



COUNCIL OF THE DISTRICT OF COLUMBIA
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WASHINGTON, D.C. 20004

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February 23, 2021

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Secretary Smith,

Today, I, along with Councilmembers Robert C. White, Jr., Vincent C. Gray, Brianne K. Nadeau, Christina Henderson, Charles Allen, and Elissa Silverman, am introducing the “Office of the State Superintendent of Education Independence Amendment Act of 2021”. Please find enclosed a signed copy of the legislation.

The Office of the State Superintendent of Education (“OSSE”) is the District of Columbia’s state education agency. In this role, OSSE is intended to provide independent and comprehensive oversight of District of Columbia Public Schools and public charter LEAs.

The State Education Office (“SEO”), the predecessor agency to OSSE, was established in 2000.¹ The SEO, led by the State Education Officer, had substantially limited authority, when compared to what it would later become. The SEO fell under the Office of the Mayor, much like OSSE does currently. However, at the time, DCPS was still overseen by the District Board of Education. Having the SEO and DCPS report to separate entities ensured that oversight by the SEO was thorough and independent—both in practice and in perception.

However, in 2007, with the passage of the Public Education Reform Amendment Act of 2007 (“PERAA”), the SEO became the Office of the State Superintendent of Education, a change that came with much greater responsibility. OSSE took over a number of responsibilities previously handled by the Board, including developing state-level standards and assessments, grantmaking, and, importantly, oversight of the District’s public schools. In addition, under PERAA, control of DCPS shifted from the Board of Education to the Mayor. For the first time, the District’s state-level oversight body and its public school system were subordinate to the same person—the Mayor.

¹ D.C. Law 13-176.

For this reason, OSSE is unlike any other state-level oversight body in the country. In every state, school districts answer to state-level education authorities, which are empowered to audit all school data and demand corrective action where an audit identifies areas of concern. In no other state does the state-level oversight body report to the head of a school system it oversees. This conflict of interest compromises the work of our Superintendent, risking the public's trust in the integrity of our school data.

Unfortunately, the effect of this conflict of interest on OSSE's work is not merely speculative. In recent years, there have been concerning reports regarding OSSE's oversight of our public school data, and failures to adequately identify errors or misrepresentations in data on student attendance,² suspensions,³ and graduation rates.⁴ In these instances, it was members of the media—not OSSE—who identified these data issues and brought them to the public's attention. In the normal course, such issues would have been identified as part of regular audits; that they were not raises genuine concerns about our audit processes and how OSSE oversees our school data. What's more, at that time, it was reported that an OSSE attorney directed staff to delay a particular investigation because it was a mayoral election year.⁵

The District includes a number of other bodies whose primary functions include oversight of Executive agencies: the Office of the Inspector General, the District of Columbia Auditor, and the Board of Ethics and Government Accountability, to name a few. Unlike OSSE, all of these offices are independent—and for good reason. Their independence ensures—both in reality, and in the eyes of the public—that the actions taken by the office are free from undue influence and conflict of interest. Ensuring that our oversight bodies are independent is not only best practices, it's common-sense.

The legislation I am introducing today would address this issue by amending OSSE's authorizing statute to make the agency an independent agency of the District government. The legislation also clarifies OSSE's oversight responsibilities, including auditing LEA data and investigating instances of waste, fraud, or financial mismanagement. This legislation intends to strengthen OSSE, and put in place long-overdue best practices to empower the office primarily tasked with oversight of our schools.

² Alvarez & Marsal, "Final Report: District of Columbia Public Schools Audit and Investigation," January 26, 2018.

³ ³ Matos, Alejandra and Emma Brown, *Some D.C. high schools are reporting only a fraction of suspensions*, Washington Post, July 17, 2017.

⁴ McGee, Kate, *What Really Happened At Ballou, The D.C. High School Where Every Senior Got Into College*, WAMU, November 28, 2017.

⁵ Jamison, Peter, Valerie Strauss and Perry Stein, *Secret probe points to widespread enrollment fraud at acclaimed D.C. high school*, the Washington Post, February 28, 2018.

With Superintendent Kang stepping down from her post this past October, the Mayor is actively identifying her nominee for our next Superintendent. The Council and Mayor must take this opportunity to rethink how our next Superintendent and the state-level oversight body she leads can be the most effective. Making OSSE wholly independent is a simple way to enhance the quality and public perception of the agency's work. The changes proposed in this legislation will not only strengthen OSSE, but, through enhanced oversight of our schools, ensure that we are providing the best education to students throughout the District.


Should you have any questions, please contact my Legislative Director Michael Porcello at mporcello@dccouncil.us or (202) 724-8062.


Thank you.

Best,

A handwritten signature in black ink, appearing to read "Mary M. Cheh". The signature is fluid and cursive, with a large initial "M" and a distinct "C" at the end.


Mary M. Cheh

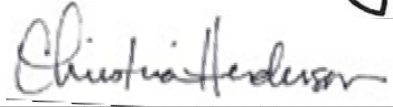
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2 Councilmember Robert C. White, Jr.


Councilmember Mary M. Cheh

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6 Councilmember Brianne K. Nadeau


Councilmember Vincent C. Gray

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10 Councilmember Charles Allen


Councilmember Christina Henderson

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14 Councilmember Elissa Silverman

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17 A BILL

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21 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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26 To amend the State Education Office Establishment Act of 2000 to make the Office of the State
27 Superintendent of Education an independent agency within the District government, and
28 to require OSSE to verify data produced by local education agencies, investigate the
29 cause of inaccurate, incomplete, or misleading data, and to investigate allegations of
30 waste, fraud, or financial mismanagement by local education agencies.

31
32 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
33 act may be cited as the “Office of the State Superintendent of Education Independence
34 Amendment Act of 2021”.

35 Sec. 2. The State Education Office Establishment Act of 2000, effective October 21,
36 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601 *et seq.*), is amended as follows:.

37 (a) Section 2 (D.C. Official Code § 38-2601) is amended as follows:

38 (1) Subsection (a) is amended by striking the phrase “under the Office of the
39 Mayor,” and inserting the phrase “as an independent agency within the District government” in
40 its place.

41 (2) Subsection (b) is amended by striking the phrase “term” and inserting the
42 phrase “term, provided that the Mayor may remove the State Superintendent for cause” in its
43 place.

44 (b) Section 2b(6) (D.C. Official Code § 38-2601.02(6)) is amended by striking the phrase
45 “appointed the Mayor”.

46 (c) Section 3(b) (D.C. Official Code § 38-2602(b)) is amended as follows:

47 (1) Paragraph (28)(E)(iii) is amended by striking the phrase "discipline; and" and
48 inserting the phrase “discipline;” in its place.

49 (2) New paragraphs (30) and (31) are added to read as follows:

50 “(30) Verify data produced by local education agencies; where data is found to be
51 inaccurate, incomplete, or misleading, OSSE shall investigate the cause of the inaccurate,
52 incomplete, or misleading data, and provide a report to the Mayor and the Council on the
53 investigation’s findings; and

54 “(31) Investigate allegations of waste, fraud, or financial mismanagement by local
55 education agencies, and provide a report to the Mayor and the Council on the investigation’s
56 findings.”

57 Sec. 3. Fiscal impact statement.

58 The Council adopts the fiscal impact statement in the committee report as the fiscal
59 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
60 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

61 Sec. 4. Effective date.

62 This act shall take effect following approval by the Mayor (or in the event of veto by the
63 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
64 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
65 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
66 Columbia Register.