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**THE COUNCIL**

**REPORT OF THE HUMAN SERVICES DIVISION  
ROBERT NEWMAN, LEGISLATIVE DIRECTOR**

**COMMITTEE ON EDUCATION**

**Council Member Robert Jackson- Chairperson**

**June 27, 2011**

**PROPOSED INT. NO. 364-A:**

By Council Members Fidler, Brewer, Cabrera, Comrie, Dromm, Ferreras, Gentile, Gonzalez, James, Lander, Mealy, Palma, Recchia, Rose, Sanders Jr., Vacca, Vann, Williams, Mendez, Koslowitz, Dickens, Jackson, Koppell, Eugene, Nelson, Levin, Van Bramer, Arroyo, Weprin, Gennaro and Halloran.

**TITLE:**

A Local Law to amend the New York city charter, in relation to requiring the department of education to provide data regarding students who were transferred to an alternate school as a result of school closure.

**CHARTER:**

Adds a new section 530-c.

## **I. INTRODUCTION**

On June 27, 2011, the Education Committee, chaired by Council Member Robert Jackson will vote on Proposed Int. No. 364-A. This bill would amend the charter of the city of New York, to require the Department of Education (DOE) to provide data regarding students who were transferred to an alternate school as a result of school closure.

## **II. BACKGROUND**

The legislation would require the DOE to report on how many students are displaced as a result of a school closure and assess whether the vast majority of these students are at risk of dropping out, using information such as attendance rate and grade point average.

A report by the Independent Budget Office (IBO) found that, “Closing high schools usually had greater concentrations of high needs students, students from low-income households and students living in temporary housing compared to the medians for non-closing schools in the same borough. The closing high schools also had more over age students than non-closing schools.”<sup>1</sup> Critics argue that many of the students most at-risk, including special education students and English Language Learners, will be displaced by many of these school closures and may eventually drop out as a result.

Other “collateral damage” created by the closing of large high schools was detailed in a report by the Center for New York City Affairs:

As the lowest achieving large schools were closed, thousands of students, particularly new immigrants and children receiving special education services,

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<sup>1</sup> Independent Budget Office, “Comparisons between Schools Slated for Closing and All Other Schools,” January 25, 2010, accessed at <http://www.ibo.nyc.ny.us/iboreports/schoolclosing012510.pdf>.

were diverted to the remaining large schools. In many cases, these schools were ill equipped to serve a large influx of challenging students. The graduation and attendance rates at these remaining large schools declined; in some cases, barely-functioning schools became failing schools and were subsequently closed.<sup>2</sup>

This “domino effect” of school closings lead to surrounding schools becoming overcrowded with greater concentrations of high needs students and then being targeted for closure themselves, a point that was cited by many teachers, principals and parents at hearings on the proposed school closings.

The purpose of this legislation is to track what happens to students enrolled in schools that are closed by the DOE.

#### **IV. ANALYSIS OF PROPOSED INT. NO. 364-A**

Proposed Int. No. 364-A would amend the Charter of the City of New York in order to increase transparency regarding students who were transferred to an alternate school or program as a result of a school closure. Section 1 of the bill would amend the City Charter by adding a new section 530-c titled “student graduation reporting data” and would require the DOE to submit an annual report to the Council no later than the first day of February, 2012 which would identify the schools that have been closed and the number of students at each school who did not complete graduation requirements prior the closure of such school. Subdivision a of such section provides definitions for the purposes of the new section: “alternative education program” would mean any program that is specifically designed to meet the academic needs of traditionally underperforming students; “department” would mean the Department of Education of the City of New York; and “self-contained” would mean any special education program wherein special

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<sup>2</sup> Hemphill, Clara & Nauer, Kim, *The New Marketplace: How Small-School Reforms and School Choice Have Reshaped New York City's High Schools*, The New School Center for New York City Affairs, June 2009.

education students are not integrated with general education students during academic instruction.

Subdivision (b) of this section would do the following: Paragraph one of subdivision (b) would require the reporting of the total number of students at each such school assigned to an alternate school and the alternate school to which each student was assigned, including, but not limited to, alternative education programs, young adult borough center programs and general education development programs.

Paragraph two would require, in such report, the total number and percentage of students who were absent from school 0-20, 21-40, 41-60, 61-80 and 81-100 percent of the time in the prior school year.

Paragraph three would require the reporting of, the total number and percentage of students who utilized a credit recovery option in order to accumulate credits.

Paragraph four would require in such report the total number and percentage of students receiving special education services, including, but not limited to, students assigned to self-contained programs.

Paragraph five would require the reporting of the total number and percentage of students who were assigned a dropout code by the DOE including, but not limited to, students who were identified by the department as having an unknown address, exceeding 21 years of age, entering military service or voluntarily withdrawing.

Paragraph six would require the reporting of the total number and percentage of students at each school whose grade point average was recorded below 2.0, between 2.0 and 3.0 and between 3.0 and 4.0, for students in grade nine through twelve only.

Paragraph seven would require that all the information required by this subdivision to be disaggregated by grade, age as of December 31<sup>st</sup> of the previous calendar year, race/ethnicity, gender, English language learner status, and special education status.

Paragraph eight would require that all information required by this subdivision be aggregated citywide, as well as disaggregated by borough and community school district.

Subdivision (c) of section 530-c would require that none of the information required would be reported in a manner that would be in violation of any applicable provision of any federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a category contains between 0 and 9 students, or allows another category to be narrowed to between 0 and 9 students, the number will be replaced with a symbol.

Section 2 of the bill states that if any section or portion of the bill is declared unconstitutional or invalid for any reason by any court having jurisdiction over the matter then that section or portion shall be deemed severable and shall not affect the validity of the remaining portions of the local law.

Section 3 of the bill states that the law would take effect 90 days after its enactment into law.

## **V. CONCLUSION**

The data required by Proposed Int. No. 364-A will bring a level of transparency to the way in which DOE tracks students who are transferred to other schools or programs after their school is closed.



Proposed Int. No. 364-A

By Council Members Fidler, Brewer, Cabrera, Comrie, Dromm, Ferreras, Gentile, Gonzalez, James, Lander, Mealy, Palma, Recchia, Rose, Sanders Jr., Vacca, Vann, Williams, Mendez, Koslowitz, Dickens, Jackson, Koppell, Eugene, Nelson, Levin, Van Bramer, Arroyo, Weprin, Gennaro and Halloran

A Local Law to amend the New York city charter, in relation to requiring the department of education to provide data regarding students who were transferred to an alternate school as a result of a school closure.

Be it enacted by the Council as follows:

Section 1. The New York city charter is amended by adding a new section 530-c to read as follows:

§530-c Student graduation reporting data. a. For the purposes of this section:

1. “Alternative education program” shall mean any program that is specifically designed to meet the academic needs of traditionally underperforming students.

2. “Department” shall mean the department of education of the city of New York.

3. “Self-contained” shall mean any special education program wherein special education students are not integrated with general education students during academic instruction.

b. Not later than February 1st of the year two thousand and twelve and on an annual basis thereafter, the chancellor of the city school district of the city of New York shall submit to the council and post on the department’s website, a report which identifies schools under the jurisdiction of such district that have been closed during the previous school year and the number of students at each such school who did not complete their respective graduation requirements prior to the closure of such school. Such report shall include, but not be limited to, the following information with respect to such students who did not complete graduation requirements in the prior school year:

1. The total number and percentage of students at each such school assigned to a different school and the school to which each such student was assigned, including, but not limited to, alternative education programs, young adult borough center programs and general education development programs.
2. The total number and percentage of students who were absent from school 0 to 20, 21-40, 41-60, 61-80, and 81-100 percent of the time in the prior school year.
3. The total number and percentage of students who utilized a credit recovery option in order to accumulate credits.
4. The total number and percentage of students receiving special education services including, but not limited to, students assigned to self-contained programs.
5. The total number and percentage of students who were assigned a dropout code by the department including, but not limited to, students who were identified by the department as having an unknown address, exceeding 21 years of age, entering military service or voluntarily withdrawing.
6. For students in grades nine through twelve, the total number and percentage of students at each school whose grade point average was recorded below 2.0; between 2.0 and 3.0; and between 3.0 and 4.0.
7. All information required by this subdivision shall be disaggregated by grade, age as of December 31st of the previous calendar year, race/ethnicity, gender, English language learner status, and special education status.
8. All information required by this subdivision shall be aggregated citywide, as well as disaggregated by borough and community school district.



c. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a category contains between 0 and 9 students, or allows another category to be narrowed to between 0 and 9 students, the number shall be replaced with a symbol.

§2. Effect of invalidity; severability. If any section, subdivision, paragraph, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

§3. This local law shall take effect ninety days after its enactment into law

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**THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION  
PRESTON NIBLACK, DIRECTOR  
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO: 364-A**

**COMMITTEE: Education**

**TITLE:** A Local Law to amend the New York city charter, in relation to requiring the department of education to provide data regarding students who were transferred to an alternate school as a result of a school closure.

**SPONSORS:** Council Members Fidler, Brewer, Cabrera, Comrie, Dromm, Ferreras, Gentile, Gonzalez, James, Lander, Mealy, Palma, Recchia, Rose, Sanders Jr., Vacca, Vann, Williams, Mendez, Koslowitz, Dickens, Jackson, Koppell, Eugene, Nelson, Levin, Van Bramer, Arroyo, Weprin, Gennaro and Halloran

**SUMMARY OF LEGISLATION:** Proposed Int. 364-A would require the Department of Education (“DOE”) to provide an annual report to the New York City Council that tracks students transferred to an alternative school or program as a result of a school closure. This bill would require the DOE to report information on student graduation data, referencing the student’s participation in alternative academic education programs. This report would identify schools that have been closed in the previous school year and the number of students who did not complete their graduation requirements prior to closure of each school.

The DOE would also be required to report data on the number and percentages of students who were assigned to a different school, were moderately or excessively absent in the prior school year, utilized credit recovery options, are in grades nine through twelve with a grade point average that is below 2.0, and were assigned a dropout code. The data would be aggregated citywide and disaggregated by grade, age, race and ethnicity, age and grade, gender, geographical indicators, English language learner status and special education status by borough and school district.

The bill would require the DOE to report this information to the City Council and make it available on the DOE website.

**EFFECTIVE DATE:** This local law would take effect ninety days after its enactment into law.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** N/A

**FISCAL IMPACT STATEMENT:**

	Effective FY12	FY Succeeding Effective FY13	Full Fiscal Impact FY13
<b>Revenues</b>	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0
<b>Net</b>	\$0	\$0	\$0

**IMPACT ON REVENUES:** There would be no impact on revenues resulting from the enactment of this legislation.

**IMPACT ON EXPENDITURES:** The Administration estimates a need to hire a research associate for total cost of \$89,104 annually. The Council believes the DOE can comply with this legislation using existing resources.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** City Council Finance Division

**ESTIMATE PREPARED BY:** Phylesia Steele, Legislative Financial Analyst  
Regina Poreda Ryan, Assistant Director

**HISTORY:** Introduced as Intro. 364 by the Council on October 13, 2010 and referred to the Committee on Education. A hearing was held by the Committee on Education and the legislation was laid over by the Committee on January 25, 2011. Subsequent to this hearing Intro. 364 was amended and is scheduled to be voted on by the Committee on Education and the Full Council on June 28, 2011 as proposed Int. 364-A.

**DATE SUBMITTED TO COUNCIL:** October 13, 2010