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AN AMENDMENT

# 1

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Amendment offered by: Councilmember David A. Catania

To: B20-311 – Focused Student Achievement Amendment Act of 2013

Version:	Introduced	_____
	Committee Print	<u>  X  </u>
	First Reading	_____
	Engrossed	_____
	Enrolled	_____
	Unidentified	_____

AMEND:

*Amendment in the Nature of a Substitute (attached)*

RATIONALE:

*AINS makes certain technical and clarifying amendments while also adjusting how policies developed by local education agencies are made available to the public.*

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the State Education Office Establishment Act to authorize the Office of the State Superintendent of Education to develop and administer student assessments, and to require the office to develop guidelines to govern the administration of practice and field tests, and to provide that a local education agency may develop and administer other assessments; to establish student promotion criteria, notice requirements, and remedial education requirements for District of Columbia Public Schools; and to amend the District of Columbia Municipal Regulations to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Focused Student Achievement Amendment Act of 2013”.

TITLE I. STUDENT ASSESSMENT

Sec. 101. Short title.

This title may be cited as the “Student Assessment Amendment Act of 2013”.

Sec. 102. Student assessments.

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

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

(1) Subsection (a) is amended by striking the phrase “(“OSSE”).

(2) Subsection (b) is amended by striking the phrase “(“State Superintendent”).

(b) A new section 2b is added to read as follows:

“Sec. 2b. Definitions.

“For purposes of this act, the term:

“(1) “Districtwide assessments” has the same meaning as provided in section 2002(13) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1800.02(13)).

“(2) “Field test” means a test used during the test development process to assess the quality and appropriateness of test items, administration procedures, scoring, and reporting.

“(3) “Local education agency” or “LEA” means an educational institution at the local level that exists primarily to operate a publicly funded school or schools in the District of Columbia, including the District of Columbia Public Schools and a District of Columbia public charter school.

“(4) “OSSE” means the Office of the State Superintendent of Education established by section 2.

“(5) “Practice test” means any test or other evaluation that has as its primary purpose the simulation of a Districtwide assessment or other test or evaluation as administered by an LEA rather than for assessing student proficiency levels or informing instruction and remediation needs.

“(6) “State Superintendent” means the head of OSSE appointed by the Mayor pursuant to section 2.”.

(c) A new section 7d is added to read as follows:

“Sec. 7d. Student assessments.

“(a)(1) OSSE shall develop and administer all student tests and evaluations required by federal law or as a condition of a federal grant including the yearly student academic assessments that are required for the purposes of determining adequate yearly progress under Title I, Part A,

section 1111 of the Elementary and Secondary Education Act of 1965, approved January 8, 2002(115 Stat. 1444; 20 U.S.C. 6311).

“(2) OSSE is authorized to develop and administer: ~~developmentally appropriate tests and evaluations for purposes of assessing student proficiency levels or informing instruction and remediation needs, including~~

\_\_\_\_\_“(A) Districtwide assessments; and

\_\_\_\_\_“(B) ~~other~~ Tests and evaluations for purposes of allowing comparisons with international, national, or state indicators of student achievement; provided, that such test or evaluation be conducted with the smallest sample of students necessary to ensure valid comparisons.

“(3) OSSE shall develop guidelines for the administration of practice and field tests, which shall include recommendations on the:

“(A) Maximum amount of instructional time per year a school should devote to the administration of practice tests;

“(B) Appropriate timing for the administration of field tests; and

“(C) Maximum number of field tests in which a school should participate.

“(b)(1) An LEA may develop and administer developmentally appropriate tests and evaluations for purposes of assessing student proficiency levels or informing instruction and remediation needs and -

\_\_\_\_\_“(2) ~~An LEA may establish a policy allowing such tests and evaluations administered pursuant to this section to constitute a portion of a student’s final grade; provided,~~ that the test or other evaluation primarily tests content for the course for which the assessment,

test, or evaluation is administered and that the policy is provided to its students and parents  
OSSE at the start of the school year and made publicly available at the start of the school year.

“(32) Each LEA shall limit administration of practice and field tests based  
upon:

“(A) The guidelines as developed by OSSE pursuant to subsection  
(a)(3) of this section; or

“(B) A policy developed by the LEA; provided, that if the LEA  
develops its own policy it ~~shall~~ provides the policy to its students and parents ~~OSSE and make~~  
the policy publicly available before the administration of any practice or field test ~~and makes the~~  
~~policy publicly available.”.~~

~~Sec. 103. Rulemaking.~~

~~—The State Superintendent may promulgate regulations pursuant to section 3(b)(11) of the  
State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-  
176; D.C. Official Code § 38-2602(b)(11), necessary for the implementation of this title.~~

## TITLE II. STUDENT PROMOTION

Sec. 201. Short title.

This title may be cited as the “Student Promotion Act of 2013”.

Sec. 202. Definitions.

For the purposes of this title, the term:

(1) “Chancellor” means the chief executive officer of DCPS, as established by section  
105 of the District of Columbia Public Schools Agency Establishment Act of 2007, effective  
June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-174).

(2) “DCMR” means the District of Columbia Municipal Regulations.

(3) “DCPS” means the District of Columbia Public Schools agency established by section 102 of the District of Columbia Public Schools Agency Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-171).

(4) “Parent” means a natural parent, adoptive parent, step-parent, or any person who has legal custody by court order.

(5) “Passing grade” means:

(A) For pre-kindergarten through 5<sup>th</sup> grade, achieving proficient or advanced grades in a subject or content area; and

(B) For 6<sup>th</sup> through 12<sup>th</sup> grade, receiving credit for a course.

(6) “Principal” means a principal at a DCPS school.

(7) “Promoted” describes students in prekindergarten through 11<sup>th</sup> grade who are advanced to the next grade level.

(8) “Promotion” means advancement to the next grade level for students in prekindergarten through grade 11.

(9) “Retained” describes students who are required to repeat their current grade level due to their failure to meet promotion criteria.

(10) “Retention” means repetition of a student’s current school grade level due to the student’s failure to meet promotion criteria.

(11) “School year” means the school term beginning in August of one year and ending in the following year. School year does not include summer school.

(12) “Subject” and “content area” mean a particular course of study, such as mathematics, English language arts, writing, or literature.

Sec. 203. Student retention and promotion.

(a) In accordance with the requirements of this act or set forth in the DCMR, a DCPS student can be retained at any grade level.

(b)(1) Decisions regarding the promotion and retention of a DCPS student enrolled in prekindergarten through 8<sup>th</sup> grade shall be made by the student's principal based upon the recommendation of the student's teacher and in consideration of the promotion requirements set forth in the DCMR.

(2) A DCPS student enrolled in 9<sup>th</sup> grade through 11<sup>th</sup> grade shall be promoted if the student meets the promotion requirements as set forth in the DCMR.

(c) Notwithstanding subsection (b) of this section:

(1) A principal may:

(A) Retain any student who does not meet the promotion requirements set forth in the DCMR; and

(B) Promote a student who has failed to meet the promotion requirements set forth in the District of Columbia Municipal Regulations; provided, that the principal submits a written explanation justifying the decision to the Chancellor before the promotion is made; and

(2) No student with more than 30 unexcused absences in a school year shall be promoted unless the principal submits a written explanation justifying the decision to the Chancellor before the promotion is made.

(d) The Chancellor may develop separate promotion criteria for students who are enrolled in an English language learner program or receive special education services.

Sec. 204. Reporting requirements.

Within 30 calendar days after the end of the school year, the Chancellor shall submit to the Office of the State Superintendent of Education the name of each:

(1) Student who was identified as at risk of retention pursuant to 5 DCMR E2200.9 and a description of intervention services provided to the student; and

(2) Retained student, the underlying reason for the retention decision, and whether the student was identified as at risk of retention pursuant to the requirements of 5 DCMR E2200.9.

Sec. 205. Review; appeals.

(a) The Chancellor shall establish procedures to review retention decisions made pursuant to this act or as set forth in the DCMR and may review all retention decisions made pursuant to such procedures.

(b) The Chancellor shall establish a process, including deadlines, to allow the parent of a student to be retained for failure to meet the promotion criteria specified in the DCMR to appeal the retention decision on the grounds that the student has met the promotion criteria.

Sec. 206. Summer school.

(a)(1) Each student retained for the failure to meet the promotion criteria specified in the DCMR shall attend the summer school session immediately following the school year in which the student was retained, unless specifically excused by the principal or the Chancellor.

(2) A student who attends summer school pursuant to this section shall be reevaluated for promotion if the student:

(A) Does not have more than 3 unexcused absences from summer school;  
and

(B) Receives a passing grade in the subject or content area for which the student did not achieve a passing grade during the school year.



(3) A student who meets the promotion criteria set forth in the DCMR after the completion of summer school shall be promoted.

(b) In addition to those students identified to attend summer school pursuant to subsection (a) of this section, each principal shall provide to the Chancellor before the summer school registration deadline a list of the names of all students who the principal believes could benefit from summer school.

Sec. 207. Rulemaking.

The Chancellor shall promulgate regulations, pursuant to section 105(c)(5) of the District of Columbia Public Schools Agency Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code 38-174(c)(5)), necessary for the implementation of this title.

TITLE III. CONFORMING AMENDMENTS

Sec. 301. Chapter 22 of Subtitle E of Title 5 of the District of Columbia Municipal Regulations (5 DCMR § E2200 *et seq.*) is amended as follows:

(a) Section 2200.9 is amended by inserting adding a new paragraph (b-1) to read as follows:

“(b-1) At least 90 calendar days prior to the end of the school year provide parents of students at risk for retention with:

“(A) Notice of the student’s status, which shall include a statement of the student’s academic deficiencies and the possible consequences if the student does not meet applicable promotion criteria; and

“(B) Information to assist the parents in helping their child meet the promotion criteria.”

(b) The lead in language for section 2201.4 is amended to read as follows: “A student may be retained in any grade, with the following requirements:”.

(c) Section 2201.5 is repealed.

(d) Section 2201.6 is amended by striking the phrase “pre-kindergarten through fifth (5th) grade” and inserting the phrase “pre-kindergarten through eighth (8th) grade” in its place.

(e) Section 2201.7 is repealed.

#### TITLE IV. GENERAL PROVISIONS

##### Sec. 401. Fiscal impact statement.

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

##### Sec. 402. Effective date.

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

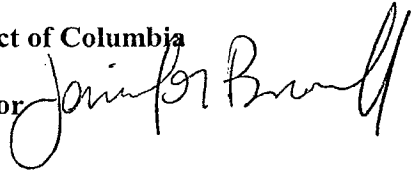
**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Office of the Budget Director**



Jennifer Budoff  
Budget Director

**FISCAL IMPACT STATEMENT**

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

**FROM:** Jennifer Budoff - Budget Director 

**DATE:** October 29, 2013

**SHORT TITLE:** Bill 20-311 the "Focused Student Achievement Amendment Act of 2013"

**TYPE:** Amendment-in-the-Nature-of-a-Substitute

**REQUESTED BY:** Councilmember David Catania

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**Conclusion**

Funds are sufficient in the FY 2014 through FY 2017 budget and financial plan to implement this amendment.

**Background**

This amendment in the nature of a substitute eliminates the rulemaking requirement for the Office of the State Superintendent (OSSE). It also eliminates the requirement that Local Education Agencies (LEAs) make their testing policies available to OSSE and requires that LEAs make the testing policies publicly available before the start of the school year.

The Office of the Chief Financial Officer issued a fiscal impact statement for the underlying amended bill on October 1, 2013, in which the CFO concluded that funds are sufficient to implement the legislation. Because the changes made within this amendment do not change the effect of the underlying measure, that conclusion still holds.

**Analysis of Impact on Spending**

This amendment will not adversely impact spending.

**Analysis of Impact on Revenue**

This amendment will not adversely impact revenue.