to be present at such hearing, (ii) ask whether the parent/guardian consents to the use of District personnel to act as an interpreter at such hearing, and (iii) confirm to the parent/guardian that if (s)he does not consent to such use of District personnel, the District will provide an interpreter from an independent interpreting service for the disciplinary hearing, at no cost to the parent/guardian.

ATTACHMENT 2: ENROLLMENT PROCEDURES

Definitions:

The following defined term is used throughout the Enrollment Procedures:

1. **“District”** means the Hampton Bays Union Free School District and schools within the Hampton Bays Union Free School District.

Procedure: Student Registration

This procedure shall be used at the time of registration of new entrant students, in order to ensure that the District allows all persons over five and under twenty-one years of age, who have not received a high school diploma, to attend the District's public schools, pursuant to New York State Education Law §§ 3202(1), 3218(1)(b), 3218(1)(d); the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431, et. seq.; and Appeal of Plata, 40 Ed. Dept. Rep. 552, Decision No. 14, 555.

The District shall provide all children equal access to a public school education, regardless of their immigration status, and shall avoid asking questions during the registration process that are related to immigration status, or that may reveal a child's immigration status, e.g., asking for a Social Security number.

Proof of residency: For purposes of establishing a student's residency, the District may only consider the student's physical presence within the District and intent to reside in the District. Accordingly, the District shall consider documents including *but not limited to* pay stubs, income tax forms, utility or other bills sent to the student's home address, and voter registration documents, in order to determine a student's residency.

Proof of student age: For purposes of determining a child's age, in the event that a student is unable to submit a birth certificate or record of baptism as proof of age for admission to a District school, a passport (including a foreign passport) may be used. If a birth certificate, record of baptism, or passport is unavailable, the District may consider certain other documentary or recorded evidence to determine a child's age, e.g., official driver's license, state- or other government-issued ID, school photo ID with date of birth, or hospital or health records.

Absence of records / McKinney-Vento requirements: If a child is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of immunization and/or proof of residency, the District shall immediately enroll the child and refer the child's parent or guardian to the District's homeless liaison.