

Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: March 20, 2018

SUBJECT: Fiscal Impact Statement – Student Fair Access to School Amendment Act of 2018

REFERENCE: Bill 22-594, Committee Print filed March 13, 2018

Conclusion

Funds are not sufficient in the fiscal year 2018 through fiscal year 2022 budget and financial plan to implement the bill. The bill will cost approximately \$2.5 million in fiscal year 2018 and \$87.2 million over the budget and financial plan.

Background

The bill sets¹ new guidelines for school climate and discipline policies in D.C. Public Schools (DCPS) and public charter schools, with an emphasis on limiting exclusionary discipline such as out-of-school suspensions. Below we outline the provisions of the bill.

Changes to disciplinary policies

The bill requires DCPS and public charter schools to develop disciplinary policies that foster positive school climates and prevent student misbehavior through appropriate interventions. Schools must also provide on-going training to staff and partner with government agencies and community organizations to address challenges facing students and families.

Limiting the use and duration of out-of-school suspensions

The bill limits the use of out-of-school suspensions in several ways. First, it limits the reasons a school can use out-of-school suspension to the following:

¹ By amending Title II of the Attendance Accountability Amendment Act of 2013, effective September 19, 2013 (D.C. Law 20-17; D.C. Official Code § 38-235 et seq.).

- For grades K-5, beginning when the bill becomes effective, out-of-school suspensions are prohibited except in cases where the student has willfully caused, attempted to cause, or threatened bodily injury or emotional distress to another person;
- For grades 6-8, beginning in school year 2019-2020, out-of-school suspensions are prohibited except in cases where the student has willfully caused, attempted to cause, or threatened bodily injury or emotional distress to another person; and
- For grades 9-12, beginning in school year 2020-2021, out-of-school-suspensions are prohibited for the following actions: violating the dress or uniform code; willful defiance; or behavior that happens off school grounds and not as part of a school-sponsored activity, unless the student has willfully caused, attempted to cause, or threatened bodily injury or emotional distress to another person.²

The bill also limits the duration of out-of-school suspensions to five consecutive days for grades K-8 and ten consecutive days for grades 9-12.³ Overall, no student can be suspended out-of-school for more than twenty total days throughout the school year regardless of grade, unless the head of the local education agency (LEA) provides a written justification.

If a student is suspended, their school must create a plan to provide continuity of education for the student and ensure the student receives support services to address the cause of the suspension.

Special considerations for students with disabilities

The bill includes special considerations for students with disabilities. Beginning in school year 2019-2020, if a school removes a student with disabilities from their current placement for disciplinary reasons for more than five school days, the school must follow the procedures in the federal Individuals with Disabilities Education Act (IDEA)⁴. This is a stricter timeline than what the federal law requires; under federal law IDEA procedures begin after 10 days in an alternative placement.

The procedures required by IDEA include conducting a manifestation determination, which involves members of the student's individualized education program (IEP) team determining whether the discipline problems were a result of the student's disability or an inappropriate placement. If the discipline problems were the result of a student's disability or an inappropriate placement, the school must conduct a functional behavioral assessment and implement a behavioral intervention plan.

Requirements of the Office of the State Superintendent of Education (OSSE)

The bill requires OSSE to support DCPS and public charter schools in implementing strategies to reduce the use of exclusionary discipline and to develop and sustain trauma-informed education settings. This support includes professional development opportunities and technical assistance. The bill also requires OSSE to facilitate the offering of postsecondary degree or certificate programs in trauma-informed education practices, positive behavioral interventions, implicit bias, and other related subject areas.

² These restrictions do not apply to students over the age of 18 at a school where more than half of the students are over 18.

³ These limits do not apply to students over the age of 18 at a school where more than half of the students are over 18.

⁴ 20 U.S.C. § 1400.

Within two years of the effective date of the legislation, and every five years thereafter, OSSE must submit to the Mayor and Council an evaluation of schools' implementation of practices to promote school safety and reduce the use of exclusionary discipline.

The bill creates the School Safety and Positive Climate Fund, which will be administered by OSSE. The fund will be used to support the professional development, technical assistance, and certificate programs required by the bill, as well as the evaluation OSSE must perform every five years. The fund will be non-lapsing, meaning money in the fund will not revert to the General Fund at the end of a fiscal year.

The bill also requires OSSE to report additional data in the school discipline report it submits annually to the Mayor and Council. The additional data OSSE must collect includes: the number of students who identify as lesbian, gay, bisexual, questioning, transgender, or gender nonconforming; whether students receiving special education services have received a functional behavioral assessment or an updated behavior improvement plan during the school year; and information on students subject to involuntary dismissals, emergency removals, disciplinary withdrawals, referral to law enforcement, or school-related arrests, among other information.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2018 through fiscal year 2022 budget and financial plan to implement the bill. The bill will cost approximately \$2.5 million in fiscal year 2018 and \$87.2 million over the budget and financial plan.

The bill impacts public charter schools, DCPS, and OSSE. Below we provide details of the impact on each agency. Schools' actual costs will vary depending on their current suspension practices and population of children served. Current out-of-school suspension rates range from 0 to 31 percent.⁵

Charter schools

We estimate it will cost \$6.9 million to implement the bill in charter schools during fiscal year 2019 (the first full fiscal year of implementation).⁶ Costs will grow each year as different parts of the bill are phased in. We also expect costs to grow slightly due to inflation.

The \$6.9 million cost comes from the following:

- Creating new disciplinary policies: \$180,000. The funding is required to help schools align their policies with the bill's requirements and help them revise policies as they receive feedback from students and parents;
- Implementing new behavior systems: \$603,000. The estimate is based on a cost of \$5,000 per school, which would be enough to fund a positive behavior intervention system in each school⁷ or six restorative justice specialists working system-wide⁸:

⁵ School year 2016-2017 School Discipline report, OSSE, Appendix B.

⁶ The Public Charter School Board provided us with estimates for four of its charter networks, with costs ranging from \$573 per student to \$2,734 per student, depending on each network's needs. We used the information provided by the Board, in addition to other sources, to estimate a sector-wide cost of \$359 per student once the bill is fully implemented.

⁷ According to testimony from Maya Martin, executive director of PAVE (Parents Amplifying Voice in Education), provided in the Education Committee Report.

⁸ According to information from DCPS.

- Support services to address causes of suspension: \$5,246,000. This would fund 58 staff members, such as a behavior intervention specialists or therapists, across the charter system. The staffing estimate is based on one specialist to work with every 60 students we estimate are suspended each year (about 3,500 charter students in total).⁹
- Alternate education accommodations for students who would have been suspended outside of school: \$402,000. This funding would pay for staff who will provide alternate accommodations to students who would have previously been suspended out-of-school but will no longer be eligible for out-of-school suspension due to non-violent infractions. An example of an alternate accommodation is in-school-suspension. We assume a ratio of 1 staff member per 5 students. Cost will be lower during the first years the bill is in place and ramp up as limitations on out-of-school suspensions are phased in. Once the suspension limitations are phased in for all grades, funding will be sufficient for 12 staff members; and
- Special education requirements: \$437,000¹⁰. This is the cost of providing 171 students with manifestation determinations, functional behavior assessments, and implementation of behavior improvement plans for each of these students. The bulk of the cost comes from implementing the behavior improvement plans, which takes six weeks of staff time for each plan¹¹. Costs in fiscal year 2019 are much lower than subsequent years' costs because the special education provisions will not be in effect for a full fiscal year until fiscal year 2020, at which point the annual cost of the requirements will be around \$2.6 million dollars.

Since each charter school is independent, and can set its own policies, individual school's use of funding for the bill might vary from what we describe above. We have provided the details above to clarify how we came up with the cost estimate, but actual implementation might look different depending on each school's needs. We have also not included any cost for space requirements for alternate accommodations such as in-school suspensions¹². Some schools may have little flexibility to make a room available for in-school suspensions, so additional funding may be required to resolve this problem.

DC Public Schools

Because District law requires equal funding between DCPS and charter schools, we estimate DCPS will need to receive approximately \$8 million in fiscal year 2019 (the first full fiscal year of implementation) to implement the bill. We base our estimate on the UPSFF, and the ratio between DCPS and funding for charter schools as of FY18. Costs will grow each year as different parts of the bill are phased in.

⁹ Based on 7.1% suspension rate for all public school students in school year 2016-2017.

¹⁰ These projections are based solely on actual suspensions that could result in a manifestation determination review. However, there is an unknown fiscal impact for manifestation determination reviews as a result of a change of placement because of disciplinary removal that may not amount to an actual suspension. Because the District has not tracked the number of change of placement because of disciplinary removals currently happening at schools, we are not able to provide a complete projection.

¹¹ According to an estimate provided by DCPS.

¹² Nine LEAs, including DCPS, reported using in-school suspensions in school year 2016-2017, and all others report zero use.

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OSSE

OSSE's costs will total about \$1.1 million in fiscal year 2019 (the first full fiscal year of implementation) and will increase slightly each year due to inflation. OSSE will need two FTEs and an additional \$540,000 in non-personnel funding to conduct trainings, provide schools with technical assistance, and facilitate teacher certifications. The agency will also need one FTE to conduct the newly required evaluation and analyze additional data for the annual discipline report, as well as \$176,000 to hire a contractor for data collection.

The cost table on the following page provides the sources of cost for the bill:

Cost of Bill 22-594 Student Fair Access to School Act of 2018, Fiscal Years 2018-2022						
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	Total
Public Charter Schools						
Creation of new policies ¹³	\$29,866	\$180,091	\$185,493	\$191,058	\$196,790	\$783,298
Implementation of new behavior system ¹⁴	\$100,000	\$603,000	\$621,090	\$639,723	\$658,914	\$2,622,727
Support services ¹⁵	\$870,000	\$5,246,100	\$5,403,483	\$5,565,587	\$5,732,555	\$22,817,726
Alternate education accommodations ¹⁶	\$57,427	\$401,896	\$734,484	\$968,900	\$997,967	\$3,160,674
Special Education IDEA costs ¹⁷	\$0	\$436,547	\$2,632,381	\$2,711,352	\$2,792,693	\$8,572,973
Total Charter Costs	\$1,057,293	\$6,867,634	\$9,576,931	\$10,076,621	\$10,378,920	\$37,957,398
D.C. Public Schools						
Total DCPS Costs (based on UPSFF)	\$1,243,376	\$8,076,338	\$11,262,470	\$11,850,106	\$12,205,609	\$44,637,900
Office of the State Superintendent of Education						
Training and technical assistance (2 FTEs)	\$38,614	\$232,844	\$239,829	\$247,024	\$254,435	\$1,012,745
Training and technical assistance (non-personnel costs)	\$89,500	\$539,685	\$555,876	\$572,552	\$589,728	\$2,347,341
Evaluation and data analysis (1 FTE)	\$19,307	\$116,422	\$119,914	\$123,512	\$127,217	\$506,373
Data collection (contractor)	\$29,167	\$175,875	\$181,151	\$186,586	\$192,183	\$764,962
Total OSSE Costs	\$176,588	\$1,064,826	\$1,096,770	\$1,129,673	\$1,163,564	\$4,631,421
TOTAL COST	\$2,477,257	\$16,008,797	\$21,936,171	\$23,056,400	\$23,748,092	\$87,226,719

¹³ Staff supplementation to assist LEAs with updating discipline policies

¹⁴ Programmatic support equivalent to \$5,000 per school

¹⁵ Provides one FTE for every 60 students suspended (58 FTEs total).

¹⁶ Additional staffing for in-school suspensions, at a rate of 1 teacher per 5 students currently suspended out-of-school and assuming an average suspension length of 3 days. Pertains to all K-5 OSS; non-violent OSS in grades 6-8 beginning school year 2019 – 2020, and non-violent OSS in grades 9-12 beginning school year 2020-2021. Charter schools had approximately 3,400 out-of-school suspensions in SY16-17 that would be prohibited per the bill by school year 2020.

¹⁷ Cost of assessments and implementation of behavior improvement plans for 171 students