

HOUSE No. 461

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to expand access to the MCAS appeals process.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Bill Bowles	2nd Bristol
Christine E. Canavan	10th Plymouth
Frank I. Smizik	15th Norfolk
James Dwyer	30th Middlesex
Kay Khan	11th Middlesex
Katherine Clark	32nd Middlesex
Matthew C. Patrick	3rd Barnstable
Stephen L. DiNatale	3rd Worcester
Mary E. Grant	6th Essex
Barbara A. L'Italien	18th Essex
Stephen M. Brewer	Worcester, Hampden, Hampshire and Franklin
Denise Provost	27th Middlesex
David B. Sullivan	6th Bristol
Robert L. Rice, Jr.	2nd Worcester
Tom Sannicandro	7th Middlesex
Louis L. Kafka	8th Norfolk
Carl M. Sciortino, Jr.	34th Middlesex
Steven J. D'Amico	4th Bristol

Willie Mae Allen	6th Suffolk
Alice K. Wolf	25th Middlesex
David P. Linsky	5th Middlesex
Paul McMurtry	11th Norfolk
Sean Garballey	23rd Middlesex
Susan C. Fargo	Third Middlesex
Ellen Story	3rd Hampshire

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO EXPAND ACCESS TO THE MCAS APPEALS PROCESS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding any general or special law to the contrary, the board of elementary
2 and secondary education shall take such action as necessary including, as appropriate, promulgating
3 emergency regulations, to modify the process governing the Massachusetts Comprehensive Assessment
4 System, hereinafter referred to as "MCAS", performance appeals. The performance appeals process shall
5 provide that any student shall be eligible to file an appeal who has taken the grade 10 MCAS at least one
6 time and did not achieve a passing score or submitted a portfolio assessment through the MCAS
7 Alternative Assessment at least one time without being granted a competency determination. No
8 minimum attendance levels shall be required to file an appeal.

9 The regulations shall require that all students who fail the grade 10 MCAS and their parents and
10 guardians shall be notified of the right to appeal and the right to have an advocate to assist in the
11 appeal. Said notice shall be in the native language of the student and his parent or guardian. At
12 the request of the student's parent or guardian or the student who has reached the age of sixteen,
13 the superintendent of schools or his designee for the school district in which the student is
14 enrolled shall file an appeal. The superintendent may initiate an appeal for any student with the
15 consent of the parent, guardian or student who has reached the age of sixteen, if the student
16 meets the eligibility criteria set forth in said first paragraph. The superintendent may submit any
17 written comments or evidence relevant to the appeal. Denial of an earlier appeal shall not prevent
18 a new appeal from being filed.

19 The regulations shall require that the superintendent include in the performance appeal evidence
20 of the child's knowledge and skills in the subject at issue, including: (1) a recommendation from
21 at least one of the student's teachers in the area of appeal, assessing the level of the student's
22 knowledge and skills in the subject area at issue; (2) where possible, a meaningful comparison of
23 the student with a group of other students who passed the MCAS in the subject area of the
24 student's appeal. In the event of an inability within a reasonable time, but in no event later than
25 the calendar year in which the MCAS test was taken, to identify an appropriate set of students to
26 enable a meaningful comparison with other students, this clause shall be waived and the

27 superintendent shall submit a portfolio of the student's work in the area of the appeal, as
28 specified by the commissioner, sufficient to demonstrate whether the student's knowledge and
29 skills meet or exceed the performance level established by the board for the competency
30 determination; to ensure that such portfolio evidence will be available, the school district is
31 required to begin compiling a portfolio for any student upon the student's first failure to pass the
32 MCAS; (3) documentation that the student's individual education plan team, if any, with the
33 approval of a parent or guardian of the student, supports the graduation of the student; (4) any
34 additional information that the student's individual education plan team, if any, with the approval
35 of the student's parent or guardian, requests the superintendent to submit indicating that the
36 student's knowledge and skill in the subject area of the appeal meets or exceeds the performance
37 level established by the board of education for the competency determination and that the
38 student's MCAS scores do not accurately measure the student's abilities; (5) other supporting
39 information relevant to the determination as to whether the student's knowledge and skills in the
40 subject area of the appeal meet or exceed the performance level established by the board of
41 education for the competency determination, which may include work samples, scores of the
42 student on other standardized tests in the subject area of the appeal, evidence of acceptance to
43 college courses, or other evidence of academic achievement which demonstrates that the student
44 meets the competency determination standard.

45 The commissioner of elementary and secondary education shall grant the appeal for any student
46 if there is a preponderance of evidence in the documentation provided in clause (1) to (5),
47 inclusive, the first paragraph and any other evidence submitted by the superintendent that the
48 student's knowledge and skills in the subject area of the appeal meet or exceed the performance
49 level established by the board of education for the competency determination. The commissioner
50 shall provide notice of the results of the appeal and, in the case of a denial, written findings, to
51 the student, parents or guardian and superintendent. The commissioner's decision on this appeal
52 shall be final and shall not be subject to further review or appeal to any other entity; except that
53 the regulations shall permit the superintendent, parent, guardian or student to seek
54 reconsideration from the commissioner.

55 Every school district shall be required to appoint at least one school employee to be responsible
56 for the notice of appeals and for assisting in the appeals process.

57 Every school district shall be required to provide advocates to help assist students in the appeals
58 process, if so requested by the student or the student's parent or guardian.

59 SECTION 2. Every school district shall collect data concerning all appeals filed and submit this
60 information to the department of elementary and secondary education on an annual basis. The
61 commissioner of elementary and secondary education shall compile an annual report on the
62 appeals process for the board of elementary and secondary education, which report shall include,
63 at a minimum, the total number of appeals filed by school district in each school year and the
64 disposition of each appeal by school district in each school year. Said report shall be submitted
65 annually to the Joint Committee on Education.