

SB 381-FN-A - AS INTRODUCED

2022 SESSION

22-3096

10/05

SENATE BILL        ***381-FN-A***

AN ACT            establishing an office of the advocate for special education.

SPONSORS:        Sen. Reagan, Dist 17; Sen. Hennessey, Dist 1; Sen. Bradley, Dist 3; Sen. Watters,  
Dist 4; Sen. Avar, Dist 12; Sen. Ward, Dist 8; Sen. Rosenwald, Dist 13; Sen.  
Gannon, Dist 23; Sen. Sherman, Dist 24; Rep. Spillane, Rock. 2

COMMITTEE:      Education

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ANALYSIS

This bill establishes and independent office of the advocate for special education and makes an appropriation therefor.

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Explanation:      Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

*In the Year of Our Lord Two Thousand Twenty Two*

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

(b) Serve as a source of information and referral regarding state and federal laws and regulations governing special education.

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1 (c) Have the discretion to ensure all IEP documents, 504 plans, related supports and  
2 services to students with disabilities are properly documented and implemented, and the goals and  
3 objectives are being met, and that appropriate related supports and services are being provided.

4 (d) Have authority to inquire of, investigate, and review all documents from any school,  
5 district, or special education department in this state. The advocate shall have access to all IEP  
6 documents, 504 plans, related supports and services, treatment plans, progress reports, and report  
7 cards of all students with disabilities.

8 (e) Have the discretion to review all documents relating to IEP documents, 504 plans,  
9 related supports and services being provided to students throughout the state, and ensure that  
10 proper documentation is being maintained by all schools and districts.

11 (f) Track metrics of the type of disagreements or complaints between a parent, guardian,  
12 or caretaker of the student with disabilities and the district; the types of suspect disabilities, which  
13 may uncover an unmet need in the education system; and the types of interventions and supports  
14 required by a segment of children.

15 (g) Ensure protections and safeguards are provided to school staff. To this end, all  
16 conversations between teachers, health professionals, and/or any school district personnel and the  
17 advocate shall be deemed confidential and not subject to disclosure absent a court order.

18 (h) Implement measures to track and monitor district achievement, success, and  
19 challenges in the implementation of IEPs, 504 plans, and related supports and services.

20 (i) Establish minimum compliance measures to ensure that copies of all relevant  
21 documents which are discussed at any family meeting involving a student receiving services  
22 pursuant to this chapter are given to the student's family at least 5 days in advance of any scheduled  
23 meeting at which these documents are to be discussed.

24 (j) Investigate any retaliatory act alleged or committed by any administrator, school  
25 district, state department, or other agency with the appropriate referrals to judicial departments or  
26 agencies for action, and any and all complaints filed by a parent, guardian, or caretaker of student  
27 with disabilities.

28 II. The advocate may appoint those assistants that may be deemed necessary whose powers  
29 and duties shall be similar to those imposed upon the advocate by law and any other staff as is  
30 deemed necessary. The duties of the assistants and other staff members shall be performed under  
31 and by the advice and direction of the advocate.

32 III. All student records shall remain confidential and compliant with state and federal  
33 privacy laws.

34 IV. The advocate shall not be held liable for any lack of compliance of an IEP or 504 plan.

35 V. All records or files of the advocate shall be readily available to any parent, guardian, or  
36 caretaker of a student with disabilities to inspect and/or copy for purposes of any agency or judicial  
37 proceeding.

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1       186-C:39 Annual Report.

2           I. The advocate shall prepare a detailed report to the governor, the speaker of the house of  
3 representatives, the president of the senate, the chairpersons of the house and senate education  
4 committees, and the department of education advising on the status of services being provided to  
5 students with disabilities and summarizing the work of the office of the advocate for special  
6 education during the previous school year.

7           II. The annual report shall also include a summary of the parent complaints being filed  
8 against schools by families in regard to these services. The complaints shall remain confidential and  
9 shall not be made available to the public. For purposes of this section, the complaints are as to the  
10 lack of compliance of IEP and 504 plans or the denial of eligibility and/or lack of services.

11       186-C:40 Evaluation of Process; Meeting Evaluation Form.

12           I. The department, in conjunction with the advocate shall develop a meeting evaluation form  
13 to be provided to parents, guardians, and caretakers of students with disabilities. The meeting  
14 evaluation form shall be provided to parents, guardians, and caretakers of students with disabilities  
15 after every meeting with representatives from the school regarding a student with disabilities. The  
16 department shall make this form available on its website.

17           II. The meeting evaluation form shall be designed to allow parents, guardians, and  
18 caretakers of students with disabilities to provide feedback on their experience, understanding, and  
19 level of satisfaction with the processes involving IEPs, 504 plans, and related supports and services.  
20 The meeting evaluation form shall also include sample or suggested questions that may be asked by  
21 parents, guardians, and caretakers during this process. Schools shall ensure that any parents,  
22 guardians, and caretakers of students with disabilities are given meeting evaluation forms in a  
23 language understood by the person receiving the form.

24           III. Persons receiving the meeting evaluation forms shall be encouraged to return those  
25 forms to the issuing school within 10 days upon receipt and may provide a copy of the meeting  
26 evaluation form to the advocate. Copies of the completed meeting evaluation forms shall be retained  
27 in the student's file, and shall also be distributed to the school's special education team chair or  
28 department head, as applicable, and to the school district's director of special education. Schools  
29 shall review the forms and shall respond appropriately, if necessary.

30           IV. Meeting evaluation forms shall not be deemed to be public records pursuant to RSA 91-  
31 A.

32           V. The meeting evaluation forms shall inquire regarding:

33               (a) Whether documents received by the family related to special education services were  
34 given in a timely manner;

35               (b) The quality of the student's special education team interaction with the parents;

36               (c) The family's level of confidence in the school or district's explanation, development,  
37 and implementation of the IEP, 504 plan, or related supports and services;

1           (d) The family's level of confidence in the collaboration with their student's team  
2 members;

3           (e) The family's satisfaction level that their voices were heard and that the family's  
4 concerns were recognized by the district; and

5           (f) The family's level of confidence that there are avenues to address any concerns or  
6 complaints the family may have in the future regarding their student.

7           VI. Each school district shall provide written notification which shall be distributed to the  
8 family at the time a student with disabilities is referred to special education, in conjunction with the  
9 meeting evaluation form.

10          2 Appropriation. There is appropriated the sum of \$500,000 to the advocate for special  
11 education for the biennium ending June 30, 2023 for the payments of the salaries of the staff and for  
12 payment of office expenses and other actual expenses incurred by the office of the advocate for  
13 special education in the performance of their duties. The governor is authorized to draw a warrant  
14 for said sum out of any money in the treasury not otherwise appropriated.

15          3 Effective Date. This act shall take effect 30 days after its passage.

**SB 381-FN-A- FISCAL NOTE  
AS INTRODUCED**

AN ACT establishing an office of the advocate for special education.

**FISCAL IMPACT:**    ☒ **State**                    ☐ **County**                    ☒ **Local**                    ☐ **None**

| STATE:                 | Estimated Increase / (Decrease)             |                                    |                                  |                                |
|------------------------|---------------------------------------------|------------------------------------|----------------------------------|--------------------------------|
|                        | FY 2022                                     | FY 2023                            | FY 2024                          | FY 2025                        |
| <b>Appropriation</b>   | \$0                                         | \$500,000                          | \$0                              | \$0                            |
| <b>Revenue</b>         | \$0                                         | \$0                                | \$0                              | \$0                            |
| <b>Expenditures</b>    | \$0                                         | Indeterminable Increase            | Indeterminable Increase          | Indeterminable Increase        |
| <b>Funding Source:</b> | <input checked="" type="checkbox"/> General | <input type="checkbox"/> Education | <input type="checkbox"/> Highway | <input type="checkbox"/> Other |

**LOCAL:**

|                     |     |                |                |                |
|---------------------|-----|----------------|----------------|----------------|
| <b>Revenue</b>      | \$0 | \$0            | \$0            | \$0            |
| <b>Expenditures</b> | \$0 | Indeterminable | Indeterminable | Indeterminable |

**METHODOLOGY:**

This bill establishes an Office of the Advocate for Special Education administratively attached to the Department of Administrative Service and creates the position of Advocate for Special Education. The position would be responsible for advocacy, coordination and be the point of contact for parents, guardians and caretakers of children with disabilities. The Advocate position may also appoint assistants and other staff members to the office. The bill appropriates \$500,000 to the Advocate for Special Education, for the biennium ending FY 2023, for the payments of salaries of staffing and other office or actual expenses incurred by the office. Lastly, the bill adds a new requirement for the Department of Education and new monitoring requirements for school districts.

The Department of Education states there would be no impact on their budget. However, the new monitoring requirements for schools could result in an indeterminable impact on local expenditures.

The Department of Administrative Services states the fiscal impact is an indeterminable impact on State expenditures. The Department assumes, with agreement from the agency, the agency shall pay the Department on a cost allocation basis for budgeting, record keeping and related administrative and clerical assistance per RSA 21-G:10, II(a). The Department also states the fiscal impact is unknown as they are unable to determine if the appropriation would

cover the full costs, if needed, for office space, the salary of the new advocate, as well as additional personnel costs. They also note there is no appropriation to cover the out years. Lastly, the Department is unable to determine if this newly established office would result in the need for additional staffing from the Department to perform tasks in addition to the work that it currently performs.

It is assumed the fiscal impact would not occur until FY 2023.

**AGENCIES CONTACTED:**

Department of Education and Department of Administrative Services