

**HOUSE . . . . . No. 01938**

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:
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Thomas M. McGee</i>	<i>Third Essex and Middlesex</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>

# HOUSE . . . . . No. 01938

By Ms. Malia of Boston, a petition (accompanied by bill, House, No. 1938) of Wolf and others relative to the appeals process in MCAS exams Joint Committee on Education.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
□ HOUSE  
□ , NO. 461 OF 2009-2010.]

## The Commonwealth of Massachusetts

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

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

21 The regulations shall require that the superintendent include in the performance appeal evidence  
22 of the child's knowledge and skills in the subject at issue, including: (1) a recommendation from  
23 at least one of the student's teachers in the area of appeal, assessing the level of the student's  
24 knowledge and skills in the subject area at issue; (2) where possible, a meaningful comparison of  
25 the student with a group of other students who passed the MCAS in the subject area of the  
26 student's appeal. In the event of an inability within a reasonable time, but in no event later than  
27 the calendar year in which the MCAS test was taken, to identify an appropriate set of students to  
28 enable a meaningful comparison with other students, this clause shall be waived and the  
29 superintendent shall submit a portfolio of the student's work in the area of the appeal, as  
30 specified by the commissioner, sufficient to demonstrate whether the student's knowledge and  
31 skills meet or exceed the performance level established by the board for the competency  
32 determination; to ensure that such portfolio evidence will be available, the school district is

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

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

55 the regulations shall permit the superintendent, parent, guardian or student to seek  
56 reconsideration from the commissioner.

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

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

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