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A BILL
20-725

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia School Reform Act of 1995 to authorize charter schools to establish an admission preference for students with disabilities; and to require by a date certain that each public charter school be its local educational agency; to amend the State Education Office Establishment Act of 2000 to establish the Special Education Enhancement Fund; and to amend the Ombudsman for Public Education Establishment Act of 2007 to clarify the ability of the ombudsman to examine patterns of complaints, and to authorize the Ombudsman to observe instruction at any District of Columbia public school or public charter school.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Special Education Quality Improvement Amendment Act of 2014”.

TITLE I. SPECIAL EDUCATION CAPACITY

Sec. 101. Short title.

This subtitle may be cited as the “District of Columbia School Reform Amendment Act of 2014.

Sec. 102. The District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321-107, D.C. Official Code § 38-1800.01, *et. seq.*), is amended as follows:

(a) Section 2002 (D.C. Official Code § 38-1800.02) is amended as follows:

(1) A new paragraph (18A) is added to read as follows:

“(18A) “IDEA” means the Individuals with Disabilities Education Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1400, *et seq.*), and its implementing regulations.”.

ENGROSSED ORIGINAL

1 “(19A) “Individualized education program” or “IEP” means a written plan that
2 specifies the special education programs and services to be provided to meet the unique
3 educational needs of a child with a disability, as required under section 614(d) of the IDEA (20
4 U.S.C. § 1414(d)).”.

5 (b) Section 2202 (D.C. Official Code § 38-1802.02) is amended as follows:

6 (1) Paragraph (16)(H) is amended by adding the word “and” at the end.

7 (2) Paragraph (18) is amended by striking the word “and” at the end.

8 (3) Paragraph (19) is repealed.

9 (c) Section 2206 (D.C. Official Code § 38-1802.06) is amended as follows:

10 (1) Adding a new subsection (c-1) to read as follows:

11 “(c-1)(1) If there are more applications to enroll in a public charter school from students
12 who are residents of the District of Columbia than there are spaces available, students shall be
13 admitted in accordance with subsection (c) of this section; provided, that with the prior approval
14 of the Public Charter School Board, a preference in admission may also be given to an applicant
15 with an IEP or an applicant in a disability category pursuant to IDEA, in order to facilitate the
16 planning, development, and maintenance of high quality special education programs in the
17 District of Columbia.

18 “(2) A public charter school seeking to establish a preference for admission under
19 this subsection shall apply to the Public Charter School Board no later than July 1st of the year
20 prior to the proposed effective date of the lottery preference.

1 “(A) In reviewing applications by public charter schools to establish a
2 preference for admission, the Public Charter School Board shall ensure that the proposed
3 preference will increase educational opportunities for, and not adversely impact, students with
4 disabilities.

5 “(B) In approving an application by a public charter school to establish a
6 preference for admission under this subsection, the Public Charter School Board shall make
7 publicly available a written document that specifies the preference established and the reasons
8 for granting the preference.”.

9 (d) Section 2210(c) (D.C. Official Code § 38-1802.10(c)) is amended to read as follows:

10 “(c) Education of Children with Disabilities – By August 1, 2017, each public charter
11 school shall be its own local educational agency for the purpose of Part B of IDEA and section
12 504 of the Rehabilitation Act of 1973 (87 Stat. 394; 29 U.S.C. 794); provided, that the Public
13 Charter School Board may, at its discretion, waive application of this subsection to allow a
14 currently existing public charter school with more than 90% of its students entitled to receive
15 services pursuant to an individualized educational program to continue to be a District of
16 Columbia public school for the purposes of Part B of IDEA and Section 504 of the Rehabilitation
17 Act of 1973 (87 Stat. 394; 29 U.S.C. § 794).

18 “(1) No newly approved public charter school shall elect to be treated as a District
19 of Columbia public school for the purpose of Part B of IDEA and section 504 of the
20 Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 394; 29 U.S.C. 794).”.

1 TITLE II. SPECIAL EDUCATION ENHANCEMENT FUND

2 Sec. 201. Short title.

3 This subtitle may be cited as the “State Education Office Special Education Enhancement
4 Fund Amendment Act of 2014”.

5 Sec. 202. The State Education Office Establishment Act of 2000, effective October 21,
6 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601 *et seq.*), is amended by adding a new
7 section 7g to read as follows:

8 “Sec. 7g. Special Education Enhancement Fund.

9 “(a)(1) There is established the Special Education Enhancement Fund (“Enhancement
10 Fund”) which shall be administered by OSSE in accordance with subsections (c) and (d) of this
11 section.

12 (b) Revenue from the following sources shall be deposited into the Enhancement Fund:

13 (1) Any excess appropriated funds remaining at the end of each fiscal year in the
14 operating budget for the non-public tuition paper agency within OSSE;

15 (2) Any other annual appropriation, if any; and

16 (3) Grants, gifts, or subsidies from public or private sources.

17 (c) The Enhancement Fund shall be used solely to:

18 (1) Provide additional funds to those public schools that demonstrate they have
19 incurred costs associated with providing special education services above that for which the
20 school was funded pursuant to the Uniform per Student Funding Formula allocation; and

21 (2) Support special education capacity expansions, including:

1 (A) Partnerships developed among nonpublic schools and public schools
2 or public charter schools to provide special education services and training;

3 (B) Collaborative ventures among public charter schools to develop
4 special education capacity through joint special education training, administration, or instruction;

5 (3) Programs providing joint professional development and training opportunities,
6 joint agreements to procure or provide special education services, or joint evaluations or
7 assessments developed by groups of public schools or public charter schools; and

8 (4) The development of educational programs specifically targeted at overage,
9 under-credited youth with intensive special educational needs.

10 (d) Notwithstanding any other provision of law, no funds provided under this section
11 shall be counted for the purposes of calculating the maintenance of effort under the IDEA.

12 (e) OSSE may issue regulations to implement this section.

13 TITLE III. OMBUDSMAN.

14 Sec. 301. Short title.

15 This subtitle may be cited as the “Ombudsman for Public Education Establishment
16 Amendment Act of 2014”.

17 Sec. 302. The Ombudsman for Public Education Establishment Act of 2007, effective
18 June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-351, *et seq.*), is amended as follows:

19 (a) Section 604 (D.C. Official Code § 38-353) is amended as follows:

20 (1) Paragraph (13) is amended by striking the word “and” at the end.

ENGROSSED ORIGINAL

1 (2) Paragraph (15) is amended by striking the period and inserting the phrase “;
2 and” in its place.

3 (3) A new paragraph (16) is added to read as follows:

4 “(16) Identify school-level concerns based upon a pattern of complaints or
5 concerns and recommend changes to improve the delivery of public education services.”

6 (b) Section 605 (D.C. Official Code § 38-354) is amended by adding a new paragraph
7 (3A) to read as follows:

8 “(3A)(A) Subject to subparagraph (B) of this paragraph, have the authority to
9 observe instruction at any District of Columbia public school (“DCPS”) or public charter school;
10 provided, that DCPS or the public charter school shall impose no conditions or restrictions on
11 such observations except those necessary to:

12 (i) Ensure the safety of children in a program; or

13 (ii) To protect children in the program from disclosure by an
14 observer of confidential and personally identifiable information in the event such information is
15 obtained in the course of an observation;

16 (B) DCPS or a public charter school may require advance notice before an
17 observation may take place.”

18 **TITLE IV. GENERAL PROVISIONS.**

19 **Sec. 401. Fiscal impact statement.**

ENGROSSED ORIGINAL

1 The Council adopts the fiscal impact statement in the committee report as the fiscal
2 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
3 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

4 Sec. 402. Effective date.

5 This act shall take effect following approval by the Mayor (or in the event of veto by the
6 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
7 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
8 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
9 Columbia Register.