


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: November 29, 2016

SUBJECT: Fiscal Impact Statement – State Board of Education Omnibus
Amendment Act of 2016

REFERENCE: Bill 21-918, Committee Print as shared with the Office of Revenue
Analysis on November 22, 2016

Conclusion

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost \$486,000 in fiscal year 2017 and \$2.5 million over the four-year financial period.

Background

The bill updates¹ the duties and responsibilities of the State Board of Education (“SBOE,” “Board”) to reflect changes made to federal law. All duties assigned to the SBOE as required by the No Child Left Behind Act² are repealed and replaced with provisions that are required by the Elementary and Secondary Education Act.³

The bill allows the SBOE to access public comments submitted during a public comment period on policies or regulations that the Office of the State Superintendent of Education submits to the Board for approval.

¹ By amending section 403 of the State Board of Education Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-2652).

² No Child Left Behind Act of 2001, approved January 8, 2002 (115 Stat. 1425; 20 U.S.C. § 6301 et seq.).

³ Elementary and Secondary Education Act of 1965, approved April 9, 1965 (Pub. L. 89-10; 79 Stat. 27).

The bill creates⁴ program budgets for both the Office of the Ombudsman for Public Education (Ombudsman) and Office of the Student Advocate (Advocate) that are separate from the SBOE budget. The budgets for both the Ombudsman and Advocate are currently comingled with the SBOE's budget. The bill grants both the Ombudsman and Advocate budgetary authority to spend their program budgets without seeking approval from SBOE. Likewise, the bill provides the Ombudsman and Advocate with personnel authority to hire staff. Administrative costs shared among the SBOE, Ombudsman, and Advocate, such as human resources, procurement, telephones and information technology support, will continue to be managed and budgeted by the SBOE.

The bill changes⁵ the process by which an Ombudsman or Advocate can be removed from office. Currently a majority of SBOE members must approve the removal of an Ombudsman or Advocate. The bill changes this requirement to $\frac{2}{3}$ majority vote for removal.

The bill changes several of the Ombudsman's duties. Specifically, the bill:

- Eliminates the Ombudsman's ability to receive complaints about personnel actions;
- Requires the Ombudsman to recommend strategies to the SBOE to improve public education and communication between public schools, parents, and guardians;
- Authorizes the Ombudsman to issue reports and recommendations related to the Ombudsman's work without review or approval by any entity;
- Allows the Ombudsman to conduct investigations into any official or employee within the public school system, including whether an action or failure to act was unreasonable, unfair, or discriminatory; and
- Requires the Ombudsman to investigate all complaints unless:
 - a remedy is readily available;
 - the matter is outside the jurisdiction of the Ombudsman;
 - the complaint relates to an administrative act;
 - the complainant does not have sufficient personal interest in the complaint;
 - the complaint is made in bad faith; or
 - the resources of the Ombudsman's office are insufficient to conduct the investigation.

The bill changes several duties of the Advocate. Specifically, the bill:

- Clarifies that the Advocate must provide information on school admission, application, and enrollment policies and procedure that are not publically available, or are difficult to locate or identify;
- Allows the Advocate to receive a written request to advocate for a current or prospective student in proceedings before the Office of Ombudsman for Public Education; and,
- Authorizes the Advocate to issue reports and recommendations related to the Advocate's work without review or approval by any entity.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost \$486,000 in fiscal year 2017 and \$2.5 million over the course of the four-year financial period.

⁴ By amending The Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-2651 et seq.) and by amending The Parent and Student Empowerment Amendment Act of 2013, effective February 22, 2014 (D.C. Law 20-76; D.C. Official Code § 38-371 et seq.).

⁵ Id.

The Ombudsman and Advocate will be able to make personnel and program spending decisions without SBOE approval as soon as their personnel and discretionary program budgets⁶ are moved to separate program lines within the SBOE Budget. An estimated \$289,000 in fiscal year 2017 and \$1.5 million over the course of the four-year financial plan must be moved through the budget process to a separate Ombudsman program line within the SBOE budget. An estimated \$198,000 in fiscal year 2017 and \$1 million over the course of the four-year financial plan must be moved through the budget process to a separate Advocate program line within the SBOE budget.

The Ombudsman and Advocate will receive administrative budget support from the SBOE for expenditures such as human resources, procurement, telephones, fleetshare, and information technology costs. The funds budgeted for shared administrative costs will continue to reside in the SBOE's budget.

State Board of Education Omnibus Amendment Act of 2016					
Projected Fiscal Impact for Bill 21-918					
Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	Total
Ombudsman Personnel ⁽¹⁾⁽²⁾	\$273,512	\$375,623	\$386,892	\$398,499	\$1,434,527
Ombudsman Discretionary Program Budget	\$15,000	\$15,000	\$15,000	\$15,000	\$60,000
<i>Ombudsman Total Fiscal Impact</i>	<i>\$288,512</i>	<i>\$390,623</i>	<i>\$401,892</i>	<i>\$413,499</i>	<i>\$1,494,527</i>
Advocate Personnel ⁽²⁾⁽³⁾	\$182,767	\$251,000	\$258,530	\$266,286	\$958,583
Advocate Discretionary Program Budget	\$15,000	\$15,000	\$15,000	\$15,000	\$60,000
<i>Advocate Total Fiscal Impact</i>	<i>\$197,767</i>	<i>\$266,000</i>	<i>\$273,530</i>	<i>\$281,286</i>	<i>\$1,018,583</i>
Total Fiscal Impact	\$486,279	\$656,623	\$675,422	\$694,785	\$2,513,110

Table Notes:

1. Includes 3.5 FTEs and a fringe rate of 20.4 percent. Adjusted by 3 percent annually to account for inflation.
2. Assumes start date of January 2, 2017.
3. Includes 2.5 FTEs and a fringe rate of 20.4 percent. Adjusted by 3 percent annually to account for inflation.

⁶ Discretionary program funds are spent by the Ombudsman and Advocate to fulfill legally mandated duties and responsibilities of each office.