

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 38.**  
**EDUCATIONAL INSTITUTIONS.**

**CHAPTER 18.**  
**DISTRICT OF COLUMBIA SCHOOL REFORM**  
**(PUBLIC CHARTER SCHOOLS).**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 18. DISTRICT OF COLUMBIA SCHOOL**  
**REFORM (PUBLIC CHARTER SCHOOLS).**

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# CHAPTER 18. DISTRICT OF COLUMBIA SCHOOL REFORM (PUBLIC CHARTER SCHOOLS).

## § 38-1800.01. SHORT TITLE.

This chapter may be cited as the "District of Columbia School Reform Act of 1995".

(Apr. 26, 1996, 110 Stat. 1321 [226], Pub. L. 104-134, § 2001.)

## § 38-1800.02. DEFINITIONS.

Except as otherwise provided, for purposes of this chapter:

(1) *Appropriate congressional committees.* -- The term "appropriate congressional committees" means:--

(A) The Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate;

(B) The Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate; and

(C) The Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(2) *Authority.* -- The term "Authority" means the District of Columbia Financial Responsibility and Management Assistance Authority established under § 47- 391.01(a).

(3) *Average daily attendance.* -- The term "average daily attendance" means the aggregate attendance of students of the school during the period divided by the number of days during the period in which:

(A) The school is in session; and

(B) The students of the school are under the guidance and direction of teachers.

(4) *Average daily membership.* -- The term "average daily membership" means the aggregate enrollment of students of the school during the period divided by the number of days during the period in which:

(A) The school is in session; and

(B) The students of the school are under the guidance and direction of teachers.

(5) *Board of Education.* -- The term "Board of Education" means the Board of Education of the District of Columbia.

(6) *Board of Trustees.* -- The term "Board of Trustees" means the governing board of a public charter school, the members of which are selected pursuant to the charter granted to the school and in a manner consistent with this chapter.

(7) *Consensus Commission.* -- The term "Consensus Commission" means the Commission on Consensus Reform in the District of Columbia public schools established under subchapter VIII of this chapter.

(8) *Core Curriculum.* -- The term "core curriculum" means the concepts, factual knowledge, and skills that students in the District of Columbia should learn in kindergarten through grade 12 in academic content areas, including, at a minimum, English, mathematics, science, and history.

(9) *District of Columbia Council.* -- The term "District of Columbia Council" means the Council of the District of Columbia established pursuant to § 1- 204.01.

(10) *District of Columbia Government.* --

(A) *In general.* -- The term "District of Columbia Government" means the government of the District of Columbia, including:

- (i) Any department, agency, or instrumentality of the government of the District of Columbia;
- (ii) Any independent agency of the District of Columbia established under part F of title IV of the District of Columbia Home Rule Act;
- (iii) Any other agency, board, or commission established by the Mayor or the District of Columbia Council;
- (iv) The courts of the District of Columbia;
- (v) The District of Columbia Council; and
- (vi) Any other agency, public authority, or public nonprofit corporation that has the authority to receive moneys directly or indirectly from the District of Columbia (other than moneys received from the sale of goods, the provision of services, or the loaning of funds to the District of Columbia).

(B) *Exception.* -- The term "District of Columbia Government" neither includes the Authority nor a public charter school.

(11) *District of Columbia Government Retirement System.* -- The term "District of Columbia Government retirement system" means the retirement programs authorized by the District of Columbia Council or the Congress for employees of the District of Columbia Government.

(12) *District of Columbia public school.* --

(A) *In general.* -- The term "District of Columbia public school" means a public school in the District of Columbia that offers classes:

- (i) At any of the grade levels from prekindergarten through grade 12; or
- (ii) Leading to a secondary school diploma, or its recognized equivalent.

(B) *Exception.* -- The term "District of Columbia public school" does not include a public charter school.

(13) *Districtwide assessments.* -- The term "districtwide assessments" means a variety of assessment tools and strategies (including individual student assessments under subparagraph (E)(ii) of this paragraph administered by the Superintendent to students enrolled in District of Columbia public schools and public charter schools that:

- (A) Are aligned with the District of Columbia's content standards and core curriculum;
- (B) Provide coherent information about student attainment of such standards;
- (C) Are used for purposes for which such assessments are valid, reliable, and unbiased, and are consistent with relevant nationally recognized professional and technical standards for such assessments;
- (D) Involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding; and
- (E) Provide for:
  - (i) The participation in such assessments of all students;
  - (ii) Individual student assessments for students that fail to reach minimum acceptable levels of performance;
  - (iii) The reasonable adaptations and accommodations for students with special needs (as defined in paragraph (32) of this section) necessary to measure the achievement of such students relative to the District of Columbia's content standards; and
  - (iv) The inclusion of limited-English proficient students, who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information regarding such students' knowledge and abilities.

(14) *Electronic data transfer system.* -- The term "electronic data transfer system" means a computer-based process for the maintenance and transfer of student records designed to permit the transfer of individual student records among District of Columbia public schools and public charter schools.

(15) *Elementary school.* -- The term "elementary school" means an institutional day or residential school that provides elementary education, as determined under District of Columbia law.

(16) *Eligible applicant.* -- The term "eligible applicant" means a person, including a private, public, or quasi-public entity, or an institution of higher education (as defined in § 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))), that seeks to establish a public charter school in the

District of Columbia.

(17) *Eligible chartering authority.* -- The term "eligible chartering authority" means any of the following:

- (A) The Board of Education;
- (B) The Public Charter School Board; or
- (C) Any one entity designated as an eligible chartering authority by enactment of a bill by the District of Columbia Council after April 26, 1996.

(18) *Family resource center.* -- The term "family resource center" means an information desk:

- (A) Located in a District of Columbia public school or a public charter school serving a majority of students whose family income is not greater than 185 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with § 673(2) of the Community Services Block Grant Act applicable to a family of the size involved (42 U.S.C. 9902(3))); and
- (B) Which links students and families to local resources and public and private entities involved in child care, adult education, health and social services, tutoring, mentoring, and job training.

(19) *Individual career path.* -- The term "individual career path" means a program of study that provides a secondary school student the skills necessary to compete in the 21st century workforce.

(20) *Literacy.* -- The term "literacy" means:

- (A) In the case of a minor student, such student's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function in society, to achieve such student's goals, and develop such student's knowledge and potential; and
- (B) In the case of an adult, such adult's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve such adult's goals, and develop such adult's knowledge and potential.

(21) *Long-term reform plan.* -- The term "long-term reform plan" means the plan submitted by the Superintendent under § 38-1801.01.

(22) *Mayor.* -- The term "Mayor" means the Mayor of the District of Columbia.

(23) *Metrobus and Metrorail Transit System.* -- The term "Metrobus and Metrorail Transit System" means the bus and rail systems administered by the Washington Metropolitan Area Transit Authority.

(24) *Minor student.* -- The term "minor student" means an individual who:

- (A) Is enrolled in a District of Columbia public school or a public charter school; and
- (B) Is not beyond the age of compulsory school attendance, as prescribed in §§ 38-201 and 38-202.

(24A) *Nonprofit Corporation Act.* -- The term "Nonprofit Corporation Act" means Chapter 4 of Title 29.

(25) *Nonresident student.* -- The term "nonresident student" means:

- (A) An individual under the age of 18 who is enrolled in a District of Columbia public school or a public charter school, and does not have a parent, guardian, custodian, or primary care giver, as determined pursuant to Chapter 3 of this title, residing in the District of Columbia; or
- (B) An individual who is age 18 or older and is enrolled in a District of Columbia public school or public charter school, and does not reside in the District of Columbia.

(25A) *Office of the State Superintendent of Education or OSSE.* -- The term "Office of the State Superintendent of Education" or "OSSE" means the Office of the State Superintendent of Education established by § 38-2601.

(26) *Parent.* -- The term "parent" means a person who has custody of a child, and who:

- (A) Is a natural parent of the child;
- (B) Is a stepparent of the child;
- (C) Has adopted the child; or
- (D) Is appointed as a guardian for the child by a court of competent jurisdiction.

(27) *Petition.* -- The term "petition" means a written application.

(28) *Promotion gate.* -- The term "promotion gate" means the criteria, developed by the Superintendent and approved by the Board of Education, that are used to determine student promotion at different grade levels. Such criteria shall include student achievement on districtwide assessments established under subchapter III of this chapter.

(29) *Public charter school.* -- The term "public charter school" means a publicly funded school in the District of Columbia that:

(A) Is established pursuant to subchapter II of this chapter; and

(B) Except as provided under §§ 38-1802.12(d)(5) and 38-1802.13(c)(5) is not a part of the District of Columbia public schools.

(30) *Public Charter School Board*. -- The term "Public Charter School Board" means the Public Charter School Board established under § 38-1802.14.

(31) *Secondary school*. -- The term "secondary school" means an institutional day or residential school that provides secondary education, as determined by District of Columbia law, except that such term does not include any education beyond grade 12.

(32) *Student with special needs*. -- The term "student with special needs" means a student who is a child with a disability as provided in § 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)) or a student who is an individual with a disability as provided in § 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)).

(33) *Superintendent*. -- The term "Superintendent" means the Superintendent of the District of Columbia public schools.

(34) *Teacher*. -- The term "teacher" means any person employed as a teacher by the Board of Education or by a public charter school.

(Apr. 26, 1996, 110 Stat. 1321 [226], Pub. L. 104-134, § 2002; Apr. 13, 2005, D.C. Law 15-348, § 102(a), 52 DCR 1991; Mar. 14, 2007, D.C. Law 16-268, § 4(a), 54 DCR 833; Sept. 18, 2007, D.C. Law 17-20, § 4032(a), 54 DCR 7052; July 2, 2011, D.C. Law 18-378, § 3(dd)(1), 58 DCR 1720.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2852.

##### *Effect of Amendments*

D.C. Law 15-348, in par. (25)(A), substituted "parent, guardian, custodian, or primary care giver, as determined pursuant to Chapter 3 of this title," for "parent".

D.C. Law 16-268 added par. (24A).

D.C. Law 17-20 added par. (25A).

D.C. Law 18-378, in par. (24A), substituted "Chapter 4 of Title 29" for "subchapter I of Chapter 3 of Title 29".

##### *Temporary Amendments of Section*

Section 3(a) of D.C. Laws 13-199 in subsec. (25)(A), substituted "parent, guardian or custodian" for "parent".

Section 6(b) of D.C. Laws 13-427 provides that the act shall expire after 225 days of its having taken effect.

Section 3(a) of D.C. Law 14-38, in subsec. (25)(A) is amended by striking the word "parent" and inserting the phrase "parent, guardian or custodian" in its place.

Section 6(b) of D.C. Law 14-38 provides that the act shall expire after 225 days of its having taken effect.

Section 3(a) of D.C. Law 15-67, in par. (25)(A), substituted "parent, guardian or custodian" for "parent".

Section 6(b) of D.C. Law 15-67 provides that the act shall expire after 225 days of its having taken effect.

##### *Emergency Act Amendments*

For temporary (90-day) amendment of section, see § 3(a) of the Public School Enrollment Integrity Emergency Amendment Act of 2000 (D.C. Act 13-409, August 14, 2000, 47 DCR 7264).

For temporary (90 day) amendment of section, see § 3(a) of the Public School Enrollment Integrity Congressional Review Emergency Amendment Act of 2000 (D.C. Act 13-453, November 7, 2000, 47 DCR 9406).

For temporary (90 day) amendment of section, see § 3(a) of Public School Enrollment Integrity Emergency Amendment Act of 2001 (D.C. Act 14-86, July 9, 2001, 48 DCR 6373).

For temporary (90 day) amendment of section, see § 3(a) of Public School Enrollment Integrity Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-192, November 29, 2001, 48 DCR 11239).

For temporary (90 day) amendment of section, see § 3(a) of Public School Enrollment Integrity Clarification Emergency Amendment Act of 2003 (D.C. Act 15-174, October 6, 2003, 50 DCR 9181).

For temporary (90 day) amendment of section, see § 3(a) of Public School Enrollment Integrity Clarification Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-282, December 18, 2003, 51 DCR 191).

For temporary (90 day) amendment of section, see § 3(a) of Public School Enrollment Integrity Clarification



Emergency Amendment Act of 2004 (D.C. Act 15-519, August 2, 2004, 51 DCR 8995).

For temporary (90 day) amendment of section, see § 4032(a) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

#### *Legislative History of Laws*

Law 14-38, the "Public School Enrollment Integrity Temporary Amendment Act of 2001", was introduced in Council and assigned Bill No. 14-242, which was retained by Council. The Bill was adopted on first and second readings on June 5, 2001, and June 26, 2001, respectively. Signed by the Mayor on July 12, 2001, it was assigned Act No. 14-100 and transmitted to both Houses of Congress for its review. D.C. Law 14-38 became effective on October 13, 2001.

Law 15-67, the "Public School Enrollment Integrity Clarification Temporary Amendment Act of 2003", was introduced in Council and assigned Bill No. 15-433, and was retained by Council. The Bill was adopted on first and second readings on September 16, 2003, and October 7, 2003, respectively. Signed by the Mayor on October 24, 2003, it was assigned Act No. 15-185 and transmitted to both Houses of Congress for its review. D.C. Law 15-67 became effective on February 6, 2004.

Law 15-348, the "Public School Enrollment Integrity Clarification and Board of Education Honoraria Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-411 which was referred to the Committee Education, Libraries and Recreation. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 22, 2005, it was assigned Act No. 15-742 and transmitted to both Houses of Congress for its review. D.C. Law 15-348 became effective on April 13, 2005.

For Law 16-268, see notes following § 38-1701.01.

For Law 17-20, see notes following § 38-451.

For history of Law 18-378, see notes under § 38-1202.08.

#### *References in Text*

"Part F of title IV of the District of Columbia Home Rule Act," referred to in (10)(A)(ii), is part F of title IV of the Act of December 24, 1973, 87 Stat. 774, Pub. L. 93-198 which is codified as §§ 1-204.61 through 1-204.66.

#### *Miscellaneous Notes*

Short title: Section 4031 of D.C. Law 17-20 provided that subtitle D of title IV of the act may be cited as the "Student Funding Formula Assessment, Educational Data Warehouse, and Enrollment Fund Establishment Amendment Act of 2007".

## **§ 38-1800.03. GENERAL EFFECTIVE DATE.**

Except as otherwise provided in this chapter, this chapter shall be effective beginning on April 26, 1996. (Apr. 26, 1996, 110 Stat. 1321 [226], Pub. L. 104-134, § 2003; Nov. 29, 1999, 113 Stat. 1526, Pub. L. 106-113, § 155.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2851.

##### *Effect of Amendments*

Section 155 of Public Law 106-113 deleted "during the period" preceding and "and ending 5 years after such date" following "beginning on April 26, 1996".

##### *Miscellaneous Notes*

Contracting Authority of District of Columbia Financial Responsibility and Management Assistance Authority: Section 5201 of Pub. L. 104-208, 110 Stat. 3009 [1450], provided that:

"The District of Columbia Financial Responsibility and Management Assistance Authority (referred to in this section as the "Authority") shall have the authority to contract with a private entity (or entities) to carry out a program of school facility repair of public schools and public charter schools located in public school facilities in the District of Columbia, in consultation with the General Services Administration: Provided, That an amount estimated to be \$40,700,000 is hereby transferred and otherwise made available to the Authority until expended for contracting as provided under this section, to be derived from transfers and reallocations as follows: (1) funds made available under the heading "PUBLIC EDUCATION SYSTEM" in Public Law 104-194 for school repairs in a restricted line item; (2) all capital financing authority made available for public school capital improvements in Public Law 104-194; and (3) all capital financing authority made available for public school capital improvements which are or remain available from Public Law 104-134 or any previous appropriations Act for the District of Columbia: Provided further, That the General Services Administration, in

consultation with the District of Columbia Public Schools and the District of Columbia Council and subject to the approval of the Authority and the Committees on Appropriations of the Senate and the House of Representatives, shall provide program management services to assist in the short-term management of the repairs and capital improvements: Provided further,.

"That contracting authorized under this section shall be conducted in accordance with Federal procurement rules and regulations and guidelines or such guidelines as prescribed by the Authority."

## **SUBCHAPTER I. DISTRICT OF COLUMBIA REFORM PLAN.**

### **§ 38-1801.01. LONG-TERM REFORM PLAN.**

*(a) In general. --*

(1) *Plan.* -- The Superintendent, with the approval of the Board of Education, shall submit to the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees, a long-term reform plan, not later than 90 days after April 26, 1996, and each February 15 thereafter. The long-term reform plan shall be consistent with the financial plan and budget for the District of Columbia for fiscal year 1996, and each financial plan and budget for a subsequent fiscal year, as the case may be, required under § 47-392.01.

*(2) Consultation. --*

(A) *In general.* -- In developing the long-term reform plan, the Superintendent:

- (i) Shall consult with the Board of Education, the Mayor, the District of Columbia Council, the Authority, and the Consensus Commission; and
- (ii) Shall afford the public, interested organizations, and groups an opportunity to present their views and make recommendations regarding the long-term reform plan.

(B) *Summary of recommendations.* -- The Superintendent shall include in the long-term plan a summary of the recommendations made under subparagraph (A)(ii) of this paragraph and the response of the Superintendent to the recommendations.

*(b) Contents. --*

(1) *Areas to be addressed.* -- The long-term reform plan shall describe how the District of Columbia public schools will become a world-class education system that prepares students for lifetime learning in the 21st century and which is on a par with the best education systems of other cities, States, and nations. The long-term reform plan shall include a description of how the District of Columbia public schools will accomplish the following:

- (A) Achievement at nationally and internationally competitive levels by students attending District of Columbia public schools;
- (B) The preparation of students for the workforce, including:
  - (i) Providing special emphasis for students planning to obtain a postsecondary education; and
  - (ii) The development of individual career paths;
- (C) The improvement of the health and safety of students in District of Columbia public schools;
- (D) Local school governance, decentralization, autonomy, and parental choice among District of Columbia public schools;
- (E) The implementation of a comprehensive and effective adult education and literacy program;
- (F) The identification, beginning in grade 3, of each student who does not meet minimum standards of academic achievement in reading, writing, and mathematics in order to ensure that such student meets such standards prior to grade promotion;
- (G) The achievement of literacy, and the possession of the knowledge and skills necessary to think critically, communicate effectively, and perform competently on districtwide assessments, by students attending District of Columbia public schools prior to such student's completion of grade 8;
- (H) The establishment of after-school programs that promote self-confidence, self-discipline, self-respect, good citizenship, and respect for leaders, through such activities as arts classes, physical fitness programs, and community service;
- (I) Steps necessary to establish an electronic data transfer system;
- (J) Encourage parental involvement in all school activities, particularly parent teacher conferences;

(K) Expired.

(L) The establishment of classes, beginning not later than grade 3, to teach students how to use computers effectively;

(M) The development of community schools that enable District of Columbia public schools to collaborate with other public and nonprofit agencies and organizations, local businesses, recreational, cultural, and other community and human service entities, for the purpose of meeting the needs and expanding the opportunities available to residents of the communities served by such schools;

(N) The establishment of programs which provide counseling, mentoring (especially peer mentoring), academic support, outreach, and supportive services to elementary, middle, and secondary school students who are at risk of dropping out of school;

(O) The establishment of a comprehensive remedial education program to assist students who do not meet basic literacy standards, or the criteria of promotion gates established in § 38-1803.21;

(P) The establishment of leadership development projects for middle school principals, which projects shall increase student learning and achievement and strengthen such principals as instructional school leaders;

(Q) The implementation of a policy for performance-based evaluation of principals and teachers, after consultation with the Superintendent and unions (including unions that represent teachers and unions that represent principals);

(R) The implementation of policies that require competitive appointments for all District of Columbia public school positions;

(S) The implementation of policies regarding alternative teacher certification requirements;

(T) The implementation of testing requirements for teacher licensing renewal;

(U) A review of the District of Columbia public school central office budget and staffing reductions for each fiscal year compared to the level of such budget and reductions at the end of fiscal year 1995; and

(V) The implementation of the discipline policy for the District of Columbia public schools in order to ensure a safe, disciplined environment conducive to learning.

(2) *Other information.* -- For each of the items described in subparagraphs (A) through (V) of paragraph (1), the long-term reform plan shall include:

(A) A statement of measurable, objective performance goals;

(B) A description of the measures of performance to be used in determining whether the Superintendent and Board of Education have met the goals;

(C) Dates by which the goals shall be met;

(D) Plans for monitoring and reporting progress to District of Columbia residents, the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees regarding the carrying out of the long-term reform plan; and

(E) The title of the management employee of the District of Columbia public schools most directly responsible for the achievement of each goal and, with respect to each such employee, the title of the employee's immediate supervisor or superior.

(c) *Amendments.* -- The Superintendent, with the approval of the Board of Education, shall submit any amendment to the long-term reform plan to the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees. Any amendment to the long-term reform plan shall be consistent with the financial plan and budget for fiscal year 1996, and each financial plan and budget for a subsequent fiscal year, as the case may be, for the District of Columbia required under § 47-392.01.

(Apr. 26, 1996, 110 Stat. 1321 [231], Pub. L. 104-134, § 2101.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.1.

##### *Miscellaneous Notes*

See notes following § 38-1702.01.

## **§ 38-1801.02. SUPERINTENDENT'S REPORT ON REFORMS.**

Not later than December 1, 1996, the Superintendent shall submit to the appropriate congressional committees, the Board of Education, the Mayor, the Consensus Commission, and the District of Columbia Council a report regarding the progress of the District of Columbia public schools toward achieving the goals of the long-term reform plan.

(Apr. 26, 1996, 110 Stat. 1321 [234], Pub. L. 104-134, § 2102.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.2.

### **§ 38-1801.03. DISTRICT OF COLUMBIA COUNCIL REPORT.**

Not later than April 1, 1997, the Chairperson of the District of Columbia Council shall submit to the appropriate congressional committees a report describing legislative and other actions the District of Columbia Council has taken or will take to facilitate the implementation of the goals of the long-term reform plan.

(Apr. 26, 1996, 110 Stat. 1321 [234], Pub. L. 104-134, § 2103.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.3.

## **SUBCHAPTER II. PUBLIC CHARTER SCHOOLS.**

### **§ 38-1802.01. PROCESS FOR FILING CHARTER PETITIONS.**

(a) *Existing public school.* -- An eligible applicant seeking to convert a District of Columbia public school into a public charter school:

- (1) Shall prepare a petition to establish a public charter school that meets the requirements of § 38-1802.02;
- (2) Shall provide a copy of the petition to:
  - (A) The parents of minor students attending the existing school;
  - (B) Adult students attending the existing school;
  - (C) Employees of the existing school;
  - (D) Parents of minor students who both attend:
    - (i) The school grade immediately lower than the first school grade which is served by the public school which is the subject of the conversion petition; and
    - (ii) A school that is located within the attendance zone of the public school which is the subject of the conversion petition.
  - (E) Each Advisory Neighborhood Commission which represents an area within the attendance area of the public school which is the subject of the conversion petition; and
- (3) Shall file the petition with an eligible chartering authority for approval after the petition:
  - (A) Is signed by two-thirds of the sum of:
    - (i) The total number of parents of minor students attending the school; and
    - (ii) The total number of adult students attending the school; and
  - (B) Is endorsed by at least two-thirds of full-time teachers employed in the school.

(b) *Private or independent school.* -- An eligible applicant seeking to convert an existing private or independent school in the District of Columbia into a public charter school:

- (1) Shall prepare a petition to establish a public charter school that is approved by the Board of Trustees or authority responsible for the school and that meets the requirements of § 38-1802.02;
- (2) Shall provide a copy of the petition to:
  - (A) The parents of minor students attending the existing school;
  - (B) Adult students attending the existing school; and

- (C) Employees of the existing school; and
- (3) Shall file the petition with an eligible chartering authority for approval after the petition:
  - (A) Is signed by two-thirds of the sum of:
    - (i) The total number of parents of minor students attending the school; and
    - (ii) The total number of adult students attending the school; and
  - (B) Is endorsed by at least two-thirds of full-time teachers employed in the school.
- (c) *Newschool.* -- An eligible applicant seeking to establish in the District of Columbia a public charter school, but not seeking to convert a District of Columbia public school or a private or independent school into a public charter school, shall file with an eligible chartering authority for approval a petition to establish a public charter school that meets the requirements of § 38-1802.02.
- (d) *Limitations on filing.* --
  - (1) *Multiple chartering authorities.* -- An eligible applicant may not file the same petition to establish a public charter school with more than one eligible chartering authority during a calendar year.
  - (2) *Multiple petitions.* -- An eligible applicant may not file more than one petition to establish a public charter school during a calendar year.
- (e) A petition to establish a public charter school in the District of Columbia, or to convert a District of Columbia public school or an existing private or independent school, is a public document.
- (f) *Existing public charter schools.* -- A public charter school that existed prior to June 12, 2007, and that was chartered by the District of Columbia Board of Education pursuant to Chapter 17 of this title, shall not be required to file a petition with the Public Charter School Board; it shall be considered approved and chartered for the purposes of this chapter and shall be subject to the powers and duties granted to the Public Charter School Board as an eligible chartering authority pursuant to §§ 38-1802.11, 38-1802.12, and 38-1802.13.

(Apr. 26, 1996, 110 Stat. 1321 [234], Pub. L. 104-134, § 2201; Sept. 30, 1996, 110 Stat. 3009 [1461], Pub. L. 104-208, § 5205(a); Oct. 19, 2000, D.C. Law 13-172, § 2503(a), 47 DCR 6308; Oct. 18, 2004, 118 Stat. 1348, Pub. L. 108-335, §§ 341, 342(a); Dec. 8, 2004, 118 Stat. 3342, Pub. L. 108-447, Div. J., title I, § 103(a)(3); June 12, 2007, D.C. Law 17-9, § 802(a), 54 DCR 4102.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.11.

##### *Effect of Amendments*

D.C. Law 13-172 added subsec. (a)(2) (D) and (E).

Pub. L. 108-335 added subsec. (e).

Pub. L. 108-447 deleted amendments of subsecs. (a)(3)(B) and (b)(3)(B) by Pub. L. 108-335, § 342(a). See Editor's Notes.

D.C. Law 17-9 added subsec. (f).

##### *Emergency Act Amendments*

For temporary (90-day) amendment of section, see § 2503(a) of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

For temporary (90 day) amendment of section, see § 2503(a) of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13- 438, October 20, 2000, 47 DCR 8740).

For temporary (90 day) amendment of section, see § 4032(b) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) repeal of section 804 of D.C. Law 17-9, see § 4043(b) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

##### *Legislative History of Laws*

Law 13-172, the "Fiscal Year 2001 Budget Support Act of 2000," was introduced in Council and assigned Bill No. 13-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 15, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-175 and transmitted to both Houses of Congress for its review. D.C. Law 13-172 became effective on October 19, 2000.

For Law 17-9, see notes under § 38-103.

##### *Effective Dates*

Section 103(b) of Div. J, title I, of Pub. L. 108-447, provides: "The amendments made by this section shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 2005 [Pub. L. 108-335]".

*Editor's Notes*

The amendment of subsecs. (a)(3)(B) and (b)(3)(B) by Pub. L. 108-335, § 342(a), was deleted by Pub. L. 108-447, Div. J, title I, § 103(a)(3), and did not take effect. See Effective Dates note.

*Miscellaneous Notes*

Applicability: Section 804 of D.C. Law 17-9 provides that section 802 shall apply upon enactment by Congress. Section 804 of D.C. Law 17-9 was repealed by section 4043(b) of D.C. Law 17-20.

## **§ 38-1802.02. CONTENTS OF PETITION.**

A petition under § 38-1802.01 to establish a public charter school shall include the following:

- (1) A statement defining the mission and goals of the proposed school and the manner in which the school will conduct any districtwide assessments;
  - (2) A statement of the need for the proposed school in the geographic area of the school site;
  - (3) A description of the proposed instructional goals and methods for the proposed school, which shall include, at a minimum:
    - (A) The area of focus of the proposed school, such as mathematics, science, or the arts, if the school will have such a focus;
    - (B) The methods that will be used, including classroom technology, to provide students with the knowledge, proficiency, and skills needed:
      - (i) To become nationally and internationally competitive students and educated individuals in the 21st century; and
      - (ii) To perform competitively on any districtwide assessments; and
    - (C) The methods that will be used to improve student self-motivation, classroom instruction, and learning for all students;
  - (4) A description of the scope and size of the proposed school's program that will enable students to successfully achieve the goals established by the school, including the grade levels to be served by the school and the projected and maximum enrollment of each grade level;
  - (5) A description of the plan for evaluating student academic achievement at the proposed school and the procedures for remedial action that will be used by the school when the academic achievement of a student falls below the expectations of the school;
  - (6) An operating budget for the first 2 years of the proposed school that is based on anticipated enrollment and contains:
    - (A) A description of the method for conducting annual audits of the financial, administrative, and programmatic operations of the school;
    - (B) Either:
      - (i) An identification of the site where the school will be located, including a description of any buildings on the site and any buildings proposed to be constructed on the site; or
      - (I) An identification of a facility for the school, including a description of the site where the school will be located, any buildings on the site, and any buildings proposed to be constructed on the site; and
      - (II) Information demonstrating that the eligible applicant has acquired title to, or otherwise secured the use of, the facility; or
    - (ii) A timetable by which an identification described in subsubparagraph (i)(I) of this subparagraph will be made, and the information described in subsubparagraph (i)(II) of this subparagraph will be submitted, to the eligible chartering authority;
  - (C) A description of any major contracts planned, with a value equal to or exceeding \$10,000, for equipment and services, leases, improvements, purchases of real property, or insurance; and
  - (D) A timetable for commencing operations as a public charter school;
- (7) A description of the proposed rules and policies for governance and operation of the proposed school;
- (8) Copies of the proposed articles of incorporation and bylaws of the proposed school, which shall include provisions governing the distribution of the corporation's assets upon dissolution that comply

with the requirements of § 38-1802.13a;

(9) The names and addresses of the members of the proposed Board of Trustees and the procedures for selecting trustees;

(10) A description of the student enrollment, admission, suspension, expulsion, and other disciplinary policies and procedures of the proposed school, and the criteria for making decisions in such areas;

(11) A description of the procedures the proposed school plans to follow to ensure the health and safety of students, employees, and guests of the school and to comply with applicable health and safety laws, and all applicable civil rights statutes and regulations of the Federal Government and the District of Columbia;

(12) An explanation of the qualifications that will be required of employees of the proposed school;

(13) An identification, and a description, of the individuals and entities submitting the petition, including their names and addresses, and the names of the organizations or corporations of which such individuals are directors or officers;

(14) A description of how parents, teachers, and other members of the community have been involved in the design and will continue to be involved in the implementation of the proposed school;

(15) A description of how parents and teachers will be provided an orientation and other training to ensure their effective participation in the operation of the public charter school;

(16) An assurance the proposed school will seek, obtain, and maintain accreditation from at least one of the following:

(A) The Middle States Association of Colleges and Schools;

(B) The Association of Independent Maryland Schools;

(C) The Southern Association of Colleges and Schools;

(D) The Virginia Association of Independent Schools;

(E) American Montessori Internationale;

(F) The American Montessori Society;

(G) The National Academy of Early Childhood Programs; or

(H) Any other accrediting body deemed appropriate by the eligible chartering authority that granted the charter to the school;

(17) Repealed;

(18) An explanation of the relationship that will exist between the public charter school and the school's employees; and

(19) A statement of whether the proposed school elects to be treated as a local educational agency or a District of Columbia public school for purposes of Part B of the Individuals With Disabilities Education Act (20 U.S.C. 1411 et seq.) and § 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and notwithstanding any other provision of law the eligible chartering authority shall not have the authority to approve or disapprove such election.

(Apr. 26, 1996, 110 Stat. 1321 [235], Pub. L. 104-134, § 2202; Sept. 30, 1996, 110 Stat. 3009 [1461], Pub. L. 104-208, § 5205(b); Nov. 22, 2000, 114 Stat. 2440, Pub. L. 106-552, § 120(c)(2)(A); Mar. 14, 2007, D.C. Law 16-268, § 4(b), 54 DCR 833.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.12.

##### *Effect of Amendments*

Section 120 (c)(2)(A) of Public Law 106-522 deleted provisions contained in par. (17) which formerly provided:

"(17) In the case that the proposed school's educational program includes preschool or prekindergarten, an assurance the proposed school will be licensed as a child development center by the District of Columbia Government not later than the first date on which such program commences;"

D.C. Law 16-268, in par. (8), inserted "which shall include provisions governing the distribution of the corporation's assets upon dissolution that comply with the requirements of § 38-1802.13a" following "and bylaws of the proposed school".

##### *Legislative History of Laws*

For Law 16-268, see notes following § 38-1701.01.

## **§ 38-1802.03. PROCESS FOR APPROVING OR DENYING PUBLIC CHARTER SCHOOL PETITIONS.**

(a) *Schedule.* -- An eligible chartering authority shall establish a schedule for receiving petitions to establish a public charter school and shall publish any such schedule in the District of Columbia Register and newspapers of general circulation.

(b) *Public hearing.* -- Not later than 45 days after a petition to establish a public charter school is filed with an eligible chartering authority, the eligible chartering authority shall hold a public hearing on the petition to gather the information that is necessary for the eligible chartering authority to make the decision to approve or deny the petition.

(c) *Notice.* -- Not later than 10 days prior to the scheduled date of a public hearing on a petition to establish a public charter school, an eligible chartering authority:

- (1) Shall publish a notice of the hearing in the District of Columbia Register and newspapers of general circulation;
- (2) Shall send a written notification of the hearing date to the eligible applicant who filed the petition;
- (3) Shall send written notification of the hearing date to the Advisory Neighborhood Commission in the area in which the school is located; and
- (4) Shall send written notification of the hearing date to the following parties when the petition is to convert an existing public school into a public charter school:
  - (A) Parents of minor students attending the public school which is the subject of the conversion petition;
  - (B) Adult students attending the public school which is the subject of the conversion petition;
  - (C) Employees of the public school which is the subject of the conversion petition; and
  - (D) Parents of minor students who both attend:
    - (i) The school grade immediately lower than the first school grade which is served by the public school which is the subject of the conversion petition; and
    - (ii) A school that is located within the attendance zone of the public school which is the subject of the conversion petition.

(d) *Approval.* --

(1) *In general.* -- Subject to subsection (i) of this section and paragraph (2) of this subsection an eligible chartering authority shall approve a petition to establish a public charter school, if:

- (A) The eligible chartering authority determines that the petition satisfies the requirements of this subchapter;
- (B) The eligible applicant who filed the petition agrees to satisfy any condition or requirement, consistent with this subchapter and other applicable law, that is set forth in writing by the eligible chartering authority as an amendment to the petition;
- (C) The eligible chartering authority determines that the public charter school has the ability to meet the educational objectives outlined in the petition; and
- (D) The approval will not cause the eligible chartering authority to exceed a limit under subsection (i) of this section.

(2) *Conditional approval.* --

(A) *In general.* -- In the case of a petition that does not contain the identification and information required under § 38-1802.02(6)(B)(i), but does contain the timetable required under § 38-1802.02(6)(B)(ii), an eligible chartering authority may only approve the petition on a conditional basis, subject to the eligible applicant's submitting the identification and information described in § 38-1802.02(6)(B)(i) in accordance with such timetable, or any other timetable specified in writing by the eligible chartering authority in an amendment to the petition.

(B) *Effect of conditional approval.* -- For purposes of subsections (e), (h), (i), and (j) of this section, a petition conditionally approved under this paragraph shall be treated the same as a petition approved under paragraph (1) of this subsection except that on the date that such a conditionally approved petition ceases to be conditionally approved because the eligible applicant has not timely submitted the identification and information described in § 38-1802.02(6)(B)(i), the approval of the petition shall cease to be counted for purposes of subsection (i) of this section.

(e) *Timetable.* -- An eligible chartering authority shall approve or deny a petition to establish a public charter school not later than 45 days after the conclusion of the public hearing on the petition.

(f) *Extension.* -- An eligible chartering authority and an eligible applicant may agree to extend the 45-day



time period referred to in subsection (e) of this section by a period that shall not exceed 30 days.

(g) *Denial explanation.* -- If an eligible chartering authority denies a petition or finds the petition to be incomplete, the eligible chartering authority shall specify in writing the reasons for its decision and indicate, when the eligible chartering authority determines appropriate, how the eligible applicant who filed the petition may revise the petition to satisfy the requirements for approval.

(h) *Approved petition.* --

(1) *Notice.* -- Not later than 10 days after an eligible chartering authority approves a petition to establish a public charter school, the eligible chartering authority shall provide a written notice of the approval, including a copy of the approved petition and any conditions or requirements agreed to under subsection (d) of this section, to the eligible applicant and to the Chief Financial Officer of the District of Columbia. The eligible chartering authority shall publish a notice of the approval of the petition in the District of Columbia Register and newspapers of general circulation.

(2) *Charter.* -- The provisions described in paragraphs (1), (7), (8), (11), (16), and (18) of § 38-1802.02 of a petition to establish a public charter school that are approved by an eligible chartering authority, together with any amendments to such provisions in the petition containing conditions or requirements agreed to by the eligible applicant under subsection (d) of this section, shall be considered a charter granted to the school by the eligible chartering authority.

(i) *Number of petitions.* --

(1) *First year.* -- During calendar year 1996, not more than 10 petitions to establish public charter schools may be approved under this subchapter.

(2) *Subsequent years.* --

(A) *In general.* --

(i) *Annual limit.* -- Subject to subparagraph (B) of this paragraph and sub-subparagraph (ii) of this subparagraph, during calendar year 1997, and during each subsequent calendar year, each eligible chartering authority shall not approve more than 10 petitions to establish a public charter school under this subchapter.

(ii) *Timetable.* -- Any petition approved under sub-subparagraph (i) of this subparagraph shall be approved during an application approval period that terminates on April 1 of each year. Such an approval period may commence before or after January 1 of the calendar year in which it terminates, except that any petition approved at any time during such an approval period shall count, for purposes of sub-subparagraph (i) of this subparagraph, against the total number of petitions approved during the calendar year in which the approval period terminates.

(B) *Exception.* -- If, by April 1 of any calendar year after 1996, an eligible chartering authority has approved fewer than 10 petitions during such calendar year, any other eligible chartering authority may approve more than 10 petitions during such calendar year, but only if:

(i) The eligible chartering authority completes the approval of any such additional petition before June 1 of the year; and

(ii) The approval of any such additional petition will not cause the total number of petitions approved by all eligible chartering authorities during the calendar year to exceed 20.

(j) *Authority of eligible chartering authority.* --

(1) *In general.* -- Except as provided in paragraph (2) of this subsection, and except for officers or employees of the eligible chartering authority with which a petition to establish a public charter school is filed, no governmental entity, elected official, or employee of the District of Columbia shall make, participate in making, or intervene in the making of, the decision to approve or deny such a petition.

(2) *Availability of review.* -- A decision by an eligible chartering authority to deny a petition to establish a public charter school shall be subject to judicial review by an appropriate court of the District of Columbia or by the Office of the State Superintendent of Education. In the case of review by the Office of the State Superintendent of Education, the Office of the State Superintendent of Education shall issue procedures for the submission and review of appeals.

(Apr. 26, 1996, 110 Stat. 1321 [237], Pub. L. 104-134, § 2203; Sept. 30, 1996, 110 Stat. 3009 [1462], Pub. L. 104-208, § 5205(c); Nov. 19, 1997, 111 Stat. 2190, Pub. L. 105-100, § 167; Oct. 19, 2000, D.C. Law 13-172, § 2503(b), 47 DCR 6308; Nov. 22, 2000, 114 Stat. 2440, Pub. L. 106-552, § 120(c)(2)(B); June 12, 2007, D.C. Law 17-9, § 802(b), 54 DCR 4102.)

#### HISTORICAL AND STATUTORY NOTES

##### Prior Codifications

1981 Ed., § 31-2853.13.

##### Effect of Amendments

Section 120 (c)(2)(B) of Public Law 106-522 deleted reference to par. (17) in the enumeration at the beginning of subsec. (h)(2).

D.C. Law 13-172 added subsec. (c) (3) and (4).

D.C. Law 17-9, in subsec. (j)(2), substituted ".of Columbia or by the Office of the State Superintendent of Education. In the case of review by the Office of the State Superintendent of Education, the Office of the State Superintendent of Education shall issue procedures for the submission and review of appeals." for "of Columbia."

#### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 2503(b) of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13- 438, October 20, 2000, 47 DCR 8740).

For temporary (90 day) repeal of section 804 of D.C. Law 17-9, see § 4043(b) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

#### *Legislative History of Laws*

For Law 13-172, see notes following § 38-1802.01.

For Law 17-9, see notes under § 38-103.

#### *Miscellaneous Notes*

Applicability: Section 804 of D.C. Law 17-9 provides that section 802 shall apply upon enactment by Congress. Section 804 of D.C. Law 17-9 was repealed by section 4043(b) of D.C. Law 17-20.

## **§ 38-1802.04. DUTIES, POWERS, AND OTHER REQUIREMENTS, OF PUBLIC CHARTER SCHOOLS.**

(a) *Duties.* -- A public charter school shall comply with all of the terms and provisions of its charter.

(b) *Powers.* -- A public charter school shall have the following powers:

(1) To adopt a name and corporate seal, but only if the name selected includes the words "public charter school";

(2) To acquire real property for use as the public charter school's facilities, from public or private sources;

(3) To receive and disburse funds for public charter school purposes;

(4) Subject to subsection (c)(1) of this section, to secure appropriate insurance and to make contracts and leases, including agreements to procure or purchase services, equipment, and supplies;

(5) To incur debt in reasonable anticipation of the receipt of funds from the general fund of the District of Columbia or the receipt of Federal or private funds;

(6) To solicit and accept any grants or gifts for public charter school purposes, if the public charter school:

(A) Does not accept any grants or gifts subject to any condition contrary to law or contrary to its charter; and

(B) Maintains for financial reporting purposes separate accounts for grants or gifts;

(7) To be responsible for the public charter school's operation, including preparation of a budget and personnel matters; and

(8) To sue and be sued in the public charter school's own name.

(b-1) *Limitation on powers* -- Each power conferred upon a public charter school under subsection (b) of this section can only be used for the sole purpose of operating the public charter school.

(c) *Prohibitions and other requirements.* --

(1) *Contracting authority.* --

(A) *Notice requirement for procurement contracts.* --

(i) *In general.* -- Except in the case of an emergency (as determined by the eligible chartering authority of a public charter school), with respect to any procurement contract proposed to be awarded by the public charter school and having a value equal to or exceeding \$25,000, the school shall publish a notice of a request for proposals in the District of Columbia Register and newspapers of general circulation not less than 7 days prior to the award of the contract.

(ii) *Exception for certain contracts.* -- The notice requirement of sub-subparagraph (i) of this subparagraph shall not apply with respect to any contract for the lease or purchase of real

property by a public charter school, any employment contract for a staff member of a public charter school, or any management contract entered into by a public charter school and the management company designated in its charter or its petition for a revised charter.

(B) *Submission to the eligible chartering authority.* --

(i) *Deadline for submission.* -- With respect to any contract described in subparagraph (A) of this paragraph that is awarded by a public charter school, the school shall submit to the eligible chartering authority, not later than 3 days after the date on which the award is made, all bids for the contract received by the school, the name of the contractor who is awarded the contract, and the rationale for the award of the contract.

(ii) *Effective date of contract.* -- A contract described in subparagraph (A) of this paragraph shall become effective on the date that is 10 days after the date the school makes the submission under subparagraph (i) of this subparagraph with respect to the contract, or the effective date specified in the contract, whichever is later.

(2) *Tuition, fees, and payments.* --

(A) *Prohibition.* -- A public charter school may not, with respect to any student other than a nonresident student, charge tuition, impose fees, or otherwise require payment for participation in any program, educational offering, or activity that:

- (i) Enrolls students in any grade from kindergarten through grade 12; or
- (ii) Is funded in whole or part through an annual local appropriation.

(B) *Exception.* -- A public charter school may impose fees or otherwise require payment, at rates established by the Board of Trustees of the school, for any program, educational offering, or activity not described in subparagraph (i) or (ii) of subparagraph (A), including adult education programs, or for field trips or similar activities.

(3) *Control.* -- A public charter school:

(A) Shall exercise exclusive control over its expenditures, administration, personnel, and instructional methods, within the limitations imposed in this subchapter; and

(B) Shall be exempt from District of Columbia statutes, policies, rules, and regulations established for the District of Columbia public schools by the Superintendent, Board of Education, Mayor, District of Columbia Council, or Authority, except as otherwise provided in the school's charter or this subchapter.

(4) *Health and safety.* --

(A) A public charter school shall maintain the health and safety of all students attending such school.

(B) A public charter school shall submit, before September 16 of each year, a report to the chartering authority and, in a control year to the Authority a report that documents that the charter school's facilities comply with the applicable health and safety laws and regulations of the federal government and the District of Columbia, including the District of Columbia Fire Prevention Code. The report shall be open to public inspection and available upon request.

(5) *Civil rights and idea.* -- The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), § 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), shall apply to a public charter school.

(6) *Governance.* -- A public charter school shall be governed by a Board of Trustees in a manner consistent with the charter granted to the school and the provisions of this subchapter.

(7) *Other staff.* -- No employee of the District of Columbia public schools may be required to accept employment with, or be assigned to, a public charter school.

(8) *Other students.* -- No student enrolled in a District of Columbia public school, may be required to attend a public charter school; provided, that this paragraph shall not apply to students with special needs.

(9) *Taxes or bonds.* -- A public charter school shall not levy taxes or issue bonds.

(10) *Charter revision.* -- A public charter school seeking to revise its charter shall prepare a petition for approval of the revision and file the petition with the eligible chartering authority that granted the charter. The provisions of § 38-1802.03 shall apply to such a petition in the same manner as such provisions apply to a petition to establish a public charter school.

(11) *Annual report.* --

(A) *In general.* -- A public charter school shall submit an annual report to the eligible chartering

authority that approved its charter. The school shall permit a member of the public to review any such report upon request.

(B) *Contents.* -- A report submitted under subparagraph (A) of this paragraph shall include the following data:

- (i) A report on the extent to which the school is meeting its mission and goals as stated in the petition for the charter school;
- (ii) Student performance on any districtwide assessments;
- (iii) Grade advancement for students enrolled in the public charter school;
- (iv) Graduation rates, college admission test scores, and college admission rates, if applicable;
- (v) Types and amounts of parental involvement;
- (vi) Official student enrollment;
- (vii) Average daily attendance;
- (viii) Average daily membership;
- (ix) For the fiscal year 2005 annual financial audit and subsequent fiscal year annual financial audits, a financial statement audited by an independent certified public accountant or accounting firm, who, notwithstanding any other provision of this chapter, shall be selected from an approved list developed by a committee of 2 representatives each from the District of Columbia Public Charter School Board, the District of Columbia Board of Education Charter School Board, and the District of Columbia Chief Financial Officer, in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States, pursuant to the April 8, 2005 memorandum of understanding between the District of Columbia Chartering Authorities and the District of Columbia Chief Financial Officer, as amended;
- (x) A report on school staff indicating the qualifications and responsibilities of such staff; and
- (xi) A list of all donors and grantors that have contributed monetary or in-kind donations having a value equal to or exceeding \$500 during the year that is the subject of the report.

(C) *Nonidentifying data.* -- Data described in sub-subparagraphs (i) through (ix) of subparagraph (B) of this paragraph that are included in an annual report shall not identify the individuals to whom the data pertain.

(12) *Census.* -- A public charter school shall provide to the Board of Education student enrollment data necessary for the Board of Education to comply with § 38-204.

(13) *Complaint resolution process.* -- A public charter school shall establish an informal complaint resolution process.

(14) *Program of education.* -- A public charter school shall provide a program of education which shall include one or more of the following:

- (A) Preschool;
- (B) Prekindergarten;
- (C) Any grade or grades from kindergarten through grade 12;
- (D) Residential education; or
- (E) Adult, community, continuing, and vocational education programs.

(15) *Nonsectarian nature of schools.* -- A public charter school shall be nonsectarian and shall not be affiliated with a sectarian school or religious institution.

(16) *Nonprofit status of school.* -- A public charter school shall be organized under Chapter 4 of Title 29 and its sole purpose shall be the operation of the public charter school.

(17) *Immunity from civil liability.* --

(A) *In general.* -- A public charter school, and its incorporators, Board of Trustees, officers, employees, and volunteers, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission:

- (i) Constitutes gross negligence;
- (ii) Constitutes an intentional tort; or
- (iii) Is criminal in nature.

(B) *Common law immunity preserved.* -- Subparagraph (A) of this paragraph shall not be construed to abrogate any immunity under common law of a person described in such subparagraph.

(18) *Licensing as child development center.* -- A public charter school which offers a preschool or prekindergarten program shall be subject to the same child care licensing requirements (if any) which apply to a District of Columbia public school which offers such a program.

(19) *Participation in educational data warehouse.* -- A public charter school shall participate in the longitudinal education data warehouse system established by the Office of the State Superintendent of Education and shall provide data to the OSSE upon request.

(20) *Cooperation with the Office of Ombudsman for Public Education.* -- A public charter school shall cooperate with the Office of Ombudsman for Public Education and shall comply with the disclosure protections of Chapter 3A of this title.

(21) *Distribution of funds.* -- Funds that have not been provided for in an approved financial plan shall not be distributed to any public charter school.

(Apr. 26, 1996, 110 Stat. 1321 [238], Pub. L. 104-134, § 2204; Sept. 9, 1996, 110 Stat. 2356 [2376], Pub. L. 104-194, § 145; Oct. 19, 2000, D.C. Law 13-172, §§ 2803 and 2812, 47 DCR 6308; Nov. 22, 2000, 114 Stat. 2440, Pub. L. 106-522, § 120(a), (c)(1); Oct. 20, 2005, D.C. Law 16-33, § 4013, 52 DCR 7503; Mar. 14, 2007, D.C. Law 16-268, § 4(c), 54 DCR 833; June 12, 2007, D.C. Law 17-9, § 802(c), 54 DCR 4102; Sept. 18, 2007, D.C. Law 17-20, § 4032(b), 54 DCR 7052; Aug. 16, 2008, D.C. Law 17-219, § 4023, 55 DCR 7598; July 2, 2011, D.C. Law 18-378, § 3(dd)(2), 58 DCR 1720.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.14.

##### *Effect of Amendments*

Section 120 (a) of Public Law 106-522 substituted for "authority" the words "eligible chartering authority" in the heading to subsec. (c)(1)(B) and cl. (i) thereunder; and rewrote subsec. (c)(1)(A) and (c)(1)(B)(ii) which formerly provided:

"(A) Notice requirement.--Except in the case of an emergency (as determined by the eligible chartering authority of a public charter school), with respect to any contract proposed to be awarded by the public charter school and having a value equal to or exceeding \$10,000, the school shall publish a notice of a request for proposals in the District of Columbia Register and newspapers of general circulation not less than 30 days prior to the award of the contract.

"(ii) Effective date of contract.--

[(B)]

"(I) In general.--Subject to clause (II) of this sub-subparagraph, a contract described in subparagraph (A) of this paragraph shall become effective on the date that is 15 days after the date the school makes the submission under sub-subparagraph (i) of this subparagraph with respect to the contract, or the effective date specified in the contract, whichever is later.

"(II) Exception.--A contract described in subparagraph (A) of this paragraph shall be considered null and void if the Authority determines, within 12 days of the date the school makes the submission under sub-subparagraph (i) of this subparagraph with respect to the contract, that the contract endangers the economic viability of the public charter school."

Section (c)(1) of Public Law 106-522 added par. (18) pertaining to licensing as child development center.

D.C. Law 13-172 added at the end of subsec. (c)(8) "; provided, that this paragraph shall not apply to students with special needs."

D.C. Law 16-33, rewrote subsec. (c)(11)(B)(ix), which had read as follows:

"(ix) A financial statement audited by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States;"

D.C. Law 16-268 added subsec. (b-1); and in subsec. (c)(16), inserted "and its sole purpose shall be the operation of the public charter school" following "shall be organized under subchapter I of Chapter 3 of Title 29".

D.C. Law 17-9, in subsec. (c), added pars. (19) and (20).

D.C. Law 17-20 rewrote subsec. (c)(19), which had read as follows:

"(19) *Participation in education data warehouse.* -- A public charter school shall participate in the longitudinal education data warehouse system and shall provide data to the Office of the State Superintendent of Education upon request."

D.C. Law 17-219, in subsec. (c), added par. (21).

D.C. Law 18-378, in subsec. (c)(16), substituted "Chapter 4 of Title 29" for "subchapter I of Chapter 3 of Title 29".

For temporary (90-day) amendment of section, see §§ 2803 and 2812 of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

For temporary (90 day) amendment of section, see §§ 2803 and 2812 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

For temporary (90 day) amendment of section, see § 4013 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 4032(c) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) repeal of section 804 of D.C. Law 17-9, see § 4043(b) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment, see § 4023 of Fiscal Year 2009 Budget Support Emergency Act of 2008 (D.C. Act 17-468, July 28, 2008, 55 DCR 8746).

*Legislative History of Laws*

For Law 13-172, see notes following § 38-1802.01.

For Law 16-33, see notes following § 38-1306.

For Law 16-268, see notes following § 38-1701.01.

For Law 17-9, see notes under § 38-103.

For Law 17-20, see notes following § 38-451.

For Law 17-219, see notes following § 38-251.

For history of Law 18-378, see notes under § 38-1202.08.

*Miscellaneous Notes*

Section 133 of Pub. L. 109-115, Nov. 30, 2005, 119 Stat. 2522, provides: "Section 4013 of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Amendment Act of 2005, passed on first reading on May 10, 2005 (engrossed version of Bill 16-200) [D.C. Law 16-33, § 4013], is hereby enacted into law."

Applicability: Section 804 of D.C. Law 17-9 provides that section 802 shall apply upon enactment by Congress. Section 804 of D.C. Law 17-9 was repealed by section 4043(b) of D.C. Law 17-20.

Short title: Section 4022 of D.C. Law 17-219 provided that subtitle K of title IV of the act may be cited as the "Public Charter School Board Fiscal Responsibility Amendment Act of 2008".

## **§ 38-1802.05. BOARD OF TRUSTEES OF A PUBLIC CHARTER SCHOOL.**

(a) *Board of Trustees.* -- The members of a Board of Trustees of a public charter school shall be elected or selected pursuant to the charter granted to the school. Such Board of Trustees shall have an odd number of members that does not exceed 15, of which:

- (1) A majority shall be residents of the District of Columbia; and
- (2) At least 2 shall be parents of a student attending the school.

(b) *Eligibility.* -- An individual is eligible for election or selection to the Board of Trustees of a public charter school if the person:

- (1) Is a teacher or staff member who is employed at the school;
- (2) Is a parent of a student attending the school; or
- (3) Meets the election or selection criteria set forth in the charter granted to the school.

(c) *Election or selection of parents.* -- In the case of the first Board of Trustees of a public charter school to be elected or selected after the date on which the school is granted a charter, the election or selection of the members under subsection (a)(2) of this section shall occur on the earliest practicable date after classes at the school have commenced. Until such date, any other members who have been elected or selected shall serve as an interim Board of Trustees. Such an interim Board of Trustees may exercise all of the powers, and shall be subject to all of the duties, of a Board of Trustees.

(d) *Fiduciaries.* -- The Board of Trustees of a public charter school shall be fiduciaries of the school and shall set overall policy for the school. The Board of Trustees may make final decisions on matters related to the operation of the school, consistent with the charter granted to the school, this subchapter, and other applicable law.

## HISTORICAL AND STATUTORY NOTES

## Prior Codifications

1981 Ed., § 31-2853.15.

**§ 38-1802.06. STUDENT ADMISSION, ENROLLMENT, AND WITHDRAWAL.**

(a) *Open enrollment.* -- Enrollment in a public charter school shall be open to all students who are residents of the District of Columbia and, if space is available, to nonresident students who meet the tuition requirement in subsection (e) of this section.

(b) *Criteria for admission.* -- A public charter school may not limit enrollment on the basis of a student's race, color, religion, national origin, language spoken, intellectual or athletic ability, measures of achievement or aptitude, or status as a student with special needs. A public charter school may limit enrollment to specific grade levels.

(c) *Random selection.* -- If there are more applications to enroll in a public charter school from students who are residents of the District of Columbia than there are spaces available, students shall be admitted using a random selection process, except that a preference in admission may be given to an applicant who is a sibling of a student already attending or selected for admission to the public charter school in which the applicant is seeking enrollment, or an applicant who is a child of a member of the public charter school's founding board, so long as enrollment of founders' children is limited to no more than 10% of the school's total enrollment or to 20 students, whichever is less.

(d)(1) *Admission to an existing school.* -- A District of Columbia public school that has been approved to be converted to a charter school under § 38- 1802.01 shall give priority in enrollment to:

- (A) Students enrolled in the school at the time the petition is granted;
- (B) The siblings of students described in subparagraph (A) of this paragraph; and
- (C) Students who reside within the attendance boundaries, if any, in which the school is located.

(2) A private or independent school that has been approved to be converted to a charter school under § 38-1802.01 may give priority in enrollment to the persons described in paragraph (1)(A) and (1)(B) of this subsection for a period of 5 years, beginning on the date its petition is approved.

(e) *Nonresident students.* -- Nonresident students shall pay tuition to attend a public charter school at the applicable rate established for District of Columbia public schools administered by the Board of Education for the type of program in which the student is enrolled.

(f) *Student withdrawal.* -- A student may withdraw from a public charter school at any time and, if otherwise eligible, enroll in a District of Columbia public school administered by the Board of Education.

(g) *Expulsion and suspension.* -- The principal of a public charter school may expel or suspend a student from the school based on criteria set forth in the charter granted to the school.

(Apr. 26, 1996, 110 Stat. 1321 [242], Pub. L. 104-134, § 2206; Nov. 29, 1999, 113 Stat. 1526, Pub. L. 106-113, § 156; Oct. 19, 2000, D.C. Law 13- 172, § 2503(c), 47 DCR 6308; Mar. 14, 2007, D.C. Law 16-268, § 4(d), 54 DCR 833.)

## HISTORICAL AND STATUTORY NOTES

## Prior Codifications

1981 Ed., § 31-2853.16.

## Effect of Amendments

Section 156 of Public Law 106-113 added at the end of subsec. (c) ", except that a preference in admission may be given to an applicant who is a sibling of a student already attending or selected for admission to the public charter school in which the applicant is seeking enrollment."

Section 2503(c) of D.C. Law 13-172 amended subsection (d)(1).

D.C. Law 16-268, in subsec. (c), inserted "or to an applicant who is a child of a member of the public charter school's founding board, so long as enrollment of founders' children is limited to no more than 10% of the school's total enrollment or to 20 students, whichever is less" following "in which the applicant is seeking enrollment".

## Emergency Act Amendments

For temporary (90-day) amendment of section, see § 2503(c) of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

For temporary (90 day) amendment of section, see § 2503(c) of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13- 438, October 20, 2000, 47 DCR 8740).

*Legislative History of Laws*

For Law 13-172, see notes following § 38-1802.01.

For Law 16-268, see notes following § 38-1701.01.

## **§ 38-1802.07. EMPLOYEES.**

*(a) Extended leave of absence without pay. --*

(1) *Leave of absence from District of Columbia public schools.* -- The Superintendent shall grant, upon request, an extended leave of absence, without pay, to an employee of the District of Columbia public schools for the purpose of permitting the employee to accept a position at a public charter school for a 2-year term.

(2) *Request for extension.* -- At the end of a 2-year term referred to in paragraph (1) of this subsection, an employee granted an extended leave of absence without pay under such paragraph may submit a request to the Superintendent for an extension of the leave of absence for an unlimited number of 2-year terms. The Superintendent may not unreasonably (as determined by the eligible chartering authority) withhold approval of the request.

(3) *Rights upon termination of leave.* -- An employee granted an extended leave of absence without pay for the purpose described in paragraph (1) or (2) of this subsection shall have the same rights and benefits under law upon termination of such leave of absence as an employee of the District of Columbia public schools who is granted an extended leave of absence without pay for any other purpose.

*(b) Retirement System. --*

(1) *Creditable service.* -- An employee of a public charter school who has received a leave of absence under subsection (a) of this section shall receive creditable service, as defined in § 1-626.04 and the rules established under such section, for the period of the employee's employment at the public charter school.

(2) *Authority to establish separate system.* -- A public charter school may establish a retirement system for employees under its authority.

(3) *Election of retirement system.* -- A former employee of the District of Columbia public schools who becomes an employee of a public charter school within 60 days after the date the employee's employment with the District of Columbia public schools is terminated may, at the time the employee commences employment with the public charter school, elect:

(A) To remain in a District of Columbia Government retirement system and continue to receive creditable service for the period of their employment at a public charter school; or

(B) To transfer into a retirement system established by the public charter school pursuant to paragraph (2) of this subsection.

(4) *Prohibited employment conditions.* -- No public charter school may require a former employee of the District of Columbia public schools to transfer to the public charter school's retirement system as a condition of employment.

*(5) Contributions. --*

(A) *Employees electing not to transfer.* -- In the case of a former employee of the District of Columbia public school who elects to remain in a District of Columbia Government retirement system pursuant to paragraph (3)(A) of this subsection the public charter school that employs the person shall make the same contribution to such system on behalf of the person as the District of Columbia would have been required to make if the person had continued to be an employee of the District of Columbia public schools.

(B) *Employees electing to transfer.* -- In the case of a former employee of the District of Columbia public schools who elects to transfer into a retirement system of a public charter school pursuant to paragraph (3)(B) of this subsection, the applicable District of Columbia Government retirement system from which the former employee is transferring shall compute the employee's contribution to that system and transfer this amount, to the retirement system of the public charter school.

(c) *Employment status.* -- Notwithstanding any other provision of law and except as provided in this section, an employee of a public charter school shall not be considered to be an employee of the District of Columbia Government for any purpose.

(d) *Residency preference.* -- Notwithstanding the provisions of Unit A of Chapter 14 of Title 2, each qualified District resident applicant shall receive an additional 10-point preference over a qualified non-



District resident applicant for all positions within a public charter school unless the applicant declines the preference. This 10-point preference shall be in addition to, and not instead of, qualifications established for the position. All persons hired after February 6, 2008, shall submit 8 proofs of residency upon employment in the manner determined by the Board. An applicant claiming the hiring preference under this section shall agree in writing to maintain bona fide District residency for a period of 7 consecutive years from the effective date of hire and shall provide proof of such residency annually to the director of personnel of the public charter school for the first 7 years of employment. Failure to maintain District residency for the consecutive 7-year period shall result in forfeiture of employment. The public charter school shall submit to the Board annual reports detailing the names of all new employees and their pay schedules, titles, and place of resident.

(Apr. 26, 1996, 110 Stat. 1321 [243], Pub. L. 104-134, § 2207; Oct. 18, 2004, 118 Stat. 1349, Pub. L. 108-335, § 342(b); Dec. 8, 2004, 118 Stat. 3342, Pub. L. 108-447, Div. J., title I, § 103(a)(3); Feb. 6, 2008, D.C. Law 17-108, § 214(a), 54 DCR 10993.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.17.

##### *Effect of Amendments*

Pub. L. 108-447 deleted the addition of subsec. (d) by Pub. L. 108-335. See Editor's Notes.

D.C. Law 17-108 added subsec. (d).

##### *Legislative History of Laws*

Law 17-108, the "Jobs for D.C. Residents Amendment Act of 2007", was introduced in Council and assigned Bill No. 17-185 which was referred to the Committee on Workforce Development and Government Operations. The Bill was adopted on first and second readings on July 10, 2007, and October 2, 2007, respectively. Signed by the Mayor on October 26, 2007, it was assigned Act No. 17-172 and transmitted to both Houses of Congress for its review. D.C. Law 17-108 became effective on February 6, 2008.

##### *Effective Dates*

Section 103(b) of Div. J, title I, of Pub. L. 108-447, provides: "The amendments made by this section shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 2005 [Pub. L. 108-335]".

##### *Editor's Notes*

The addition of subsec. (e) by Pub. L. 108-335, § 342(b), was deleted by Pub. L. 108-447, Div. J, title I, § 103(a)(3), and did not take effect. See Effective Dates note.

## **§ 38-1802.08. REDUCED FARES FOR PUBLIC TRANSPORTATION.**

A student attending a public charter school shall be eligible for reduced fares on the Metrobus and Metrorail Transit System on the same terms and conditions as are applicable under subchapter II of Chapter 2 of Title 35, to a student attending a District of Columbia public school.

(Apr. 26, 1996, 110 Stat. 1321 [244], Pub. L. 104-134, § 2208.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.18.

## **§ 38-1802.09. DISTRICT OF COLUMBIA PUBLIC SCHOOL SERVICES TO PUBLIC CHARTER SCHOOLS.**

(a) *In general.* -- The Office of Public Education Facilities Modernization may provide services, such as facilities maintenance, to public charter schools. All compensation for costs of such services shall be subject to negotiation and mutual agreement between a public charter school and the Office of Public Education Facilities Modernization.

(b) *Preference in leasing or purchasing public school facilities.* --

(1) *Current and former public school properties.* --

(A)(i) *In general.* -- Notwithstanding any other provision of law, regulation, or order relating to the disposition of a facility or property described in subparagraph (B) of this paragraph, the Mayor and the District of Columbia government shall give a right of first offer with respect to any facility or

property described in subparagraph (B) of this paragraph not previously purchased, leased, or transferred, or under contract to be purchased, leased, or transferred, or the subject of a previously proposed resolution submitted by the Mayor on or before December 1, 2004, to the Council of the District of Columbia seeking authority for disposition of such facility or property, or under an Exclusive Rights Agreement executed on or before December 1, 2004, to an eligible applicant whose petition to establish a public charter school has been conditionally approved under § 38-1802.03(d)(2), or a Board of Trustees, with respect to the purchase, lease, transfer, or use of a facility or property described in subparagraph (B) of this paragraph; provided, that the right of first offer shall be offered to an existing tenant that is:

(I)(aa) A public charter school that has occupied all, or substantially all, of the facility or property; or

(bb) An organization providing educational or youth services under contract with the District government that has been a tenant of the facility or property and has occupied all, or substantially all, of the facility or property since on or before December 1, 2004; and

(II) In good standing on its existing lease agreement.

(ii) Nothing in sub-subparagraph (i) of this subparagraph shall be construed to deem a facility or property to be surplus or to authorize the Mayor to dispose of a facility or property.

(B) *Property described.* -- A facility or property referred to in subparagraph (A) of this paragraph is a facility, or real property:

(i) That formerly was under the jurisdiction of the Board of Education;

(ii) That the former Board of Education or the Mayor or the Chancellor of the District of Columbia Public Schools has determined is no longer needed for purposes of operating a District of Columbia public school; and

(iii) With respect to which:

(I) The Board of Education has transferred jurisdiction to the Mayor and over which the Mayor has jurisdiction on October 18, 2004; or

(II) Over which the Mayor or any successor agency gains jurisdiction after October 18, 2004.

(C) *Terms of purchase or lease.* -- The terms of purchase or lease of a facility or property described in subparagraph (B) of this paragraph shall:

(i) Be negotiated by the Mayor in accordance with written rules or regulations as determined by the Mayor, and published in the District of Columbia Register;

(ii) Include rent or an acquisition price, as applicable, that is at the appraised value of the property based on use of the property for school purposes; and

(iii) Include a lease period, if the property is to be leased, of not less than 25 years, and renewable for additional 25-year periods as long as the eligible applicant or Board of Trustees maintains its charter; provided, that leases involving co-location agreements may include a lease period of less than 25 years.

(2) Repealed.

(3) *Conversion public charter schools.* -- Any District of Columbia public school that was approved to become a conversion public charter school under § 38-1802.01 before October 18, 2004, or is approved to become a conversion public charter school after October 18, 2004, shall have the right to exclusively occupy the facilities the school occupied as a District of Columbia public school under a lease for a period of not less than 25 years, renewable for additional 25-year periods as long as the school maintains its charter at the appraised value of the property based on use of the property for school purposes.

(Apr. 26, 1996, 110 Stat. 1321 [244], Pub. L. 104-134, § 2209; Sept. 30, 1996, 110 Stat. 3009 [1466], Pub. L. 104-208, § 5205(d); Nov. 13, 2003, D.C. Law 15-39, § 332, 50 DCR 5668; Oct. 18, 2004, 118 Stat. 1349, Pub. L. 108-335, § 342(c); Dec. 8, 2004, 118 Stat. 3342, Pub. L. 108-447, Div. J, title I, § 103(a)(3); July 18, 2008, D.C. Law 17-183, § 2, 55 DCR 6099; Sept. 24, 2010, D.C. Law 18-223, § 4072, 57 DCR 6242.)

#### HISTORICAL AND STATUTORY NOTES

##### *Prior Codifications*

1981 Ed., § 31-2853.19.

##### *Effect of Amendments*

D.C. Law 15-39, in subsec. (b), inserted "first" before "preference" and inserted ", transfer, or use" after "lease" in subpar. (1)(A), and inserted "first" before "preference" in subpar. (2)(A).

Pub. L. 108-335, as amended by Pub.L. 108-447, in par. (1) of subsec. (b), rewrote subpars. (A) and (B)(iii), and added subpar. (C); in par. (2)(A) of subsec. (b), substituted "a right to first offer" for "preference"; and added par. (3) to subsec. (b). Prior to amendment, subpars. (A) and (B)(iii) of par. (1) of subsec. (b), had read as follows:

"(A) *In general.* -- Notwithstanding any other provision of law relating to the disposition of a facility or property described in subparagraph (B) of this paragraph, the Mayor and the District of Columbia Government shall give first preference to an eligible applicant whose petition to establish a public charter school has been conditionally approved under 38-1802.03(d)(2), or a Board of Trustees, with respect to the purchase or lease, transfer, or use of a facility or property described in subparagraph (B) of this paragraph, provided that doing so will not result in a significant loss of revenue that might be obtained from other dispositions or uses of the facility or property."

"(iii) With respect to which the Board of Education has transferred jurisdiction to the Mayor."

Pub. L. 108-447 amended Pub. L. 108-335. See Effective Date notes.

D.C. Law 17-183 rewrote subsec. (b)(1)(A), which had read as follows:

"(A) *In general.* -- Notwithstanding any other provision of law, regulation, or order relating to the disposition of a facility or property described in subparagraph (B) of this paragraph, the Mayor and the District of Columbia government shall give a right of first offer with respect to any facility or property described in subparagraph (B) of this paragraph not previously purchased, leased, or transferred, or under contract to be purchased, leased, or transferred, or the subject of a previously proposed resolution submitted by the Mayor on or before December 1, 2004, to the Council of the District of Columbia seeking authority for disposition of such facility or property, or under an Exclusive Rights Agreement executed on or before December 1, 2004, to an eligible applicant whose petition to establish a public charter school has been conditionally approved under § 38-1802.03(d)(2), or a Board of Trustees, with respect to the purchase, lease, transfer, or use of a facility or property described in subparagraph (B) of this paragraph."

D.C. Law 18-223, in subsec. (a), substituted "Office of Public Education Facilities Modernization" for "Superintendent"; in the lead-in language of subsec. (b)(1), substituted "Former public school property" for "current and former public school property"; in subsec. (b)(1)(B)(ii), substituted "former Board of Education or the Mayor or the Chancellor of the District of Columbia Public Schools" for "Board of Education"; in subsec. (b)(1)(C)(iii), substituted "its charter; provided, that leases involving co-location agreements may include a lease period of less than 25 years" for "its charter"; and repealed subsec. (b)(2), which had read as follows:

"(2) *Current public school property.* --

"(A) *In general.* -- Notwithstanding any other provision of law relating to the disposition of a facility or property described in subparagraph (B) of this paragraph, the Mayor and the District of Columbia Government shall give a right to first offer to an eligible applicant whose petition to establish a public charter school has been conditionally approved under § 38-1802.03(d)(2), or a Board of Trustees, in leasing, or otherwise contracting for the use of, a facility or property described in subparagraph (B) of this paragraph.

"(B) *Property described.* -- A facility or property referred to in subparagraph (A) of this paragraph is a facility, real property, or a designated area of a facility or real property, that:

"(i) Is under the jurisdiction of the Board of Education; and

"(ii) Is available for use because the Board of Education is not using, or educational, administrative, or other purposes, the facility, real property, or designated area."

#### *Temporary Amendments of Section*

Section 3 of D.C. Laws 13-143 added subsec. (c) to provide:

"(c) Notwithstanding subsections (a) and (b) of this section, there shall be a moratorium on the conversion of any District of Columbia public school into a public charter school."

Section 6(b) of D.C. Laws 13-143 provides:

"This act shall expire after 225 days of its having taken effect or upon the effective date of the Moratorium on Conversion of Existing District of Columbia Public Schools into Charter Schools Amendment Act of 2000, or upon the date that final action is taken on Bill 13-582, the "District of Columbia School Reform Amendment Act of 1999" and Bill 13-583, the "District of Columbia Public Charter School Conversion Petition Process Amendment Act of 2000", or on amendments in the nature of a substitute to these two bills, whichever occurs first."

Section 2 of D.C. Law 17-19, in subsec. (b)(1)(A), designated the existing text as subsec. (b)(1)(A)(i) and substituted "this paragraph; provided, that the right of first offer shall be offered to an existing tenant that is:

"(I)(aa) A public charter school that has occupied all, or substantially all, of the facility or property; or

"(bb) An organization providing educational or youth services under contract with the District government that has been a tenant of the facility or property, and has occupied all, or substantially all, of the facility or property since on or before December 1, 2004; and

"(II) In good standing on its existing lease agreement." for "this paragraph.", and added subsec. (b)(1)(A)(ii) to read as follows:

"(ii) Nothing in sub-subparagraph (i) of this subparagraph shall be construed to deem a facility or property to be surplus or to authorize the Mayor to dispose of a facility or property."

Section 4(b) of D.C. Law 17-19 provides that the act shall expire after 225 days of its having taken effect.

#### *Emergency Act Amendments*

For temporary (90-day) amendment of section, see § 3 of the Moratorium on Conversion of Existing Public Schools into Charter Schools Emergency Amendment Act of 2000 (D.C. Act 13-311, April 7, 2000, 47 DCR 2735).

For temporary (90 day) amendment of section, see § 332 of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 332 of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

For temporary (90 day) amendment of section, see §2 of District of Columbia School Reform Property Disposition Clarification Emergency Amendment Act of 2007 (D.C. Act 17-50, May 15, 2007, 54 DCR 5362).

For temporary (90 day) amendment of section, see § 2 of District of Columbia School Reform Property Disposition Clarification Emergency Amendment Act of 2008 (D.C. Act 17-370, May 20, 2008, 55 DCR 6090).

For temporary (90 day) addition, see § 4131 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 4131 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 4072 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

#### *Legislative History of Laws*

For Law 15-39, see notes following § 38-160.

Law 17-183, the "District of Columbia School Reform Property Disposition Clarification Amendment Act of 2008", was introduced in Council and assigned Bill No.17-217 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 15, 2008, and May 6, 2008, respectively. Signed by the Mayor on May 20, 2008, it was assigned Act No. 17- 376 and transmitted to both Houses of Congress for its review. D.C. Law 17-183 became effective on July 18, 2008.

For Law 18-223, see notes following § 38-103.

#### *Effective Dates*

Section 103(b) of Div. J, title I, of Pub. L. 108-447, provides: "The amendments made by this section shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 2005 [Pub. L. 108-335]".

#### *Delegation of Authority*

Delegation of the Mayor's Surplus Property Disposition Authority to the Director of the Office of Property Management to Dispose of Specified Properties on Behalf of the District of Columbia, see Mayor's Order 2000-173, November 8, 2000 (47 DCR 9540).

Delegation of Authority-Office of Property Management, see Mayor's Order 2007- 260, December 7, 2007 (55 DCR 211).

Delegation of Authority Regarding the Purchase, Lease, Transfer, or Use of Former and Current School Property, see Mayor's Order 2008-162, December 4, 2008 (56 DCR 330).

#### *Miscellaneous Notes*

Procedures for Disposition of Surplus Properties and Facilities Formerly Under the Jurisdiction of the D.C. Public Schools, see Mayor's Order 2000-150, October 5, 2000 (47 DCR 8266).

Short title of subtitle D of title III of Law 15-39: Section 331 of D.C. Law 15-39 provided that subtitle D of title III of the act may be cited as the Public Charter School Facilities Preference Amendment Act of 2003.

Short title: Section 4130 of D.C. Law 18-111 provided that subtitle N of title IV of the act may be cited as the "District of Columbia School Reform Education Facility Act of 2009".

Section 4131 of D.C. Law 18-111 provides:

"(a) Pursuant to section 2209(b)(1)(A)(i)(I)(bb) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.09(b)(1)(A)(i)(I)(bb)), Associates for

Renewal of Education, Inc., as an organization providing youth and educational services and a tenant of Slater School since prior to December 2004, shall:

"(1) Be offered the right of first offer on a disposition of Slater School;

"(2) Be permitted to remain and continue to operate in Slater School under existing terms and conditions throughout the leasing preference procedure; and

"(3) Be permitted to make any functional improvements and general repairs as necessary.

"(b) The Office of Property Management shall finalize a lease with Associates for Renewal of Education, Inc., within 90 days of the effective date of the District of Columbia School Reform Education Facility Emergency Act of 2009, passed on emergency basis on September 22, 2009 (Enrolled version of Bill 18- 443) [October 15, 2009]."

Short title: Section 4071 of D.C. Law 18-223 provided that subtitle H of title IV of the act may be cited as the "Public Charter School Access to District of Columbia Public School Buildings Clarification Amendment Act of 2010".

## **§ 38-1802.10. APPLICATION OF LAW.**

(a) *Elementary and Secondary Education Act of 1965.* --

(1) *Treatment as local educational agency.* --

(A) *In general.* -- For any fiscal year, a public charter school shall be considered to be a local educational agency for purposes of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), and shall be eligible for assistance under such part, if the fraction the numerator of which is the number of low-income students enrolled in the public charter school during the fiscal year preceding the fiscal year for which the determination is made and the denominator of which is the total number of students enrolled in such public charter school for such preceding year, is equal to or greater than the lowest fraction determined for any District of Columbia public school receiving assistance under such part A where the numerator is the number of low-income students enrolled in such public school for such preceding year and the denominator is the total number of students enrolled in such public school for such preceding year.

(B) *Definition.* -- For the purposes of this subsection, the term "low-income student" means a student from a low-income family determined according to the measure adopted by the District of Columbia to carry out the provisions of part A of title I of the Elementary and Secondary Education Act of 1965 that is consistent with the measures described in § 1113(a)(5) of such Act (20 U.S.C. 6313(a)(5)) for the fiscal year for which the determination is made.

(2) *Allocation for fiscal years 1996 through 1998.* --

(A) *Public charter schools.* -- For fiscal years 1996 through 1998, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the District of Columbia's total allocation under such part which bears the same ratio to such total allocation as the number described in subparagraph (C) of this paragraph bears to the number described in subparagraph (D) of this paragraph.

(B) *District of Columbia public schools.* -- For fiscal years 1996 through 1998, the District of Columbia public schools shall receive a portion of the District of Columbia's total allocation under part A of title I of the Elementary and Secondary Education Act of 1965 which bears the same ratio to such total allocation as the total of the numbers described in subsubparagraphs (ii) and (iii) of subparagraph (D) bears to the aggregate total described in subparagraph (D) of this paragraph.

(C) *Number of eligible students enrolled in the public charter school.* -- The number described in this subparagraph is the number of low-income students enrolled in the public charter school during the fiscal year preceding the fiscal year for which the determination is made.

(D) *Aggregate number of eligible students.* -- The number described in this subparagraph is the aggregate total of the following numbers:

(i) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made, were enrolled in a public charter school.

(ii) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made, were enrolled in a District of Columbia public school selected to provide services under part A of title I of the Elementary and Secondary Education Act of 1965; and

(iii) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made:

(I) Were enrolled in a private or independent school; and

(II) Resided in an attendance area of a District of Columbia public school selected to provide services under part A of title I of the Elementary and Secondary Education Act of 1965.

(3) *Allocation for fiscal year 1999 and thereafter.* --

(A) *Calculation by secretary.* -- Notwithstanding §§ 1124(a)(2), 1124A(a)(4), and 1125(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(a)(2), 6334(a)(4), and 6335(d)), for fiscal year 1999 and each fiscal year thereafter, the total allocation under part A of title I of such Act for all local educational agencies in the District of Columbia, including public charter schools that are eligible to receive assistance under such part, shall be calculated by the Secretary of Education. In making such calculation, such Secretary shall treat all such local educational agencies as if such agencies were a single local educational agency for the District of Columbia.

(B) *Allocation.* --

(i) *Public charter schools.* -- For fiscal year 1999 and each fiscal year thereafter, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the total allocation calculated under subparagraph (A) of this paragraph which bears the same ratio to such total allocation as the number described in paragraph (2)(C) of this subsection bears to the aggregate total described in paragraph (2)(D) of this subsection.

(ii) *District of Columbia public school.* -- For fiscal year 1999 and each fiscal year thereafter, the District of Columbia public schools shall receive a portion of the total allocation calculated under subparagraph (A) of this paragraph which bears the same ratio to such total allocation as the total of the numbers described in subparagraphs (ii) and (iii) of paragraph (2)(D) of this subsection bears to the aggregate total described in paragraph (2)(D) of this subsection.

(4) *Use of ESEA funds.* -- The Board of Education may not direct a public charter school in the school's use of funds under part A of title I of the Elementary and Secondary Education Act of 1965.

(5) *ESEA requirements.* -- Except as provided in paragraph (6) of this subsection, a public charter school receiving funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) shall comply with all requirements applicable to schools receiving such funds.

(6) *Inapplicability of certain ESEA provisions.* -- The following provisions of the Elementary and Secondary Education Act of 1965 shall not apply to a public charter school:

(A) Paragraphs (5) and (8) of § 1112(b) (20 U.S.C. 6312(b));

(B) Paragraphs (1)(A), (1)(B), (1)(C), (1)(D), (1)(F), (1)(H), and (3) of § 1112(c) (20 U.S.C. 6312(c));

(C) Section 1113 (20 U.S.C. 6313);

(D) Section 1115A (20 U.S.C. 6316);

(E) Subsections (a), (b), and (c) of § 1116 (20 U.S.C. 6317);

(F) Subsections (d) and (e) of § 1118 (20 U.S.C. 6319);

(G) Section 1120 (20 U.S.C. 6321);

(H) Subsections (a) and (c) of § 1120A (20 U.S.C. 6322); and

(I) Section 1126 (20 U.S.C. 6337).

(b) *Property and sales taxes.* -- A public charter school shall be exempt from District of Columbia property and sales taxes.

(c) *Education of Children With Disabilities.* -- Notwithstanding any other provision of this chapter, each public charter school shall elect to be treated as a local educational agency or a District of Columbia public school for the purpose of part B of the Individuals With Disabilities Education Act (20 U.S.C. 1411 et seq.) and § 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(d) *Waiver of application of duplicate and conflicting provisions.* -- Notwithstanding any other provision of law, and except as otherwise provided in this chapter, no provision of any law regarding the establishment, administration, or operation of public charter schools in the District of Columbia shall apply with respect to a public charter school or an eligible chartering authority to the extent that the provision duplicates or is inconsistent with any provision of this chapter.

(e) *Participation in GSA programs.* --

(1) *In general.* -- Notwithstanding any provision of this chapter or any other provision of law, a public charter school may acquire goods and services through the General Services Administration and may participate in programs of the Administration in the same manner and to the same extent as any entity of the District of Columbia government.

(2) *Participation by certain organizations.* -- A public charter school may delegate to a nonprofit, tax-

exempt organization in the District of Columbia the public charter school's authority under paragraph (1) of this subsection.

(Apr. 26, 1996, 110 Stat. 1321 [244], Pub. L. 104-134, § 2210; Nov. 22, 2000, 114 Stat. 2440, Pub. L. 106-522, § 120(b)(1), (e).)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.20.

##### *Effect of Amendments*

Section 120 (b)(1) of Public Law 106-522 added subsec. (d) providing for waiver of application of duplicate and conflicting provisions.

Section 120 (b)(2) provides:

"(2) EFFECTIVE DATE.--The amendments made by this subsection shall take effect as if included in the enactment of the District of Columbia School Reform Act of 1995."

Section 120 (e) added subsec. (e) pertaining to participation in GSA programs.

##### *Temporary Amendments of Section*

Section 7 of D.C. Law 14-191 repealed subsec. (b).

Section 16(b) of D.C. Law 14-191 provides that the act shall expire after 225 days of its having taken effect.

Section 7 of D.C. Law 14-228 repealed subsec. (b).

Section 18(b) of D.C. Law 14-228 provides that the act shall expire after 225 days of its having taken effect.

##### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 7 of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 7 of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 7 of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

##### *Legislative History of Laws*

Law 14-191, the "Tax Clarity and Recorder of Deeds Temporary Act of 2002", was introduced in Council and assigned Bill No. 14-667, which was retained by the Council. The Bill was adopted on first and second readings on May 7, 2002, and June 4, 2002, respectively. Signed by the Mayor on July 10, 2002, it was assigned Act No. 14-404 and transmitted to both Houses of Congress for its review. D.C. Law 14-191 became effective on October 5, 2002.

Law 14-228, the "Tax Clarity and Related Amendments Temporary Act of 2002", was introduced in Council and assigned Bill No. 14-763, and was retained by Council. The Bill was adopted on first and second readings on July 2, 2002, and September 17, 2002, respectively. Signed by the Mayor on October 3, 2002, it was assigned Act No. 14-483 and transmitted to both Houses of Congress for its review. D.C. Law 14-228 became effective on March 25, 2003.

## **§ 38-1802.11. POWERS AND DUTIES OF ELIGIBLE CHARTERING AUTHORITIES.**

### **(a) Oversight. --**

#### **(1) In general. --** An eligible chartering authority:

(A) Shall monitor the operations of each public charter school to which the eligible chartering authority has granted a charter;

(B) Shall ensure that each such school complies with applicable laws and the provisions of the charter granted to such school; and

(C) Shall monitor the progress of each such school in meeting student academic achievement expectations specified in the charter granted to such school.

(D) Shall ensure that each public charter school complies with the annual reporting requirement of § 38-1802.04(c)(11), including submission of the audited financial statement required by § 38-1802.04(c)(11)(B)(ix).

#### **(2) Production of books and records. --** An eligible chartering authority may require a public charter

school to which the eligible chartering authority has granted a charter to produce any book, record, paper, or document, if the eligible chartering authority determines that such production is necessary for the eligible chartering authority to carry out its functions under this subchapter.

(b) *Fees.* --

(1) *Application fee.* -- An eligible chartering authority may charge an eligible applicant a fee, not to exceed \$150, for processing a petition to establish a public charter school.

(2) *Administration fee.* -- In the case of an eligible chartering authority that has granted a charter to a public charter school, the eligible chartering authority may charge the school a fee, not to exceed one-half of one percent of the annual budget of the school, to cover the cost of undertaking the ongoing administrative responsibilities of the eligible chartering authority with respect to the school that are described in this subchapter. The school shall pay the fee to the eligible chartering authority not later than November 15 of each year.

(c) *Immunity from civil liability.* --

(1) *In general.* -- An eligible chartering authority, the Board of Trustees of such an eligible chartering authority, and a director, officer, employee, or volunteer of such an eligible chartering authority, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission:

- (A) Constitutes gross negligence;
- (B) Constitutes an intentional tort; or
- (C) Is criminal in nature.

(2) *Common law immunity preserved.* -- Paragraph (1) of this subsection shall not be construed to abrogate any immunity under common law of a person described in such paragraph.

(d) *Annual report.* -- On or before July 30 of each year, each eligible chartering authority that issues a charter under this subchapter shall submit a report to the Mayor, the District of Columbia Council, the Board of Education, the Secretary of Education, the appropriate congressional committees, and the Consensus Commission that includes the following information:

- (1) A list of the members of the eligible chartering authority and the addresses of such members;
- (2) A list of the dates and places of each meeting of the eligible chartering authority during the year preceding the report;
- (3) The number of petitions received by the eligible chartering authority for the conversion of a District of Columbia public school or a private or independent school to a public charter school, and for the creation of a new school as a public charter school;
- (4) The number of petitions described in paragraph (3) of this subsection that were approved and the number that were denied, as well as a summary of the reasons for which such petitions were denied;
- (5) A description of any new charters issued by the eligible chartering authority during the year preceding the report;
- (6) A description of any charters renewed by the eligible chartering authority during the year preceding the report;
- (7) A description of any charters revoked by the eligible chartering authority during the year preceding the report;
- (8) A description of any charters refused renewal by the eligible chartering authority during the year preceding the report;
- (9) Any recommendations the eligible chartering authority has concerning ways to improve the administration of public charter schools;
- (10) Details of major Board actions;
- (11) Major findings from school reviews of academic, financial, and compliance with health and safety standards and resulting Board action or recommendations;
- (12) Details of the fifth year review process and outcomes;
- (13) Summary of annual financial audits of all charter schools, including:
  - (A) The number of schools that failed to timely submit the audited financial statement required by that section;
  - (B) The number of schools whose audits revealed a failure to follow required accounting practices or other material deficiencies; and
  - (C) The steps taken by the authority to ensure that deficiencies found by the audits are rectified;
- (14) Number of schools which have required intervention by authorizing board to address any



academic or operational issue;

(15) What recommendations an authorizing board has made to correct identified deficiencies.

(Apr. 26, 1996, 110 Stat. 1321 [247], Pub. L. 104-134, § 2211; Oct. 18, 2004, 118 Stat. 1349, Pub. L. 108-335, § 343.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.21.

##### *Effect of Amendments*

Pub. L. 108-335, in subsec. (a), added subpar. (1)(D); and in subsec. (d), added pars. (10) through (15).

## **§ 38-1802.12. CHARTER RENEWAL.**

### *(a) Terms. --*

(1) *Initial term.* -- A charter granted to a public charter school shall remain in force for a 15-year period.

(2) *Renewals.* -- A charter may be renewed for an unlimited number of times, each time for a 15-year period.

(3) *Review.* -- An eligible chartering authority that grants or renews a charter pursuant to paragraph (1) or (2) of this subsection shall review the charter at least once every 5 years to determine whether the charter should be revoked for the reasons described in § 38-1802.13(a) or (b), in accordance with the procedures for revocation established under § 38-1802.13.

(b) *Application for charter renewal.* -- In the case of a public charter school that desires to renew its charter, the Board of Trustees of the school shall file an application to renew the charter with the eligible chartering authority that granted the charter not later than 120 days nor earlier than 365 days before the expiration of the charter. The application shall contain the following:

(1) A report on the progress of the public charter school in achieving the goals, student academic achievement expectations, and other terms of the approved charter;

(2) All audited financial statements for the public charter school for the preceding 4 years; and

(3) The articles of incorporation and bylaws of the nonprofit corporation operating the charter school, which shall contain provisions satisfying the requirements of § 38-1802.13a.

(c) *Approval of charter renewal application.* -- The eligible chartering authority that granted a charter shall approve an application to renew the charter that is filed in accordance with subsection (b) of this section, except that the eligible chartering authority shall not approve such application if the eligible chartering authority determines that:

(1) The school committed a material violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in its charter, including violations relating to the education of children with disabilities; or

(2) The school failed to meet the goals and student academic achievement expectations set forth in its charter.

### *(d) Procedures for consideration of charter renewal. --*

(1) *Notice of right to hearing.* -- An eligible chartering authority that has received an application to renew a charter that is filed by a Board of Trustees in accordance with subsection (b) of this section shall provide to the Board of Trustees written notice of the right to an informal hearing on the application. The eligible chartering authority shall provide the notice not later than 15 days after the date on which the eligible chartering authority received the application.

(2) *Request for hearing.* -- Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1) of this subsection, the Board of Trustees may request, in writing, an informal hearing on the application before the eligible chartering authority.

### *(3) Date and time of hearing. --*

(A) *Notice.* -- Upon receiving a timely written request for a hearing under paragraph (2) of this subsection, an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(B) *Deadline.* -- An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2) of this subsection.

(4) *Final decision.* --

(A) *Deadline.* -- An eligible chartering authority shall render a final decision, in writing, on an application to renew a charter:

- (i) Not later than 30 days after the date on which the eligible chartering authority provided the written notice of the right to a hearing, in the case of an application with respect to which such a hearing is not held; and
- (ii) Not later than 30 days after the date on which the hearing is concluded, in the case of an application with respect to which a hearing is held.

(B) *Reasons for nonrenewal.* -- An eligible chartering authority that denies an application to renew a charter shall state in its decision the reasons for denial.

(5) *Alternatives upon nonrenewal.* -- If an eligible chartering authority denies an application to renew a charter granted to a public charter school, the Board of Education may:

- (A) Manage the school directly until alternative arrangements can be made for students at the school; or
- (B) Place the school in a probationary status that requires the school to take remedial actions, to be determined by the Board of Education, that directly relate to the grounds for the denial.

(6) *Judicial review.* -- A decision by an eligible chartering authority to deny an application to renew a charter shall be subject to judicial review by an appropriate court of the District of Columbia.

(Apr. 26, 1996, 110 Stat. 1321 [248], Pub. L. 104-134, § 2212; Sept. 30, 1996, 110 Stat. 3009 [1468], Pub. L. 104-208, § 5205(e); Mar. 14, 2007, D.C. Law 16-268, § 4(e), 54 DCR 833; June 12, 2007, D.C. Law 17-9, § 802(d), 54 DCR 4102; Mar. 25, 2009, D.C. Law 17-353, § 160(a)(2), 56 DCR 1117.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.22.

*Effect of Amendments*

D.C. Law 16-268, in subsec. (b)(1), substituted a semicolon for a period; in subsec. (b)(2), substituted "; and" for a period; and added subsec. (b)(3).

D.C. Law 17-9 rewrote subsec. (a)(3) which had read as follows:

"(3) *Review* -- An eligible chartering authority that grants or renews a charter pursuant to paragraph (1) or (2) of this subsection shall review the charter:

"(A) At least once every 5 years to determine whether the charter should be revoked for the reasons described in subsection (a)(1)(A) or (b) of § 38- 1802.13 in accordance with the procedures for such revocation established under § 38-1802.13(c); and

"(B) Once every 5 years, beginning on the date that is 5 years after the date on which the charter is granted or renewed, to determine whether the charter should be revoked for the reasons described in § 38- 1802.13(a)(1)(B) in accordance with the procedures for such revocation established under § 38- 1802.13(c)."

D.C. Law 17-353 validated a previously made technical correction in subsec. (b).

*Emergency Act Amendments*

For temporary (90 day) repeal of section 804 of D.C. Law 17-9, see § 4043(b) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

*Legislative History of Laws*

For Law 16-268, see notes following § 38-1701.01.

For Law 17-9, see notes under § 38-103.

For Law 17-353, see notes following § 38-102.

*Miscellaneous Notes*

Applicability: Section 804 of D.C. Law 17-9 provides that section 802 shall apply upon enactment by Congress. Section 804 of D.C. Law 17-9 was repealed by section 4043(b) of D.C. Law 17-20.

## **§ 38-1802.13. CHARTER REVOCATION.**

(a) *Charter or law violations; failure to meet goals.* -- Using the record established by the eligible chartering authority, an eligible chartering authority that has granted a charter to a public charter school may revoke the charter if the eligible chartering authority determines that the school:

(1) Committed a violation of applicable law or a material violation of the conditions, terms, standards, or procedures set forth in the charter, including violations relating to the education of children with disabilities; or

(2) Has failed to meet the goals and student academic achievement expectations set forth in the charter.

(b) *Fiscal mismanagement.* -- An eligible chartering authority that has granted a charter to a public charter school shall revoke the charter if the eligible chartering authority determines that the school:

(1) Has engaged in a pattern of nonadherence to generally accepted accounting principles;

(2) Has engaged in a pattern of fiscal mismanagement; or

(3) Is no longer economically viable.

(c) *Procedures for consideration of revocation.* --

(1) *Notice of right to hearing.* -- An eligible chartering authority that is proposing to revoke a charter granted to a public charter school shall provide to the Board of Trustees of the school a written notice stating the reasons for the proposed revocation. The notice shall inform the Board of Trustees of the right of the Board of Trustees to an informal hearing on the proposed revocation.

(2) *Request for hearing.* -- Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1) of this subsection, the Board of Trustees may request, in writing, an informal hearing on the proposed revocation before the eligible chartering authority.

(3) *Date and time of hearing.* --

(A) *Notice.* -- Upon receiving a timely written request for a hearing under paragraph (2) of this subsection, an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(B) *Deadline.* -- An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2) of this subsection.

(4) *Final decision.* --

(A) *Deadline.* -- An eligible chartering authority shall render a final decision, in writing, on the revocation of a charter:

(i) Not later than 30 days after the date on which the eligible chartering authority provided the written notice of the right to a hearing, in the case of a proposed revocation with respect to which such a hearing is not held; and

(ii) Not later than 30 days after the date on which the hearing is concluded, in the case of a proposed revocation with respect to which a hearing is held.

(B) *Reasons for revocation.* -- An eligible chartering authority that revokes a charter shall state in its decision the reasons for the revocation.

(5) *Alternatives upon revocation.* -- If an eligible chartering authority revokes a charter granted to a public charter school, the eligible chartering authority may manage the school directly until alternative arrangements can be made for students at the school.

(6) *Judicial review.* --

(A) *Availability of review.* -- A decision by an eligible chartering authority to revoke a charter shall be subject to judicial review by an appropriate court of the District of Columbia.

(B) *Standard of review.* -- A decision by an eligible chartering authority to revoke a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

(Apr. 26, 1996, 110 Stat. 1321 [250], Pub. L. 104-134, § 2213; Sept. 30, 1996, 110 Stat. 3009 [1470], Pub. L. 104-208, § 5205(f); June 12, 2007, D.C. Law 17-9, § 802(e), 54 DCR 4102; Mar. 25, 2009, D.C. Law 17-353, § 203(b), 56 DCR 1117.)

#### HISTORICAL AND STATUTORY NOTES

##### *Prior Codifications*

1981 Ed., § 31-2853.23.

##### *Effect of Amendments*

D.C. Law 17-9 rewrote subsec. (a); and, in subsec. (c)(5), substituted "eligible chartering authority" for "Board of Education". Prior to amendment, subsec. (a) read as follows:

"(a) *Charter or law violations; failure to meet goals.* --

"(1) *In general.* -- Subject to paragraph (2) of this subsection, an eligible chartering authority that has granted a charter to a public charter school may revoke the charter if the eligible chartering authority determines that the school:

"(A) Committed a violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in the charter, including violations relating to the education of children with disabilities; or

"(B) Failed to meet the goals and student academic achievement expectations set forth in the charter.

"(2) *Special rule.* -- An eligible chartering authority may not revoke a charter under paragraph (1)(B) of this subsection, except pursuant to a determination made through a review conducted under § 38-1802.12(a)(3)(B)."

D.C. Law 17-353, in subsec. (a), substituted "established by the eligible chartering authority" for "established by the chartering authority".

#### *Emergency Act Amendments*

For temporary (90 day) repeal of section 804 of D.C. Law 17-9, see § 4043(b) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

#### *Legislative History of Laws*

For Law 17-9, see notes under § 38-103.

For Law 17-353, see notes following § 38-102.

#### *Miscellaneous Notes*

Applicability: Section 804 of D.C. Law 17-9 provides that section 802 shall apply upon enactment by Congress. Section 804 of D.C. Law 17-9 was repealed by section 4043(b) of D.C. Law 17-20.

## **§ 38-1802.13A. MANDATORY DISSOLUTION.**

(a) A nonprofit corporation operating a charter school shall dissolve if the charter for the school:

- (1) Has been revoked by the authorizing entity;
- (2) Has not been renewed by the authorizing entity; or
- (3) Has been voluntarily relinquished by the charter school.

(b) The distribution of assets upon dissolution required by subsection (a) of this section shall be in accordance with § 29-301.48 and this section.

(c)(1) Except as provided in paragraph (2) of this subsection, the articles of incorporation or the bylaws of a nonprofit corporation operating the charter school shall require that:

- (A) The corporation shall dissolve if the charter for the charter school has been revoked, has not been renewed, or has been voluntarily relinquished; and
- (B) Any assets to be distributed pursuant to a plan of distribution under § 29-301.48(3) shall be transferred to the State Education Office of the District of Columbia, to be controlled by the Office of Education Facilities and Partnerships and used solely for educational purposes.

(2) A nonprofit corporation with an existing charter as of March 14, 2007, shall not be required to amend its articles of incorporation or bylaws to comply with the requirements of this section until the time of its charter renewal under § 38-1802.12.

(3) Nothing in this subsection shall be construed as exempting the corporation from any other requirements of this section.

(d)(1) The chartering authority, in consultation with the Board of Trustees, shall develop and execute a plan for:

- (A) Liquidating the corporation's assets in a timely fashion and in a manner that will achieve maximum value;
- (B) Discharging the corporation's debts; and
- (C) Distributing any remaining assets in accordance with this section and § 29-301.48(3).

(2) The plan shall:

- (A) Provide that assets to be distributed pursuant to § 29-301.48(3) be transferred or conveyed to the District of Columbia, to be controlled by the Office of Education Facilities and Partnerships within the State Education Office and used solely for educational purposes; and
- (B) Be in accordance with the terms of existing creditor agreements and applicable laws, and creditors shall retain all rights, powers, and remedies available to them to cure default as defined in their agreements with the charter school.

(3) As soon as feasible, the Board of Trustees shall complete and submit to the authorizing entity a closeout audit, which shall include:

(A) An account of the present value of the charter school's liabilities held by all of its creditors, including:

- (i) Banking institutions;
- (ii) Vendors; and
- (iii) State pension and health benefits agencies; and

(B) An account of the present value of the charter school's assets, including:

- (i) Books;
- (ii) Supplies;
- (iii) Motor vehicles;
- (iv) Furnishing;
- (v) Equipment; and
- (vi) Facilities.

(4) Nothing in this subsection shall be construed as making the chartering authority or the District of Columbia liable for debts incurred by the corporation.

(e) The chartering authority, in consultation with the Board of Trustees, shall arrange for the transfer and storage of necessary student records in the possession of the charter school.

(f) The chartering authority may utilize assets of the charter school to provide for:

- (1) The transfer and storage of student records pursuant to subsection (e) of this section; and
- (2) Any other actual expenses incurred by the authorizing entity as a result of the dissolution of the nonprofit organization operating the charter school.

(Apr. 26, 1996, 110 Stat. 1321 [251], Pub.L. 104-134, § 2213a, as added Mar. 14, 2007, D.C. Law 16-268, § 4(f), 54 DCR 833.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

Law 16-268, the "Public Charter School Assets and Facilities Preservation Amendment Act of 2006", was introduced in Council and assigned Bill No. 16-624, which was referred to Committee on Education, Libraries and Recreation. The Bill was adopted on first and second readings on December 6, 2006, and December 19, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-624 and transmitted to both Houses of Congress for its review. D.C. Law 16-268 became effective on March 14, 2007.

## **§ 38-1802.14. PUBLIC CHARTER SCHOOL BOARD.**

(a) *Establishment.* --

(1) *In general.* -- There is established within the District of Columbia Government a Public Charter School Board (in this section referred to as the "Board").

(2) *Membership.* -- The Board shall consist of 7 members, appointed by the Mayor, with the advice and consent of the Council. Members shall be selected so that knowledge of each of the following areas is represented on the Board:

(A) Research about and experience in student learning, quality teaching, and evaluation of and accountability in successful schools;

(B) The operation of a financially sound enterprise, including leadership and management techniques, as well as the budgeting and accounting skills critical to the startup of a successful enterprise;

(C) The educational, social, and economic development needs of the District of Columbia; and

(D) The needs and interests of students and parents in the District of Columbia, as well as methods of involving parents and other members of the community in individual schools.

(3) *Vacancies.* -- Where a vacancy occurs in the membership of the Board for reasons other than the expiration of the term of a member, the Mayor shall appoint, with the advice and consent of the Council, an individual to serve in the vacant position, taking into consideration the criteria described in paragraph (2) of this subsection. Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of the term.

(4) Repealed.

(5) *Terms of members.* --

(A) *In general.* -- Members of the Board shall serve for terms of 4 years, except that, of the initial appointments made under paragraph (2) of this subsection, the Mayor shall designate:

- (i) Two members to serve terms of 3 years;
- (ii) Two members to serve terms of 2 years; and
- (iii) One member to serve a term of one year.

(B) *Reappointment.* -- Members of the Board shall be eligible to be reappointed for one 4-year term beyond their initial term of appointment.

(6) *Independence.* -- No person employed by the District of Columbia public schools or a public charter school shall be eligible to be a member of the Board or to be employed by the Board.

(b) *Operations of the Board.* --

(1) *Chair.* -- The members of the Board shall elect from among their membership 1 individual to serve as Chair. Such election shall be held each year after members of the Board have been appointed to fill any vacancies caused by the regular expiration of previous members' terms, or when requested by a majority vote of the members of the Board.

(2) *Quorum.* -- A majority of the members of the Board, not including any positions that may be vacant, shall constitute a quorum sufficient for conducting the business of the Board.

(3) *Meetings.* -- The Board shall meet at the call of the Chair, subject to the hearing requirements of §§ 38-1802.03, 38-1802.12(d)(3), and 38-1802.13(c)(3), and all meetings of the Board shall be open to the public and shall provide a reasonable time during the meeting for public comment.

(c) *No compensation for service.* -- Members of the Board shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Board.

(d) *Personnel and resources.* --

(1) *In general.* -- Subject to such rules as may be made by the Board, the Chair shall have the power to appoint, terminate, and fix the pay of an Executive Director and such other personnel of the Board as the Chair considers necessary. The Executive Director shall be a District resident throughout his or her term and failure to maintain District residency shall result in a forfeiture of the position.

(2) *Special rule.* -- The Board is authorized to use the services, personnel, and facilities of the District of Columbia.

(3) *District residency.* -- Notwithstanding the provisions of Unit A of Chapter 14 of Title 2, each qualified District resident applicant shall receive an additional 10-point preference over a qualified non-District resident applicant for all positions within the Board unless the applicant declines the preference. This 10-point preference shall be in addition to, and not instead of, qualifications established for the position. All persons hired after February 6, 2008, shall submit proof of residency upon employment in a manner determined by the Board. An applicant claiming the hiring preference under this section shall agree in writing to maintain bona fide District residency for a period of 7 consecutive years from the effective date of hire and shall provide proof of such residency annually to the Director of Personnel for the first 7 years of employment. Failure to maintain District residency for the consecutive 7-year period shall result in forfeiture of employment. The Board shall submit to the Mayor and Council annual reports detailing the names of all new employees and their pay schedules, titles, and place of residence.

(e) *Expenses of Board.* -- Any expenses of the Board shall be paid from such funds as may be available to the Mayor; provided, That within 45 days of April 26, 1996, the Mayor shall make available not less than \$130,000 to the Board.

(f) *Audit.* -- The Board shall maintain its accounts according to Generally Accepted Accounting Principles. The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General. The findings and recommendations of any such audit shall be forwarded to the Mayor, the Council of the District of Columbia, and the Office of the Chief Financial Officer of the District of Columbia.

(g) *Authorization of appropriations.* -- For the purpose of carrying out the provisions of this section and conducting the Board's functions required by this subchapter, there are authorized to be appropriated to the Board \$300,000 for fiscal year 1997 and such sums as may be necessary for each of the 3 succeeding fiscal years.

(h) *Contracting and procurement.* -- The Board shall have the authority to solicit, award, and execute contracts independently of the Office of Contracting and Procurement and the Chief Procurement Officer.

(i) *Freedom of Information Act.* -- The Board shall comply with all provisions of subchapter II of Chapter 5 of Title 2.

(j) The Board shall consult with the Office of the State Superintendent of Education, established by § 38-2601, to ensure that the requirements and the goals of Chapter 2A of this title are met, in accordance with that chapter.

(Apr. 26, 1996, 110 Stat. 1321 [251], Pub. L. 104-134, § 2214; Sept. 30, 1996, 110 Stat. 3009 [1471], Pub. L. 104-208, § 5205(g); Nov. 19, 1997, 111 Stat. 2191, Pub. L. 105-100, § 169; Oct. 18, 2004, 118 Stat. 1352, Pub. L. 108-335, § 347; Dec. 8, 2004, 118 Stat. 3343, Pub. L. 108-447, § 103(a)(4); June 12, 2007, D.C. Law 17-9, § 802(f), 54 DCR 4102; Feb. 6, 2008, D.C. Law 17-108, § 214(b), 54 DCR 10993; July 18, 2008, D.C. Law 17-202, § 606, 55 DCR 6297; Mar. 25, 2009, D.C. Law 17-353, § 223(f), 56 DCR 1117; Sept. 24, 2010, D.C. Law 18-223, § 4082, 57 DCR 6242.)

#### HISTORICAL AND STATUTORY NOTES

##### *Prior Codifications*

1981 Ed., § 31-2853.24.

##### *Effect of Amendments*

Pub. L. 108-335, as amended by Pub. L. 108-447, rewrote subsec. (f), and added subsec. (h). Prior to amendment, subsec. (f) had read as follows:

"(f) *Audit.* -- The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States."

Pub. L. 108-447 amended Pub. L. 108-335. See Effective Dates note.

D.C. Law 17-9, in subsec. (b)(3), inserted ", and all meetings of the Board shall be open to the public and shall provide a reasonable time during the meeting for public comment"; and added subsec. (i).

D.C. Law 17-108, in subsec. (d)(1), inserted "The Executive Director shall be a District resident throughout his or her term and failure to maintain District residency shall result in a forfeiture of the position."; and, in subsec. (d)(2), inserted "Notwithstanding the provisions of Unit A of Chapter 14 of Title 2, each qualified District resident applicant shall receive an additional 10-point preference over a qualified non-District resident applicant for all positions within the Board unless the applicant declines the preference. This 10-point preference shall be in addition to, and not instead of, qualifications established for the position. All persons hired after December 21, 2007, shall submit proof of residency upon employment in a manner determined by the Board. An applicant claiming the hiring preference under this section shall agree in writing to maintain bona fide District residency for a period of 7 consecutive years from the effective date of hire and shall provide proof of such residency annually to the Director of Personnel for the first 7 years of employment. Failure to maintain District residency for the consecutive 7-year period shall result in forfeiture of employment. The Board shall submit to the Mayor and Council annual reports detailing the names of all new employees and their pay schedules, titles, and place of residence."

D.C. Law 17-202 added subsec. (j).

D.C. Law 17-353 designated the former last six sentences of subsec. (d)(2) as subsec. (d)(3).

D.C. Law 18-223 rewrote the lead-in language of subsec. (a)(2); rewrote subsec. (a)(3); repealed subsec. (a)(4); and, in subsec. (d)(1), deleted ", but no individual so appointed shall be paid in excess of the rate payable for level EG-16 of the Educational Service of the District of Columbia" following "necessary". Prior to amendment or repeal, the lead-in language of subsec. (a)(2), subsec. (a)(3), and subsec. (a)(4) read as follows:

"(2) *Membership.* -- The Secretary of Education shall present the Mayor a list of 15 individuals the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia Council, shall appoint 7 individuals from the list to serve on the Board. The Secretary of Education shall recommend, and the Mayor shall appoint, members to serve on the Board so that a knowledge of each of the following areas is represented on the Board:"

"(3) *Vacancies.* --

"(A) *Other than from expiration of term.* -- Where a vacancy occurs in the membership of the Board for reasons other than the expiration of the term of a member of the Board, the Secretary of Education, not later than 30 days after the vacancy occurs, shall present to the Mayor a list of 3 people the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia Council, shall appoint 1 person from the list to serve on the Board. The Secretary shall recommend, and the Mayor shall appoint, such member of the Board taking into consideration the criteria described in paragraph (2) of this subsection. Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of the term.

"(B) *Expiration of term.* -- Not later than the date that is 60 days before the expiration of the term of a member of the Board, the Secretary of Education shall present to the Mayor, with respect to each such impending

vacancy, a list of 3 people the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia Council, shall appoint one person from each such list to serve on the Board. The Secretary shall recommend, and the Mayor shall appoint, any member of the Board taking into consideration the criteria described in paragraph (2) of this subsection.

"(4) *Time limit for appointments.* -- If, at any time, the Mayor does not appoint members to the Board sufficient to bring the Board's membership to 7 within 30 days after receiving a recommendation from the Secretary of Education under paragraph (2) or (3) of this subsection, the Secretary, not later than 10 days after the final date for such mayoral appointment, shall make such appointments as are necessary to bring the membership of the Board to 7."

#### *Emergency Act Amendments*

For temporary (90 day) repeal of section 804 of D.C. Law 17-9, see § 4043(b) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment of section, see § 4082 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) addition of section, see § 4052 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of § 4052 of Act 19-383, see § 2 of the District of Columbia School Reform Extension of Time Emergency Amendment Act of 2012 (D.C. Act 19-410, July 24, 2012, 59 DCR 9137).

For temporary (90 day) amendment of § 4052 of Act 19-385, see § 3 of the District of Columbia School Reform Extension of Time Emergency Amendment Act of 2012 (D.C. Act 19-410, July 24, 2012, 59 DCR 9137).

For temporary (90 day) addition of section, see § 4052 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

#### *Legislative History of Laws*

For Law 17-9, see notes under § 38-103.

For Law 17-108, see notes following § 38-1802.07.

For Law 17-202, see notes following § 38-202.

For Law 17-353, see notes following § 38-102.

For Law 18-223, see notes following § 38-103.

#### *Effective Dates*

Section 103(b) of Div. J, title I, of Pub. L. 108-447, provides: "The amendments made by this section shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 2005 [Pub. L. 108-335]".

#### *Miscellaneous Notes*

Section 346(d) of Pub. L. 108-335, 118 Stat. 1352, the District of Columbia Appropriations Act, 2005, provides:

"(d) Hereafter section 2214(f) of Public Law 104-143 (D.C. Code 38- 1802.14(f)), shall apply to the District of Columbia Board of Education Charter Schools Office."

Applicability: Section 804 of D.C. Law 17-9 provides that section 802 shall apply upon enactment by Congress. Section 804 of D.C. Law 17-9 was repealed by section 4043(b) of D.C. Law 17-20.

Short title: Section 4081 of D.C. Law 18-223 provided that subtitle I of title IV of the act may be cited as the "Public Charter School Board Membership Selection and Staff Compensation Clarification Amendment Act of 2010".

## **§ 38-1802.14A. CHARTER SCHOOLS ADMISSIONS TASK FORCE.**

(a) There is established a task force that shall study providing a neighborhood preference in charter school admissions for the 2013-2014 school year. The task force shall consist of:

(1) The following 5 government officials, or their designees:

- (A) Chairman of the Public Charter School Board;
- (B) Chairman of the Council of the District of Columbia;
- (C) State Superintendent of Education;
- (D) Deputy Mayor for Education; and



- (E) Chancellor of the District of Columbia Public Schools; and
- (2) The following nongovernment members:
  - (A) Two representatives from charter support organizations;
  - (B) A representative from the education department of a national research organization;
  - (C) A representative from a national charter school organization;
  - (D) Two charter school leaders selected by the Public Charter School Board Chair; and
  - (E) A labor representative.
- (b) The task force shall:
  - (1) Be chaired by the Chairman of the Public Charter School Board, or his or her designee;
  - (2) Meet at an agreed to location as often as determined necessary by the Chairman of the task force;
  - (3) Explore the feasibility of offering a neighborhood preference in charter school admissions for the 2013-2014 school year; and
  - (4) By September 1, 2012, submit a report to the Council of its findings, which shall include:
    - (A) Consideration of the various ways in which a neighborhood preference can be designed, including:
      - (i) The pros and cons of a weighted lottery;
      - (ii) Setting aside of a certain percentage of new seats;
      - (iii) A geographically limited preference; and
      - (iv) A preference based on rankings in a city-wide application process;
    - (B) A definition of neighborhood for the purpose of setting boundaries in admissions;
    - (C) An examination of models that are being used in other jurisdictions and evaluation of their applicability to the District; and
    - (D) Recommendations based on its findings.

(Apr. 26, 1996, 110 Stat. 1321 [251], Pub. L. 104-134, § 2214a, as added Sept. 20, 2012, D.C. Law 19-168, § 4052, 59 DCR 8025.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

For history of Law 19-, see notes under § 38-751.01.

##### *Miscellaneous Notes*

Short title: Section 4051 of D.C. Law 19-168 provided that subtitle F of title IV of the act may be cited as "District of Columbia School Reform Amendment Act of 2012".

## **§ 38-1802.15. FEDERAL ENTITIES.**

(a) *In general.* -- The following federal agencies and federally established entities are encouraged to explore whether it is feasible for the agency or entity to establish one or more public charter schools:

- (1) The Library of Congress;
- (2) The National Aeronautics and Space Administration;
- (3) The Drug Enforcement Administration;
- (4) The National Science Foundation;
- (5) The Department of Justice;
- (6) The Department of Defense;
- (7) The Department of Education; and
- (8) The Smithsonian Institution, including the National Zoological Park, the National Museum of American History, the John F. Kennedy Center for the Performing Arts, and the National Gallery of Art.

(b) *Report.* -- Not later than 120 days after April 26, 1996, any agency or institution described in subsection (a) of this section that has explored the feasibility of establishing a public charter school shall report its determination on the feasibility to the appropriate congressional committees.

(Apr. 26, 1996, 110 Stat. 1321 [253], Pub. L. 104-134, § 2215.)

#### *HISTORICAL AND STATUTORY NOTES*

## **SUBCHAPTER III. WORLD CLASS SCHOOL TASK FORCE, CORE CURRICULUM, CONTENT STANDARDS, ASSESSMENTS, AND PROMOTION GATES.**

### **PART A. WORLD CLASS SCHOOL TASK FORCE, CORE CURRICULUM, CONTENT STANDARDS, ASSESSMENTS.**

#### **§ 38-1803.11. GRANT AUTHORIZED AND RECOMMENDATION REQUIRED.**

*(a) Grant authorized. --*

(1) *In general.* -- The Superintendent is authorized to award a grant to a World Class Schools Task Force to enable such task force to make the recommendation described in subsection (b) of this section.

(2) *Definition.* -- For the purpose of this subchapter, the term "World Class Schools Task Force" means 1 nonprofit organization located in the District of Columbia that:

- (A) Has a national reputation for advocating content standards;
- (B) Has a national reputation for advocating a strong liberal arts curriculum;
- (C) Has experience with at least 4 urban school districts for the purpose of establishing content standards;
- (D) Has developed and managed professional development programs in science, mathematics, the humanities and the arts; and
- (E) Is governed by an independent board of directors composed of citizens with a variety of experiences in education and public policy.

*(b) Recommendation required. --*

(1) *In general.* -- The World Class Schools Task Force shall recommend to the Superintendent, the Board of Education, and the District of Columbia Goals Panel the following:

- (A) Content standards in the core academic subjects that are developed by working with the District of Columbia community, which standards shall be developed not later than 12 months after April 26, 1996.
- (B) A core curriculum developed by working with the District of Columbia community, which curriculum shall include the teaching of computer skills.
- (C) Districtwide assessments for measuring student achievement in accordance with content standards developed under subparagraph (A) of this paragraph. Such assessments shall be developed at several grade levels, including at a minimum, the grade levels with respect to which the Superintendent establishes promotion gates under § 38-1803.21. To the extent feasible, such assessments shall, at a minimum, be designed to provide information that permits comparisons between:
  - (i) Individual District of Columbia public schools and public charter schools; and
  - (ii) Individual students attending such schools.
- (D) Model professional development programs for teachers using the standards and curriculum developed under subparagraphs (A) and (B) of this paragraph.

(2) *Special rule.* -- The World Class Schools Task Force is encouraged, to the extent practicable, to develop districtwide assessments described in paragraph (1)(C) of this subsection that permit comparisons among:

- (A) Individual District of Columbia public schools and public charter schools, and individual students attending such schools; and
- (B) Students of other nations.

*(c) Content.* -- The content standards and assessments recommended under subsection (b) of this section

shall be judged by the World Class Schools Task Force to be world class, including having a level of quality and rigor, or being analogous to content standards and assessments of other States or nations (including nations whose students historically score high on international studies of student achievement).

(d) *Submission to Board of Education for adoption.* -- If the content standards, curriculum, assessments, and programs recommended under subsection (b) of this section are approved by the Superintendent, the Superintendent may submit such content standards, curriculum, assessments, and programs to the Board of Education for adoption.

(Apr. 26, 1996, 110 Stat. 1321 [254], Pub. L. 104-134, § 2231.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.31.

### **§ 38-1803.12. CONSULTATION.**

The World Class Schools Task Force shall conduct its duties under this part in consultation with:

- (1) The District of Columbia Goals Panel;
- (2) Officials of the District of Columbia public schools who have been identified by the Superintendent as having responsibilities relevant to this part, including the Deputy Superintendent for Curriculum;
- (3) The District of Columbia community, with particular attention given to educators, and parent and business organizations; and
- (4) Any other persons or groups that the task force deems appropriate.

(Apr. 26, 1996, 110 Stat. 1321 [255], Pub. L. 104-134, § 2312.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.32.

### **§ 38-1803.13. ADMINISTRATIVE PROVISIONS.**

The World Class Schools Task Force shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) that are relevant to its duties under this subchapter and shall make available to the public, at reasonable cost, transcripts of such proceedings.

(Apr. 26, 1996, 110 Stat. 1321 [255], Pub. L. 104-134, § 2313.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.33.

### **§ 38-1803.14. CONSULTANTS.**

Upon the request of the World Class Schools Task Force, the head of any department or agency of the Federal Government may detail any of the personnel of such agency to such task force to assist such task force in carrying out such task force's duties under this subchapter.

(Apr. 26, 1996, 110 Stat. 1321 [255], Pub. L. 104-134, § 2314.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.34.

### **§ 38-1803.15. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated \$2,000,000 for fiscal year 1997 to carry out this part. Such funds shall remain available until expended.

(Apr. 26, 1996, 110 Stat. 1321 [256], Pub. L. 104-134, § 2315.)

## **PART B. PROMOTION GATES.**

### **§ 38-1803.21. PROMOTION GATES.**

(a) *Kindergarten through 4th grade.* -- Not later than one year after the date of adoption in accordance with § 38-1803.11(d) of the assessments described in § 38-1803.11(b)(1)(C), the Superintendent shall establish and implement promotion gates for mathematics, reading, and writing, for not less than one grade level from kindergarten through grade 4, including at least grade 4, and shall establish dates for establishing such other promotion gates for other subject areas.

(b) *5th through 8th grades.* -- Not later than one year after the adoption in accordance with § 38-1803.11(d) of the assessments described in § 38-1803.11(b)(1)(C), the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from grade 5 through grade 8, including at least grade 8.

(c) *9th through 12th grades.* -- Not later than one year after the adoption in accordance with § 38-1803.11(d) of the assessments described in § 38-1803.11(b)(1)(C), the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from grade 9 through grade 12, including at least grade 12.

(Apr. 26, 1996, 110 Stat. 1321 [256], Pub. L. 104-134, § 2321.)

## **SUBCHAPTER IV. PER CAPITA DISTRICT OF COLUMBIA PUBLIC SCHOOL AND PUBLIC CHARTER SCHOOL FUNDING.**

### **§ 38-1804.01. ANNUAL BUDGETS FOR SCHOOLS.**

(a) *In general.* -- For fiscal year 1997 and for each subsequent fiscal year, the Mayor shall make annual payments from the general fund of the District of Columbia in accordance with the formula established under subsection (b) of this section.

(b) *Formula.* --

(1) *In general.* -- The Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, shall establish not later than 90 days after April 26, 1996, a formula to determine the amount of:

(A) The annual payment to the Board of Education for the operating expenses of the District of Columbia public schools, which for purposes of this paragraph includes the operating expenses of the Board of Education and the Office of the Superintendent; and

(B) The annual payment to each public charter school for the operating expenses of each public charter school.

(2) *Formula calculation.* -- Except as provided in paragraph (3) of this subsection the amount of the annual payment under paragraph (1) of this subsection shall be calculated by multiplying a uniform dollar amount used in the formula established under such paragraph by:

(A) The number of students calculated under § 38-1804.02 that are enrolled at District of Columbia public schools, in the case of the payment under paragraph (1)(A) of this subsection; or

(B) The number of students calculated under § 38-1804.02 that are enrolled at each public charter school, in the case of a payment under paragraph (1)(B) of this subsection.

(3) *Exceptions.* --

(A) *Formula.* -- Notwithstanding paragraph (2) of this subsection, the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust

the formula to increase or decrease the amount of the annual payment to the District of Columbia public schools or each public charter school based on a calculation of:

- (i) The number of students served by such schools in certain grade levels; and
- (ii) The cost of educating students at such certain grade levels.

(B) *Payment.* -- Notwithstanding paragraph (2) of this subsection, the State Superintendent of Education, with the advice and consent of the District of Columbia Council, may adjust the amount of the annual payment under paragraph (1) of this subsection to increase the amount of such payment if a District of Columbia public school or a public charter school serves a high number of students:

- (i) With special needs;
- (ii) Who do not meet minimum literacy standards; or
- (iii) To whom the school provides room and board in a residential setting.

(C) *Adjustment for facilities costs.* -- Notwithstanding paragraph (2) of this subsection, the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, shall adjust the amount of the annual payment under paragraph (1) of this subsection to increase the amount of such payment for a public charter school to take into account leases or purchases of, or improvements to, real property, if the school, not later than April 1 of the fiscal year preceding the payment, requests such an adjustment.

(D) Notwithstanding paragraph (2) of this subsection:

- (i) The Office of the State Superintendent of Education shall develop a plan to address deficiencies in the current uniform per student funding formula assumptions funding students requiring an intensive program of special education services and to support improved services and the expanded availability of appropriate programs for these students in the public schools and public charter schools, including in self-contained and non-self-contained settings.
- (ii) The OSSE shall study and recommend, prior to the beginning of school year 2007-2008, alternative approaches for funding such students that support the actual costs of services required by a student's Individual Education Plan.
- (iii) The OSSE may provide supplemental funding, in accordance with the plan, in addition to the uniform per pupil funding formula amount to a special education school serving students in need of an intensive program of special education services who have been diagnosed as having one or more disabling conditions for which the students' Individual Educational Plans require services in a self-contained setting during the regular school day; provided, that the amount of the total per student funding shall not exceed the negotiated rate for education and related services approved for such students by the Maryland Department of Education.

(E) Notwithstanding paragraph (2) of this subsection, for fiscal year 2011, supplemental funding in addition to the supplemental allocations authorized by § 38-2905 may be provided to local education agencies ("LEAs") for special education services, including programs that increase the capacity of the LEA to provide special education services.

(c) The requirements to meet IDEA's Maintenance of Effort Obligation and Use of Formula Special Education Payments are as follows:

(1)(A) All public schools within the District of Columbia receiving Special Education Payments and federal grant funds under the Individuals with Disabilities Education Act ("IDEA"), must expend, in total or per capita, an equal or greater amount of its non-federal, District funds on allowable special education costs each subsequent fiscal year as required by 34 CFR § 300.203 "Maintenance of effort", except as provided in 34 CFR § 300.204 "Exception to maintenance of effort", and 34 CFR § 300.205 "Adjustment to local fiscal efforts in certain fiscal years".

(B) This requirement applies to the District of Columbia Public Schools ("DCPS") and all public charter schools regardless of whether they have elected DCPS as their LEA for special education purposes.

(C) Special education attorney fee expenditures made pursuant to 34 CFR § 300.517 shall not be included in the IDEA Maintenance of Effort calculation for DCPS or public charter schools.

(D) If it is determined at any point, that DCPS or a public charter school has failed to maintain level of effort for expenditures made with non-federal, District funds for special education as defined in 34 CFR § 300.203-205 of IDEA, the District shall withhold an amount equal to the difference from the school's next scheduled Formula base payment. In no case shall such withholding be taken from Special Education Payments made to the school in any fiscal year.

(E) If a public charter school relinquishes its charter or if a final decision is made by the eligible chartering authority to revoke the charter as described in § 38-1802.13, the public charter school shall refund to OSSE the unexpended amount of the Special Education Payment necessary to ensure compliance with 34 CFR § 300.203. In no case shall federal funds, for which accountability

to the federal government is required, be used to pay this liability.

(2) Expenditure of Special Education Payments by public schools are restricted for use in accordance with allowable special education costs unless an LEA is in compliance with 34 CFR § 300.203 and has received an Annual Determination as required by 34 CFR § 300.600(a) of "Meets Requirements" for the most recent year for which this information is available.

(3) Expenditures for attorney fees related to IDEA due process hearings pursuant to 34 CFR § 300.517 may not be paid from Special Education Payments; except that such fees may be paid from funds received under the Special Education Compliance Fund. Nothing in this section shall prohibit a public school from paying for attorney fees from other non-special education portions of its Formula payments.

(4) All Special Education Payments must be expended within the fiscal year within which they were appropriated, unless the LEA is in compliance with the IDEA maintenance of effort requirements in 34 CFR § 300.203 and received an Annual Determination of "Meets Requirements" under 34 CFR § 300.600(a).

(5)(A) If DCPS or a public charter school does not have an Annual Determination of "Meets Requirements" and fails to expend in its entirety Special Education Payments on allowable special education costs within the fiscal year within which the funds are appropriated, the public school must reserve the full amount of unspent funds. The reserved funds shall be expended pursuant to a Corrective Action Plan approved by OSSE.

(B) If DCPS or a public charter school fails to comply with the requirements of this paragraph, the District shall withhold an amount equal to the unspent portion of such funds from the school's next scheduled Formula base payment. In no case shall such withholding be taken from Special Education Payments made to the school in any fiscal year.

(d) DCPS and public charter schools shall provide to OSSE, at least annually, a certified report of all expenditures made with Special Education Payments for each fiscal year.

(e) OSSE shall issue guidance to clarify reporting requirements for the purpose of determining whether DCPS and each public charter school have:

(1) Expended Special Education Payments on allowable special education costs as required by this section;

(2) Made expenditures for attorney fees related to IDEA due process hearings pursuant to 34 CFR § 300.517 in accordance with subsection (c)(3) of this section; and

(3) Complied with federal IDEA Maintenance of Effort requirements.

(f) The OSSE, utilizing official budget and expenditure data provided by the Office of the Chief Financial Officer, shall monitor the DCPS and public charter schools for compliance with the requirements in this section.

(g) DCPS and public charter schools shall adhere to monitoring policies issued by OSSE pursuant to this section.

(h) In the event the distribution of a Formula payment is delayed to DCPS or a public charter school, the school shall receive additional time to expend the distribution based upon the difference in the number of days between the scheduled distribution date and the actual distribution date of funds to DCPS or the public charter school.

(i) For the purposes of this section, the term:

(1) "Allowable special education costs" shall have the same meaning as provided in § 38-2901(1A).

(2) "Special Education Compliance Fund" shall have the same meaning as provided in § 38-2901(11B).

(3) "Special Education Payment" shall have the same meaning as provided in § 38-2901(11C).

(Apr. 26, 1996, 110 Stat. 1321 [256], Pub. L. 104-134, § 2401; Nov. 19, 1997, 111 Stat. 2191, Pub. L. 105-100, §§ 170, 171; Sept. 18, 2007, D.C. Law 17-20, § 4032(c), 54 DCR 7052; Aug. 16, 2008, D.C. Law 17-219, § 4002, 55 DCR 7598; Apr. 8, 2011, D.C. Law 18-370, § 403(a), 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 4002, 58 DCR 6226.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.41.

##### *Effect of Amendments*

D.C. Law 17-20, in subsec. (b)(3), added subpar. (D).

D.C. Law 17-219, in subsec. (b)(3)(B), substituted "the State Superintendent of Education, with the advice

and consent of the District of Columbia Council," for "the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent,".

D.C. Law 18-370 added subsec. (b)(3)(E).

D.C. Law 19-21 added subsecs. (c) to (i).

#### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 4032(d) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment of section, see § 403(a) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

For temporary (90 day) amendment of section, see § 4002 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

#### *Legislative History of Laws*

For Law 17-219, see notes following § 38-251.

For history of Law 18-370, see notes under § 38-821.02.

For history of Law 19-21, see notes under § 38-271.01.

#### *Resolutions*

Resolution 16-864, the "St. Coletta Special Education Charter School Annual Payment Adjustment Emergency Approval Resolution of 2006", was approved effective November 14, 2006.

Resolution 17-427, the "St. Coletta Special Education Public Charter School Summer Payment Adjustment Emergency Approval Resolution of 2007", was approved effective November 6, 2007.

Resolution 17-465, the "Public Charter School Supplemental Funding for Special Needs Services Annual Payment Adjustment Emergency Approval Resolution of 2007", was approved effective December 11, 2007.

#### *Miscellaneous Notes*

Approval of a Fiscal Year 1997 Uniform Per Student Funding Formula for Public Schools Emergency Resolution of 1996: Pursuant to Resolution 11-441, effective July 3, 1996, Council approved, on an emergency basis, a uniform per student funding formula to determine the Fiscal Year 1997 annual payment to the Board of Education for public schools under its control and annual payment to public charter schools.

Short title: Section 4001 of D.C. Law 17-219 provided that subtitle A of title IV of the act may be cited as the "Supplemental Education Payments Amendment Act of 2008".

Short title: Section 4001 of D.C. Law 19-21 provided that subtitle A of title IV of the act may be cited as "Funding for Public Schools and Public Charter Schools Amendment Act of 2011".

## **§ 38-1804.02. CALCULATION OF NUMBER OF STUDENTS.**

(a) *Quarterly reporting requirement.* -- On June 30, October 15, December 15, and March 30 of each year the District of Columbia public schools and each eligible chartering authority shall submit a report to the the Mayor and the Council containing the information described in subsection (b) of this section that is applicable to the schools under their respective authorities.

(b) *Calculation of number of students.* -- Not later than 30 days after April 26, 1996, and not later than October 15 of each year thereafter, the Office of the State Superintendent of Education shall calculate the following:

- (1) The number of students, including nonresident students and students with special needs, enrolled in each grade from kindergarten through grade 12 of the District of Columbia public schools and in public charter schools, and the number of students whose tuition for enrollment in other schools is paid for with funds available to the District of Columbia public schools;
- (2) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (1) of this subsection;
- (3) The number of students, including nonresident students, enrolled in preschool and prekindergarten in the District of Columbia public schools and in public charter schools;
- (4) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (3) of this subsection;
- (5) The number of full time equivalent adult students enrolled in adult, community, continuing, and vocational education programs in the District of Columbia public schools and in public charter schools;
- (6) The amount of fees and tuition assessed and collected from resident and nonresident adult students described in paragraph (5) of this subsection;

(7) The number of students, including nonresident students, enrolled in nongrade level programs in District of Columbia public schools and in public charter schools;

(8) The amount of fees and tuition assessed and collected from nonresident students described in paragraph (7) of this subsection; and

(9) The number of enrolled students who have dropped out since the date of the previous report.

(c) *Annual reports.* -- Not later than October 30 of each year the Mayor shall prepare and submit to the Authority (during a control year), the Council, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the calculations made pursuant to subsection (b) of this subsection, including the 4 immediately prior reporting periods specified in subsection (a) of this section.

(d) *Audit of initial calculations.* --

(1) *In general.* -- The Office of the State Superintendent of Education shall provide for the conduct of an independent audit of the initial calculations described in subsection (b) of this subsection.

(2) *Conduct of audit.* -- In conducting the audit, the independent auditor:

(A) Shall provide an opinion as to the accuracy of the information contained in the report described in subsection (c) of this subsection; and

(B) Shall identify any material weaknesses in the systems, procedures, or methodology used by the Office of the State Superintendent of Education:

(i) In determining the number of students, including nonresident students, enrolled in the District of Columbia public schools and in public charter schools, and the number of students whose tuition for enrollment in other school systems is paid for by funds available to the District of Columbia public schools; and

(ii) In assessing and collecting fees and tuition from nonresident students.

(3) *Submission of audit.* -- Not later than 60 days after the date on which the Council receives the initial annual report from the Office of the State Superintendent of Education required under subsection (c) of this subsection, the Office of the State Superintendent of Education shall submit to the Mayor, the Council, and the appropriate congressional committees, the audit conducted pursuant to this subsection.

(4) *Cost of the audit.* -- The Office of the State Superintendent of Education shall fund the independent audit solely from amounts appropriated to the Office of the State Superintendent of Education for staff, stipends, and non-personal services of the Office of the State Superintendent of Education by an act making appropriations for the District of Columbia.

(Apr. 26, 1996, 110 Stat. 1321 [257], Pub. L. 104-134, § 2402; Oct. 21, 2000, D.C. Law 13-176, § 8(c), 47 DCR 6835; Apr. 13, 2005, D.C. Law 15-348, § 102(b), 52 DCR 1991; Sept. 24, 2010, D.C. Law 18-223, § 4092, 57 DCR 6242.)

#### HISTORICAL AND STATUTORY NOTES

##### *Prior Codifications*

1981 Ed., § 31-2853.42.

##### *Effect of Amendments*

D.C. Law 13-176 provided for substitution of reference to state education office for board of education where appearing.

D.C. Law 15-348 rewrote subsecs. (a) and (c) which had read as follows:

"(1) *In general.* -- Not later than September 15, 1996, and not later than September 15 of each year thereafter, each District of Columbia public school and public charter school shall submit a report to the Mayor and the State Education Office containing the information described in subsection (b) of this section that is applicable to such school.

"(2) *Special rule.* -- Not later than April 1, 1997, and not later than April 1 of each year thereafter, each public charter school shall submit a report in the same form and manner as described in paragraph (1) of this subsection to ensure accurate payment under § 38-1804.03(a)(2)(B)(ii)."

"(c) *Annual reports.* -- Not later than 30 days after April 26, 1996, and not later than October 15 of each year thereafter, the State Education Office shall prepare and submit to the Authority, the Mayor, the District of Columbia Council, the Consensus Commission, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the most recent calculations made under subsection (b) of this subsection."

D.C. Law 18-223, in subsec. (a), substituted "the Mayor and the Council containing" for "Mayor containing" and substituted "authorities" for "authorities"; provided, that in the case of the June 30 report, the information



submitted by each eligible chartering authority shall be in the form of estimates of the number of students who will fall into each category on the following October 5"; in subsec. (b), substituted "Office of the State Superintendent of Education" for "State Education Office" in the lead-in language, deleted "and" from the end of par. (7); substituted "; and" for a period at the end of par. (8), and added par. (9); and, in subsec. (d), substituted "Office of the State Superintendent of Education shall" for "State Education Office shall arrange with the Authority to" in par. (1), substituted "Office of the State Superintendent of Education" for "State Education Office" in par. (2)(B), and rewrote pars. (3) and (4) of subsec. (d), which had read as follows:

"(3) *Submission of audit.* -- Not later than 45 days, or as soon thereafter as is practicable, after the date on which the Authority receives the initial annual report from the State Education Office under subsection (c) of this subsection, the Authority shall submit to the State Education Office, the Mayor, the District of Columbia Council, and the appropriate congressional committees, the audit conducted under this subsection.

"(4) *Cost of the audit.* -- The State Education Office shall reimburse the Authority for the cost of the independent audit, solely from amounts appropriated to the State Education Office for staff, stipends, and other-than-personal-services of the State Education Office by an act making appropriations for the District of Columbia."

*Temporary Amendments of Section*

Section 3(b) of D.C. Laws 13-427 rewrote subssecs. (a) and (c); in subsec. (b) substituted "The reports described in subsection (a) of this section shall contain the following information:" for "Calculation of the number of students not later than 30 days after April 26, 1996, and not later than October 15, of each years thereafter, the Board shall calculate the following:"; and repealed subsec. (d). Subssecs (a) and (c), as amended, provide:

"(a) *Quarterly reporting requirement.*—On June 30, October 15, December 15, and March 30 of each year the District of Columbia public schools and each eligible chartering authority shall submit a report to the Mayor containing the information described in subsection (b) of this section that is applicable to their schools; provided, however, that in the case of the June 30 report the information submitted by each eligible chartering authority shall be in the form of estimates of the number of students who will fall into each category on the following October 5."

"(c) *Annual reports.*—Not later than October 30 of each year the Mayor shall prepare and submit to the Authority, the Council, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the calculations made pursuant to subsection (b) of this subsection, including the four immediately prior reporting periods specified in subsection (a) of this section."

Section 6(b) of D.C. Laws 13-199 provides that the act shall expire after 225 days of its having taken effect.

Section 3(b)(1) of D.C. Law 14-38 amended subsec. (a) to read as follows:

"(a) *Quarterly reporting requirement.* —On June 30, October 15, December 15, and March 30 of each year the District of Columbia public schools and each eligible chartering authority shall submit a report to the Mayor containing the information described in subsection (b) of this section that is applicable to their schools; provided, however, that in the case of the June 30 report the information submitted by each eligible chartering authority shall be in the form of estimates of the number of students who will fall into each category on the following October 5."

Section 3(b)(2) of D.C. Law 14-38 amended subsec. (b) by striking the phrase following "Calculation of the number of students not later than 30 days after April 26, 1996, and not later than October 15, of each years thereafter, the Board shall calculate the following:" and inserting the phrase "The reports described in subsection (a) of this section shall contain the following information:" in its place.

Section 3(b)(3) of D.C. Law 14-38 amended subsec. (c) to read as follows:

"(c) *Annual reports.* --Not later than October 30 of each year the Mayor shall prepare and submit to the Authority, the Council, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the calculations made pursuant to subsection (b) of this subsection, including the four immediately prior reporting periods specified in subsection (a) of this section."

Section 3(b)(4) of D.C. Law 14-38 repealed subsec. (d).

Section 6(b) of D.C. Law 14-38 provides that the act shall expire after 225 days of its having taken effect.

Section 3(b) of D.C. Law 15-67 rewrote subssecs. (a) and (c); in subsec. (b), substituted "*Information required.* —The reports described in subsection (a) of this section shall contain the following information:" for "*Calculation of the number of students.* —Not later than 30 days after April 26, 1996, and not later than October 15, of each year thereafter, the State Education Office shall calculate the following:"; and repealed subsec. (d). Subssecs. (a) and (c) read as follows:

"(a) *Quarterly reporting requirement.* —On June 30, October 15, December 15, and March 30 of each year the District of Columbia public schools and each eligible chartering authority shall submit a report to the Mayor containing the information described in subsection (b) of this section that is applicable to their schools; provided, however, that in the case of the June 30 report, the information submitted by each eligible chartering authority shall be in the form of estimates of the number of students who will fall into each category on the

following October 5."

"(c) *Annual reports.* --Not later than October 30 of each year the Mayor shall prepare and submit to the Authority (during a control year), the Council, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the calculations made pursuant to subsection (b) of this subsection, including the four immediately prior reporting periods specified in subsection (a) of this section."

Section 6(b) of D.C. Law 15-67 provides that the act shall expire after 225 days of its having taken effect.

#### *Emergency Act Amendments*

For temporary (90-day) provisions governing the hiring of an independent contractor to perform a census of enrolled students and employees in public schools, see § 402 of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1999 (D.C. Act 13-41, March 31, 1999, 46 DCR 3446).

For temporary (90 day) amendment of section, see § 3(b) of the Public School Enrollment Integrity Congressional Review Emergency Amendment Act of 2000 (D.C. Act 13-453, November 7, 2000, 47 DCR 9406).

For temporary (90 day) amendment of section, see § 3(b) of Public School Enrollment Integrity Emergency Amendment Act of 2001 (D.C. Act 14-86, July 9, 2001, 48 DCR 6373).

For temporary (90 day) amendment of section, see § 3(b) of Public School Enrollment Integrity Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-192, November 29, 2001, 48 DCR 11239).

For temporary (90 day) amendment of section, see § 3(b) of Public School Enrollment Integrity Clarification Emergency Amendment Act of 2003 (D.C. Act 15-174, October 6, 2003, 50 DCR 9181).

For temporary (90 day) amendment of section, see § 3(b) of Public School Enrollment Integrity Clarification Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-282, December 18, 2003, 51 DCR 191).

For temporary (90 day) amendment of section, see § 3(b) of Public School Enrollment Integrity Clarification Emergency Amendment Act of 2004 (D.C. Act 15-519, August 2, 2004, 51 DCR 8995).

For temporary (90 day) amendment of section, see § 4092 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

#### *Legislative History of Laws*

For D.C. Law 13-176, see notes following § 38-302.

For Law 14-38, see notes following § 38-1800.02.

For Law 15-67, see notes following § 38-1800.02.

For Law 15-348, see notes following § 38-1800.02.

For Law 18-223, see notes following § 38-103.

#### *Miscellaneous Notes*

Short title: Section 4091 of D.C. Law 18-223 provided that subtitle J of title IV of the act may be cited as the "Per Capita District of Columbia Public School and Public Charter School Funding Amendment Act of 2010".

## **§ 38-1804.03. PAYMENTS.**

### *(a) In general. --*

(1) *Escrow for public charter schools.* -- Except as provided in subsection (b) of this section, for any fiscal year, not later than 10 days after the date of enactment of an act making appropriations for the District of Columbia for such fiscal year, the Mayor shall place in escrow an amount equal to the aggregate of the amounts determined under § 38-1804.01(b)(1)(B) for use only by District of Columbia public charter schools.

### *(2) Transfer of escrow funds. --*

#### *(A) Initial payment. --*

(i) *In General.* -- Except as provided in sub-subparagraphs (ii) and (iii) of this subparagraph, no later than July 15, October 15, January 15, and April 15 of each year, the Mayor shall transfer, by electronic funds transfer, the quarterly payments for each public charter school as prescribed in § 38-2906.02 to a bank designated by such school.

(ii) *Reduction in case of a new school.* -- In the case of a public charter school that has received a payment pursuant to subsection (b) of this section in the fiscal year immediately preceding the fiscal year in which a transfer pursuant to sub-subparagraph (i) of this subparagraph is made, the amounts transferred to the school under sub-subparagraph (i) of

this subparagraph shall be reduced by an amount equal to 25% of the amount of the payment made pursuant to subsection (b) of this section.

(iii) Funds received from the Education Jobs Fund, established by section 101 of An Act To modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provides for modernization of the air traffic control system, reauthorizes the Federal Aviation Administration, and for other purposes, approved August 10, 2010 (Pub. L. No. 111-226; 124 Stat. 2389) ("Act"), shall be disbursed to public charter schools at such times as are consistent with the requirements of the Act, its implementing regulations, and other applicable federal regulations.

(B) Repealed.

(C) *Pro rata reduction or increase in payments.* --

(i) *Pro rata reduction.* -- If the funds made available to the District of Columbia Government for the District of Columbia public school system and each public charter school for any fiscal year are insufficient to pay the full amount that such system and each public charter school is eligible to receive under this subchapter for such year, the Mayor shall ratably reduce such amounts for such year on the basis of the formula described in § 38- 1804.01(b).

(ii) *Increase.* -- If additional funds become available for making payments under this subchapter for such fiscal year, amounts that were reduced under subparagraph (A) of this paragraph shall be increased on the same basis as such amounts were reduced.

(D) *Unexpended funds.* -- Any funds that remain in the escrow account for public charter schools on September 30 of a fiscal year shall revert to the general fund of the District of Columbia.

(b) *Payments to public schools and public charter schools.*

(1) *Establishment of fund.* -- The fund previously established in the General Fund of the District of Columbia as the "Charter School Fund" shall be redesignated the Student Enrollment Fund. Amounts deposited in the Student Enrollment Fund shall be available for expenditure without further appropriation and shall remain available until expended for the purposes described in paragraph (3) of this subsection. Amounts remaining unobligated or unexpended at the end of a fiscal year shall not revert to the General Fund of the District of Columbia.

(2) *Contents of fund.* -- The Student Enrollment Fund shall consist of:

(A) Unexpended and unobligated amounts appropriated from local funds for public charter schools for each fiscal year that reverted to the General Fund of the District of Columbia, together with any other local funds that the Chief Financial Officer certifies are necessary to effect the purposes of the fund during the fiscal year; provided, that the amount of funds deposited shall not exceed \$8 million in any fiscal year; and

(B) Any interest earned on such amounts.

(3) *Purposes of fund.* -- The Student Enrollment Fund shall be used to assist public schools and public charter schools in the District of Columbia by providing funding in cases where the total audited enrollment, including enrollment in special needs categories, exceeds the projected student enrollment on which the annual appropriation is based in that fiscal year.

(4) *Expenditures from fund.* --

(A) Expenditures from the Student Enrollment Fund for enrollment in excess of the annual public charter school projection for any public charter school operating in that fiscal year shall be authorized in cases where the total audited actual enrollment, including enrollment in special needs categories, exceeds the projected student enrollment on which the annual appropriation is based in that fiscal year.

(B) Expenditures from the Student Enrollment Fund for enrollment in excess of annual public school projections shall be authorized in cases where the total audited actual enrollment exceeds that of the student enrollment on which the annual appropriation is based in that fiscal year.

(5) *Form of payment.* -- Payments under this subsection shall be made by electronic funds transfer from the Student Enrollment Fund to a bank designated by a public charter school.

(6) *Authorization of appropriations.* -- There are authorized to be appropriated to the Chief Financial Officer such sums as may be necessary to effect the purposes of this subsection for each fiscal year.

(c) *Assignment of payments.* -- A public charter school may assign any payments made to the school under this section to a financial institution for use as collateral to secure a loan or for the repayment of a loan.

(Apr. 26, 1996, 110 Stat. 1321 [259], Pub. L. 104-134, § 2403; Nov. 19, 1997, 111 Stat. 2191, Pub. L. 105-100, § 172; Nov. 22, 2000, 114 Stat. 2440, Pub. L. 106-522, § 120(d); Feb. 20, 2003, 117 Stat. 132, Pub. L. 108-7, Div. C, title III, § 146(a); Oct. 18, 2004, 118 Stat. 1347, Pub. L. 108-335, § 335(a), (b); Apr. 13, 2005, D.C. Law 15-348, § 102(c)(1), 52 DCR 1991; Mar. 2, 2007, D.C. Law 16-191, § 59, 53 DCR 6794; Sept. 18,

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.43.

*Effect of Amendments*

Section 120 (d) of Public Law 106-522 added subsec. (c) providing for assignment of payments.

Section 146(a) of Public Law 108-7 rewrote subsec. (b) which had read as follows:

"(b) *Payments to New Schools.*—

"(1) *Establishment of fund.* — There is established in the general fund of the District of Columbia a fund to be known as the 'New Charter School Fund'.

"(2) *Contents of fund.* — The New Charter School Fund shall consist of:

"(A) Unexpended and unobligated amounts appropriated from local funds for public charter schools for fiscal year 1997 and subsequent fiscal years that reverted to the general fund of the District of Columbia;

"(B) Amounts credited to the fund in accordance with this subsection upon the receipt by a public charter school described in paragraph (5) of this subsection of its first initial payment under subsection (a)(2)(A) of this section or its first final payment under subsection (a)(2)(B) of this section; and

"(C) Any interest earned on such amounts.

"(3) *Expenditures from fund.*—

"(A) *In general.* — Not later than June 1, 1998, and not later than June 1 of each year thereafter, the Chief Financial Officer of the District of Columbia shall pay, from the New Charter School Fund, to each public charter school described in paragraph (5) of this subsection, an amount equal to 25% of the amount yielded by multiplying the uniform dollar amount used in the formula established under §38-1804.01(b) by the total anticipated enrollment as set forth in the petition to establish the public charter school.

"(B) *Pro rata reduction.* — If the amounts in the New Charter School Fund for any year are insufficient to pay the full amount that each public charter school described in paragraph (5) of this subsection is eligible to receive under this subsection for such year, the Chief Financial Officer of the District of Columbia shall ratably reduce such amounts for such year on the basis of the formula described in § 38-1804.01(b).

"(C) *Form of payment.* — Payments under this subsection shall be made by electronic funds transfer from the New Charter School Fund to a bank designated by a public charter school.

"(4) *Credits to fund.* — Upon the receipt by a public charter school described in paragraph (5) of this subsection of:

"(A) Its first initial payment under subsection (a)(2)(A) of this section, the Chief Financial Officer of the District of Columbia shall credit the New Charter School Fund with 75% of the amount paid to the school under paragraph (3) of this subsection; and

"(B) Its first final payment under subsection (a)(2)(B) of this section, the Chief Financial Officer of the District of Columbia shall credit the New Charter School Fund with 25% of the amount paid to the school under paragraph (3) of this subsection.

"(5) *Schools described.* — A public charter school described in this paragraph is a public charter school that:

"(A) Did not enroll any students during any portion of the fiscal year preceding the most recent fiscal year for which funds are appropriated to carry out this subsection; and

"(B) Operated as a public charter school during the most recent fiscal year for which funds are appropriated to carry out this subsection.

"(6) *Authorization of appropriations.* — There are authorized to be appropriated to the Chief Financial Officer of the District of Columbia such sums as may be necessary to carry out this subsection for each fiscal year."

Pub. L. 108-335, in subsec. (b)(1), added at the end "Amounts in the Charter School Fund shall remain available until expended, and any amounts in the Fund remaining unobligated or unexpended at the end of a fiscal year shall not revert to the General Fund of the District of Columbia."; and in subsec. (b)(2)(A), inserted after "District of Columbia", "together with any other local funds that the Chief Financial Officer of the District of Columbia certifies are necessary to carry out the purposes of the Fund during the fiscal year,".

D.C. Law 15-348, in subsec. (a)(2), rewrote subpar. (A) and repealed subpar. (B). Prior to amendment, subpar. (A) of subsec. (a)(2) read as follows:

"(A) *Initial payment.* —

"(i) *In general.* — Except as provided in sub-subparagraph (ii) of this subparagraph, not later than October 15, 1996, and not later than October 15 of each year thereafter, the Mayor shall transfer, by electronic funds

transfer, an amount equal to 75% of the amount of the annual payment for each public charter school determined by using the formula established pursuant to § 38-1804.01(b) to a bank designated by such school.

"(ii) *Reduction in case of newschool.* -- In the case of a public charter school that has received a payment under subsection (b) of this section in the fiscal year immediately preceding the fiscal year in which a transfer under sub-subparagraph (i) of this subparagraph is made, the amount transferred to the school under sub-subparagraph (i) of this subparagraph shall be reduced by an amount equal to 75% of the amount of the payment under subsection (b).

"(B) *Final payment.* --

"(i) *In general.* -- Except as provided in sub-subparagraphs (ii) and (iii) of this subparagraph, not later than May 1, 1997, and not later than May 1 of each year thereafter, the Mayor shall transfer the remainder of the annual payment for a public charter school in the same manner as the initial payment was made under subparagraph (A) of this paragraph.

"(ii) *Adjustment for enrollment.* -- Not later than March 15, 1997, and not later than March 15 of each year thereafter, if the enrollment number of a public charter school has changed from the number reported to the Mayor and the Board of Education, as required under § 38-1804.02(a), the Mayor shall increase the payment in an amount equal to 50% of the amount provided for each student who has enrolled in such school in excess of such enrollment number, or shall reduce the payment in an amount equal to 50% of the amount provided for each student who has withdrawn or dropped out of such school below such enrollment number.

"(iii) *Reduction in case of newschool.* -- In the case of a public charter school that has received a payment under subsection (b) of this section in the fiscal year immediately preceding the fiscal year in which a transfer under sub-subparagraph (i) of this subparagraph is made, the amount transferred to the school under sub-subparagraph (i) of this subparagraph shall be reduced by an amount equal to 25% of the amount of the payment under subsection (b) of this section."

D.C. Law 16-191 repealed D.C. Law 15-348, § 102(c)(2), which resulted in no change in text.

D.C. Law 17-20 rewrote subsec. (b) which had read as follows:

"(b) *Payment to charter schools from Charter School Fund.*--

"(1) *Establishment of fund.* -- The 'New Charter School Fund', as established in the general fund of the District of Columbia prior to February 20, 2003, shall be redesignated as the 'Charter School Fund'. Amounts in the Charter School Fund shall remain available until expended, and any amounts in the Fund remaining unobligated or unexpended at the end of a fiscal year shall not revert to the General Fund of the District of Columbia.

"(2) *Contents of fund.* -- The Charter School Fund shall consist of the following amounts:

"(A) Unexpended and unobligated amounts appropriated from local funds for public charter schools for any fiscal year that reverted to the general fund of the District of Columbia, together with any other local funds that the Chief Financial Officer of the District of Columbia certifies are necessary to carry out the purposes of the Fund during the fiscal year, but only to the extent that the balance of the Charter School Fund for the fiscal year involved is less than:

"(i) \$10,000,000, in the case of fiscal year 2002; or

"(ii) \$5,000,000, in the case of fiscal year 2003 and each succeeding fiscal year.

"(B) Any interest earned on such amounts.

"(3) *Expenditures from fund.* -- Amounts in the Charter School Fund shall be used to make payments during a fiscal year to any public charter school operating in the District of Columbia during the fiscal year whose total audited enrollment (including enrollment in special needs categories) exceeds the student enrollment which served as the basis for determining the school's annual payment under this chapter for the year.

"(4) *Form of payment.* -- Payments under this subsection shall be made by electronic funds transfer from the Charter School Fund to a bank designated by a public charter school.

"(5) *Authorization of appropriations.* -- There are authorized to be appropriated to the Chief Financial Officer of the District of Columbia such sums as may be necessary to carry out this subsection for each fiscal year."

D.C. Law 18-370, in subsec. (a)(2)(A), substituted "sub-subparagraphs (ii) and (iii)" for "sub-subparagraph (ii)" in sub-subparagraph (i), and added sub-subparagraph (iii).

#### *Temporary Amendments of Section*

Section 3(c) of D.C. Laws 13-427 added subsec. (c) to provide:

"(c) *Annual reports.*--Not later than October 30 of each year the Mayor shall prepare and submit to the Authority, the Council, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the calculations made pursuant to subsection (b) of this subsection, including the four immediately prior reporting periods specified in subsection (a) of this section."

Section 6(b) of D.C. Laws 13-427 provides that the act shall expire after 225 days of its having taken effect.

Section 3(c)(1)(A), 3(c)(2)(A), and 3(c)(2)(B) of D.C. Law 14-38 rewrote subpars. (a)(2)(A)(i) and (ii), par. (b)(4) and subpar. (b)(5)(B) to read as follows respectively:

"(i) *In General.*--Except as provided in sub-subparagraph (ii) of this subparagraph, no later than July 15, October 15, January 15, and April 15 of each year, the Mayor shall transfer, by electronic funds transfer, the quarterly payments for each public charter school as prescribed in section 107a of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2906(a)), to a bank designated by such school.

"(ii) *Reduction in case of a new school.*--In the case of a public charter school that has received a payment pursuant to subsection (b) of this section in the fiscal year immediately preceding the fiscal year in which a transfer pursuant to sub-subparagraph (i) of this subparagraph is made, the amounts transferred to the school under sub-subparagraph (i) of this paragraph shall be reduced by an amount equal to 25% of the amount of the payment pursuant to subsection (b) of this section."

"(4) *Credits to fund.*--Upon the receipt of each of its payments pursuant to subsection (a)(2)(A) of this section by a public charter school described in paragraph (5) of this subsection, the Chief Financial Officer of the District of Columbia shall credit the New Charter School Fund with 25 % of the amount paid to the school pursuant to paragraph (3) of this subsection."

"(B) Has had its petition to establish a public charter school approved pursuant to section 2203 of this Act and is scheduled to begin operation as a public charter school in the fiscal year for which funds are appropriated to carry out the provisions of this subsection."

Section 3(c)(3) of D.C. Law 14-38 added a new subsec. (c) to read as follows:

"(c) *Additional payment to New Schools.* --Until the first day of the fiscal year shall be changed to July 1, the amount of payment to a public charter school described in subsection (b)(5)(B) of this section, shall be increased by 1/12 of the total dollar amount to which the public charter school is entitled for the fiscal year based on its unaudited October 5 enrollment."

Section 3(c)(1)(B) of D.C. Law 14-38 repealed par. (a)(2)(B).

Section 6(b) of D.C. Law 14-38 provides that the act shall expire after 225 days of its having taken effect.

Section 3(c) of D.C. Law 15-67, in subsec. (a)(2), rewrote subpar. (A), and repealed subpar. (B); in subsec. (b), rewrote pars. (4) and (5)(B); and added subsec. (d). Subpar. (A) of subsec. (a)(2), pars. (4) and (5)(B) of subsec. (b), and subsec. (d) read as follows:

"(A) *Initial payment.* --

"(i) *In General.* --Except as provided in sub-subparagraph (ii) of this subparagraph, no later than July 15, October 15, January 15, and April 15 of each year, the Mayor shall transfer, by electronic funds transfer, the quarterly payments for each public charter school as prescribed in section 107a of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, passed by the Council on an emergency basis on September 16, 2003 (Enrolled version of Bill 15-431), to a bank designated by such school.

"(ii) *Reduction in case of a newschool.* --In the case of a public charter school that has received a payment pursuant to subsection (b) of this section in the fiscal year immediately preceding the fiscal year in which a transfer pursuant to sub-subparagraph (i) of this subparagraph is made, the amounts transferred to the school under sub-subparagraph (i) of this subparagraph shall be reduced by an amount equal to 25% of the amount of the payment made pursuant to subsection (b) of this section."

"(4) *Credits to fund.* --Upon the receipt of each of its payments pursuant to subsection (a)(2)(A) of this section by a public charter school described in paragraph (5) of this subsection, the Chief Financial Officer of the District of Columbia shall credit the New Charter School Fund with 25% of the amount paid to the school pursuant to paragraph (3) of this subsection."

"(B) Has had its petition to establish a public charter school approved pursuant to section 2203 and is scheduled to begin operation as a public charter school in the fiscal year for which funds are appropriated to carry out the provisions of this subsection."

"(d) *Additional payment to newschools.* --Until section 441 of the District of Columbia Home Rule Act is amended to establish the first day of the fiscal year for D.C. Public Schools and Public Charter Schools as July 1, the amount of payment to a public charter school described in subsection (b)(5)(B) of this section, shall be increased by 1/12 of the total dollar amount to which the public charter school is entitled for the fiscal year based on its unaudited October 5 enrollment."

Section 6(b) of D.C. Law 15-67 provides that the act shall expire after 225 days of its having taken effect.

#### *Emergency Act Amendments*

For temporary (90-day) amendment of section, see § 3(c) of the Public School Enrollment Integrity Emergency Amendment Act of 2000 (D.C. Act 13-409, August 14, 2000, 47 DCR 7264).

For temporary (90 day) amendment of section, see § 3(c) of the Public School Enrollment Integrity Congressional Review Emergency Amendment Act of 2000 (D.C. Act 13-453, November 7, 2000, 47 DCR 9406).

For temporary (90 day) amendment of section, see § 3(c) of Public School Enrollment Integrity Emergency Amendment Act of 2001 (D.C. Act 14-86, July 9, 2001, 48 DCR 6373).

For temporary (90 day) amendment of section, see § 3(c) of Public School Enrollment Integrity Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-192, November 29, 2001, 48 DCR 11239).

For temporary (90 day) amendment of section, see § 3(c) of Public School Enrollment Integrity Clarification Emergency Amendment Act of 2003 (D.C. Act 15-174, October 6, 2003, 50 DCR 9181).

For temporary (90 day) amendment of section, see § 3(c) of Public School Enrollment Integrity Clarification Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-282, December 18, 2003, 51 DCR 191).

For temporary (90 day) amendment of section, see § 3(c) of Public School Enrollment Integrity Clarification Emergency Amendment Act of 2004 (D.C. Act 15-519, August 2, 2004, 51 DCR 8995).

For temporary (90 day) amendment of section, see § 4032(e) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment of section, see § 403(b) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

#### *Legislative History of Laws*

For Law 14-38, see notes following § 38-1800.02.

For Law 15-67, see notes following § 38-1800.02.

For Law 15-348, see notes following § 38-1800.02.

For Law 16-191, see notes following § 38-1202.01.

For Law 17-20, see notes following § 38-451.

For history of Law 18-370, see notes under § 38-821.02.

#### *Editor's Notes*

Section 102(c)(2) of D.C. Law 15-348 purported to amend this section. Those amendments were not given effect due to the prior amendments by Pub. L. 108-7.

#### *Miscellaneous Notes*

Section 146(b) of Pub. L. 108-7 provides:

"(b) Notwithstanding any other provision of law, \$5,000,000 from the Charter School Fund established pursuant to section 2403(b) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38-1804.03(b)), as amended by subsection (a), shall be deposited not later than 15 days after the date of the enactment of this Act into the credit enhancement revolving fund established pursuant to section 603(e) of the Student Loan Marketing Association Reorganization Act of 1996 (20 U.S.C. 1155(e))."

Section 335(c) of Pub. L. 108-335 provided that the amendments made by this section shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

Section 827 of Pub. L. 110-161, Dec. 26, 2007, 121 Stat. 2042, provides:

"In fiscal year 2008 and thereafter, amounts deposited in the Student Enrollment Fund shall be available for expenditure upon deposit and shall remain available until expended consistent with the terms detailed in 'The Student Funding Formula Assessment, Educational Data Warehouse, and Enrollment Fund Establishment Amendment Act of 2007' (title IV-D of D.C. Law L17-0020) and the entire provisions of that Act are incorporated herein by reference."

## **SUBCHAPTER V. SCHOOL FACILITIES REPAIR AND IMPROVEMENT.**

### **PART A. SCHOOL FACILITIES.**

#### **§ 38-1805.50. DEFINITIONS.**

For purposes of this subchapter --

- (1) The term "facilities" means buildings, structures, and real property of the District of Columbia public schools, except that such term does not include any administrative office building that is not located in

a building containing classrooms; and

(2) The term "repair and improvement" includes administration, construction, and renovation.

(Apr. 26, 1996, 110 Stat. 1321 [261], Pub. L. 104-134, § 2550.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.50.

**§ 38-1805.51. TECHNICAL ASSISTANCE.[REPEALED]**

(Apr. 26, 1996, 110 Stat. 1321 [262], Pub. L. 104-134, § 2551; June 8, 2006, D.C. Law 16-123, § 222(a), 53 DCR 2843.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.51.

*Legislative History of Laws*

For Law 16-123, see notes following § 38-2971.01.

**§ 38-1805.52. FACILITIES MASTER PLAN.**

In developing the Facilities Master Plan pursuant to § 38-2803, the Mayor shall consult with the Council, the Director of the Office of Public Education Facilities Modernization, the Public Charter School Board, representatives of public charter schools, and the Public School Modernization Advisory Committee, and shall consider the facilities needs of all public school students.

(Apr. 26, 1996, 110 Stat. 1321 [263], Pub. L. 104-134, § 2552; Nov. 13, 2003, D.C. Law 15-39, § 322, 50 DCR 5668; June 8, 2006, D.C. Law 16-123, § 222(b), 53 DCR 2843; June 12, 2007, D.C. Law 17-9, § 802(g), 54 DCR 4102.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.52.

*Effect of Amendments*

D.C. Law 15-39 rewrote subsec. (a)(1) which had read as follows:

"(a) Program. --Not later than 12 months after April 26, 1996, the Mayor and the District of Columbia Council in consultation with the Administrator, the Authority, the Board of Education, and the Superintendent, shall:

"(1) Design and implement a comprehensive long-term program for the repair and improvement, and maintenance and management, of the District of Columbia public school facilities, which program shall incorporate the work completed in accordance with the program described in § 38-1805.51(b)(2); and"

D.C. Law 16-123 rewrote section, which had read as follows:

"(a) *Program.* --Not later than 12 months after November 13, 2003, the Mayor and the Council, in consultation with the Administrator, the Board of Education, the Public Charter School Board, representatives of the Public Charter Schools, and the Superintendent, shall:

"(1) Design and implement a comprehensive long-term program for the repair and improvement, and maintenance and management, of the District of Columbia Public Schools facilities, which program shall incorporate the work completed in accordance with the program described in § 38-1805.51(b)(2) and shall provide for the facilities needs of all public school students and all public charter school students; and

"(2) Designate a new or existing agency or authority within the District of Columbia Government to administer such program.

"(b) *Proceeds.* -- Such program shall include:

"(1) Identifying short-term funding for capital and maintenance of facilities, which may include retaining proceeds from the sale or lease of a District of Columbia public school facility; and

"(2) Identifying and designating long-term funding for capital and maintenance of facilities.

"(c) *Implementation.* -- Upon implementation of such program, the agency or authority created or designated pursuant to subsection (a)(2) of this section shall assume authority and responsibility for the repair and



improvement, and maintenance and management, of District of Columbia public schools."

D.C. Law 17-9 substituted "Mayor shall consult with the Council, the Director of the Office of Public Education Facilities Modernization," for "Superintendent and Board of Education shall consult with the Mayor, the Council".

#### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 322 of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 322 of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

For temporary (90 day) repeal of section 804 of D.C. Law 17-9, see § 4043(b) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

#### *Legislative History of Laws*

For Law 15-39, see notes following § 38-160.

For Law 16-123, see notes following § 38-2971.01.

For Law 17-9, see notes under § 38-103.

#### *Miscellaneous Notes*

Establishment of Process and Time Deadlines for the Program to Revitalize Public Schools Resolution of 1996: Pursuant to Resolution 11-629, effective December 3, 1996, Council established a process and time deadline for development of a program designed to provide for the repair and improvement, and the maintenance and management of District of Columbia public school facilities, and to designate an agency or authority to administer the program.

Short title of subtitle C of title III of Law 15-39: Section 321 of D.C. Law 15-39 provided that subtitle C of title III of the act may be cited as the Public Schools Facilities Master Plan Amendment Act of 2003.

Applicability: Section 804 of D.C. Law 17-9 provides that section 802 shall apply upon enactment by Congress. Section 804 of D.C. Law 17-9 was repealed by section 4043(b) of D.C. Law 17-20.

## **PART B. WAIVERS.**

### **§ 38-1805.61. WAIVERS.**

#### *(a) In general. --*

(1) *Requirements waived.* -- Subject to subsection (b) of this section, all District of Columbia fees and all requirements contained in the document entitled "District of Columbia Public Schools Standard Contract Provisions" (as such document was in effect on November 2, 1995 and including any revisions or modifications to such document) published by the District of Columbia public schools for use with construction or maintenance projects, are waived, for purposes of repair and improvement of District of Columbia public schools facilities for a period beginning on April 26, 1996, and ending 24 months after such date.

(2) *Donations.* -- Any individual may volunteer his or her services or may donate materials to a District of Columbia public school facility for the repair and improvement of such facility provided that the provision of voluntary services meets the requirements of 29 U.S.C. 203(e)(4).

(b) *Limitation.* -- A waiver under subsection (a) of this section shall not apply to the Davis-Bacon Act (40 U.S.C. 276a et seq.) or Executive Order 11246 or other civil rights standards.

(Apr. 26, 1996, 110 Stat. 1321 [263], Pub. L. 104-134, § 2552; Sept. 9, 1996, 110 Stat. 2356 [2377], Pub. L. 104-194, § 148; Sept. 30, 1996, 110 Stat. 3009 [1473], Pub. L. 104-208, § 5205(h).)

#### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 31-2853.53.

## **PART C. GIFTS, DONATIONS, BEQUESTS, AND DEVISES.**

### **§ 38-1805.71. GIFTS, DONATIONS, BEQUESTS, AND DEVISES.**

(a) *In general.* -- A District of Columbia public school or a public charter school may accept directly from

any person a gift, donation, bequest, or devise of any property, real or personal, without regard to any law or regulation of the District of Columbia.

(b) *Tax laws.* -- For the purposes of the income tax, gift tax, and estate tax laws of the Federal Government, any money or other property given, donated, bequeathed, or devised to a District of Columbia public school or a public charter school, shall be deemed to have been given, donated, bequeathed, or devised to or for the use of the District of Columbia.

(Apr. 26, 1996, 110 Stat. 1321 [264], Pub. L. 104-134, § 2571.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.54.

## **SUBCHAPTER VI. PARTNERSHIPS WITH BUSINESS.**

### **§ 38-1806.01. PURPOSE.**

The purpose of this subchapter is:

- (1) To leverage private sector funds utilizing initial Federal investments in order to provide students and teachers within the District of Columbia public schools and public charter schools with access to state-of-the-art educational technology;
- (2) To establish a regional job training and employment center;
- (3) To strengthen workforce preparation initiatives for students within the District of Columbia public schools and public charter schools;
- (4) To coordinate private sector investments in carrying out this chapter; and
- (5) To assist the Superintendent with the development of individual career paths in accordance with the long-term reform plan.

(Apr. 26, 1996, 110 Stat. 1321 [264], Pub. L. 104-134, § 2601.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.61.

### **§ 38-1806.02. DUTIES OF THE SUPERINTENDENT OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.**

The Superintendent is authorized to provide a grant to a private, nonprofit corporation that meets the eligibility criteria under § 38-1806.03 for the purposes of carrying out the duties under §§ 38-1806.04 and 38-1806.07.

(Apr. 26, 1996, 110 Stat. 1321 [265], Pub. L. 104-134, § 2602.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.62.

### **§ 38-1806.03. ELIGIBILITY CRITERIA FOR PRIVATE, NONPROFIT CORPORATION.**

A private, nonprofit corporation shall be eligible to receive a grant under § 38-1806.02 if the corporation is a national business organization incorporated in the District of Columbia, that:

- (1) Has a board of directors which includes members who are also chief executive officers of technology-related corporations involved in education and workforce development issues;
- (2) Has extensive practical experience with initiatives that link business resources and expertise with education and training systems;
- (3) Has experience in working with State and local educational agencies throughout the United States

with respect to the integration of academic studies with workforce preparation programs; and

(4) Has a nationwide structure through which additional resources can be leveraged and innovative practices disseminated.

(Apr. 26, 1996, 110 Stat. 1321 [265], Pub. L. 104-134, § 2603.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.63.

## **§ 38-1806.04. DUTIES OF THE PRIVATE, NONPROFIT CORPORATION.**

*(a) District Education and Learning Technologies Advancement Council. --*

(1) *Establishment.* -- The private, nonprofit corporation shall establish a council to be known as the "District Education and Learning Technologies Advancement Council" (in this subchapter referred to as the "Council").

(2) *Membership.* --

(A) *In general.* -- The private, nonprofit corporation shall appoint members to the Council. An individual shall be appointed as a member to the Council on the basis of the commitment of the individual, or the entity which the individual is representing, to providing time, energy, and resources to the Council.

(B) *Compensation.* -- Members of the Council shall serve without compensation.

(3) *Duties.* -- The Council:

(A) Shall advise the private, nonprofit corporation with respect to the duties of the corporation under subsections (b) through (d) of this section; and

(B) Shall assist the corporation in leveraging private sector resources for the purpose of carrying out such duties.

*(b) Access to state-of-the-art educational technology. --*

(1) *In general.* -- The private, nonprofit corporation, in conjunction with the Superintendent, students, parents, and teachers, shall establish and implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(2) *Electronic data transfer system.* -- The private, nonprofit corporation shall assist the Superintendent in acquiring the necessary equipment, including computer hardware and software, to establish an electronic data transfer system. The private, nonprofit corporation shall also assist in arranging for training of District of Columbia public school employees in using such equipment.

(3) *Technology assessment.* --

(A) *In general.* -- In establishing and implementing the strategies under paragraph (1) of this subsection, the private, nonprofit corporation, not later than September 1, 1996, shall provide for an assessment of the availability, on April 26, 1996, of state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(B) *Conduct of assessment.* -- In providing for the assessment under subparagraph (A) of this paragraph, the private, nonprofit corporation:

(i) Shall provide for onsite inspections of the state-of-the-art educational technology within a minimum sampling of District of Columbia public schools and public charter schools; and

(ii) Shall ensure proper input from students, parents, teachers, and other school officials through the use of focus groups and other appropriate mechanisms.

(C) *Results of assessment.* -- The private, nonprofit corporation shall ensure that the assessment carried out under this paragraph provides, at a minimum, necessary information on state-of-the-art educational technology within the District of Columbia public schools and public charter schools, including:

(i) The extent to which typical District of Columbia public schools have access to such state-of-the-art educational technology and training for such technology;

(ii) How such schools are using such technology;

(iii) The need for additional technology and the need for infrastructure for the implementation of such additional technology;

(iv) The need for computer hardware, software, training, and funding for such additional

technology or infrastructure; and

(v) The potential for computer linkages among District of Columbia public schools and public charter schools.

(4) *Short-term technology plan.* --

(A) *In general.* -- Based upon the results of the technology assessment under paragraph (3) of this subsection, the private, nonprofit corporation shall develop a 3-year plan that includes goals, priorities, and strategies for obtaining the resources necessary to implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(B) *Implementation.* -- The private, nonprofit corporation, in conjunction with schools, students, parents, and teachers, shall implement the plan developed under subparagraph (A) of this paragraph.

(5) *Long-term technology plan.* -- Prior to the completion of the implementation of the short-term technology plan under paragraph (4) of this subsection, the private, nonprofit corporation shall develop a plan under which the corporation will continue to coordinate the donation of private sector resources for maintaining the continuous improvement and upgrading of state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(c) *District Employment and Learning Center.* --

(1) *Establishment.* -- The private, nonprofit corporation shall establish a center to be known as the "District Employment and Learning Center" (in this subchapter referred to as the "Center"), which shall serve as a regional institute providing job training and employment assistance.

(2) *Duties.* --

(A) *Job training and employment assistance program.* -- The Center shall establish a program to provide job training and employment assistance in the District of Columbia and shall coordinate with career preparation programs in existence on April 26, 1996, such as vocational education, school-to-work, and career academies in the District of Columbia public schools.

(B) *Conduct of program.* -- In carrying out the program established under subparagraph (A) of this paragraph, the Center:

(i) Shall provide job training and employment assistance to youths who have attained the age of 18 but have not attained the age of 26, who are residents of the District of Columbia, and who are in need of such job training and employment assistance for an appropriate period not to exceed 2 years;

(ii) Shall work to establish partnerships and enter into agreements with appropriate agencies of the District of Columbia Government to serve individuals participating in appropriate federal programs, including programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998, the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.);

(iii) Shall conduct such job training, as appropriate, through a consortium of colleges, universities, community colleges, businesses, and other appropriate providers, in the District of Columbia metropolitan area;

(iv) Shall design modular training programs that allow students to enter and leave the training curricula depending on their opportunities for job assignments with employers; and

(v) Shall utilize resources from businesses to enhance work-based learning opportunities and facilitate access by students to work-based learning and work experience through temporary work assignments with employers in the District of Columbia metropolitan area.

(C) *Compensation.* -- The Center may provide compensation to youths participating in the program under this paragraph for part-time work assigned in conjunction with training. Such compensation may include need-based payments and reimbursement of expenses.

(d) *Workforce preparation initiatives.* --

(1) *In general.* -- The private, nonprofit corporation shall establish initiatives with the District of Columbia public schools, and public charter schools, appropriate governmental agencies, and businesses and other private entities, to facilitate the integration of rigorous academic studies with workforce preparation programs in District of Columbia public schools and public charter schools.

(2) *Conduct of initiatives.* -- In carrying out the initiatives under paragraph (1) of this subsection, the private, nonprofit corporation shall, at a minimum, actively develop, expand, and promote the following programs:

(A) Career academy programs in secondary schools, as such programs are established in certain District of Columbia public schools, which provide a school-within-a-school concept, focusing on career preparation and the integration of the academy programs with vocational and technical curriculum; and

(B) Programs carried out in the District of Columbia that are funded under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(Apr. 26, 1996, 110 Stat. 1321 [265], Pub. L. 104-134, § 2604; October 21, 1998, 112 Stat. 2681 [482], Pub. L. 105-277, § 405(d)(19).)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.64.

##### *Effect of Amendments*

Pub. L. 105-277, in subsec. (c)(2)(B)(ii), inserted "or title I of the Workforce Investment Act of 1998,".

##### *References in Text*

Part F of title IV of the Social Security Act (42 U.S.C. § 681 et seq.), referred to in (c)(2)(B)(ii), was repealed by Act Aug. 22, 1996, P.L. 104-193, § 108 (110 Stat. 2167).

### **§ 38-1806.05. MATCHING FUNDS.**

The private, nonprofit corporation, to the extent practicable, shall provide matching funds, or in-kind contributions, or a combination thereof, for the purpose of carrying out the duties of the corporation under § 38-1806.04, as follows:

(1) For fiscal year 1997, the nonprofit corporation shall provide matching funds or in-kind contributions of \$1 for every \$1 of federal funds provided under this subchapter for such year for activities under § 38-1806.04.

(2) For fiscal year 1998, the nonprofit corporation shall provide matching funds or in-kind contributions of \$3 for every \$1 of federal funds provided under this subchapter for such year for activities under § 38-1806.04.

(3) For fiscal year 1999, the nonprofit corporation shall provide matching funds or in-kind contributions of \$5 for every \$1 of federal funds provided under this subchapter for such year for activities under § 38-1806.04.

(Apr. 26, 1996, 110 Stat. 1321 [268], Pub. L. 104-134, § 2605.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.65.

### **§ 38-1806.06. REPORT.**

The private, nonprofit corporation shall prepare and submit to the appropriate congressional committees on a quarterly basis, or, with respect to fiscal year 1997, on a semiannual basis, a report which shall contain:

(1) The activities the corporation has carried out, including the duties of the corporation described in § 38-1806.04, for the 3-month period ending on the date of the submission of the report, or, with respect to fiscal year 1997, the 6-month period ending on the date of the submission of the report;

(2) An assessment of the use of funds or other resources donated to the corporation;

(3) The results of the assessment carried out under § 38-1806.04(b)(3); and

(4) A description of the goals and priorities of the corporation for the 3-month period beginning on the date of the submission of the report, or, with respect to fiscal year 1997, the 6-month period beginning on the date of the submission of the report.

(Apr. 26, 1996, 110 Stat. 1321 [268], Pub. L. 104-134, § 2606.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.66.

## **§ 38-1806.07. JOBS FOR D.C. GRADUATES PROGRAM.**

(a) *In general.* -- The nonprofit corporation shall establish a program, to be known as the "Jobs for D.C. Graduates Program", to assist District of Columbia public schools and public charter schools in organizing and implementing a school-to-work transition system, which system shall give priority to providing assistance to at-risk youths and disadvantaged youths.

(b) *Conduct of program.* -- In carrying out the program established under subsection (a), the nonprofit corporation, consistent with the policies of the nationally recognized Jobs for America's Graduates, Inc., shall:

- (1) Establish performance standards for such program;
- (2) Provide ongoing enhancement and improvements in such program;
- (3) Provide research and reports on the results of such program; and
- (4) Provide preservice and inservice training.

(Apr. 26, 1996, 110 Stat. 1321 [269], Pub. L. 104-134, § 2607.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 31-2853.67.

## **§ 38-1806.08. AUTHORIZATION OF APPROPRIATIONS.**

(a) *Authorization.* --

(1) *Delta Council; access to state-of-the-art educational technology; and workforce preparation initiatives.* -- There are authorized to be appropriated to carry out subsections (a), (b), and (d) of § 38-1806.04, \$1,000,000 for each of the fiscal years 1997, 1998, and 1999.

(2) *Deal Center.* -- There are authorized to be appropriated to carry out § 38-1806.04(c), \$2,000,000 for each of the fiscal years 1997, 1998, and 1999.

(3) *Jobs for D.C. Graduates Program.* -- There are authorized to be appropriated to carry out § 38-1806.07:

- (A) \$2,000,000 for fiscal year 1997; and
- (B) \$3,000,000 for each of the fiscal years 1998 through 2001.

(b) *Availability.* -- Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

(Apr. 26, 1996, 110 Stat. 1321 [269], Pub. L. 104-134, § 2608.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 31-2853.68.

## **§ 38-1806.09. TERMINATION OF FEDERAL SUPPORT; SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.**

(a) *Termination of federal support.* -- The authority under this subchapter to provide assistance to the private, nonprofit corporation or any other entity established pursuant to this subchapter shall terminate on October 1, 1999.

(b) *Sense of the Congress relating to continuation of activities.* -- It is the sense of the Congress that:

- (1) The activities of the private, nonprofit corporation under § 38-1806.04 should continue to be carried out after October 1, 1999, with resources made available from the private sector; and
- (2) The corporation should provide oversight and coordination for such activities after such date.

(Apr. 26, 1996, 110 Stat. 1321 [269], Pub. L. 104-134, § 2609.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 31-2853.69.

## **SUBCHAPTER VII. MANAGEMENT AND FISCAL ACCOUNTABILITY; PRESERVATION OF SCHOOL-BASED RESOURCES.**

### **§ 38-1807.51. MANAGEMENT SUPPORT SYSTEMS.**

(a) *Food services and security services.* -- Notwithstanding any other law, rule, or regulation, the Board of Education shall enter into a contract for academic year 1995-1996 and each succeeding academic year, for the provision of all food services operations and security services for the District of Columbia public schools, unless the Superintendent determines that it is not feasible and provides the Superintendent's reasons in writing to the Board of Education and the Authority.

(b) *Development of new management and data systems.* -- Notwithstanding any other law, rule, or regulation, the Board of Education shall, in academic year 1995-1996, consult with the Authority on the development of new management and data systems, as well as training of personnel to use and manage the systems in areas of budget, finance, personnel and human resources, management information services, procurement, supply management, and other systems recommended by the Authority. Such plans shall be consistent with, and contemporaneous to, the District of Columbia Government's development and implementation of a replacement for the financial management system for the District of Columbia Government in use on April 26, 1996.

(Apr. 26, 1996, 110 Stat. 1321 [270], Pub. L. 104-134, § 2751.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.71.

### **§ 38-1807.52. ACCESS TO FISCAL AND STAFFING DATA.**

(a) *In general.* -- The budget, financial-accounting, personnel, payroll, procurement, and management information systems of the District of Columbia public schools shall be coordinated and interface with related systems of the District of Columbia Government.

(b) *Access.* -- The Board of Education shall provide read-only access to its internal financial management systems and all other data bases to designated staff of the Mayor, the Council, the Authority, and appropriate congressional committees.

(Apr. 26, 1996, 110 Stat. 1321 [270], Pub. L. 104-134, § 2752.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.72.

### **§ 38-1807.53. DEVELOPMENT OF FISCAL YEAR 1997 BUDGET REQUEST.**

(a) *In general.* -- The Board of Education shall develop its fiscal year 1997 gross operating budget and its fiscal year 1997 appropriated funds budget request in accordance with this section.

(b) *Fiscal Year 1996 Budget Revision.* -- Not later than 60 days after April 26, 1996, the Board of Education shall develop, approve, and submit to the Mayor, the District of Columbia Council, the Authority, and appropriate Congressional committees, a revised fiscal year 1996 gross operating budget that reflects the amount appropriated in the District of Columbia Appropriations Act, 1996, and which:

(1) Is broken out on the basis of appropriated funds and nonappropriated funds, control center, responsibility center, agency reporting code, object class, and object; and

(2) Indicates by position title, grade, and agency reporting code, all staff allocated to each District of Columbia public school as of October 15, 1995, and indicates on an object class basis all other-than-personal-services financial resources allocated to each school.

(c) *Zero-base budget.* -- For fiscal year 1997, the Board of Education shall build its gross operating budget and appropriated funds request from a zero-base, starting from the local school level through the central office level.

(d) *School-by-school budgets.* -- The Board of Education's initial fiscal year 1997 gross operating budget and appropriated funds budget request submitted to the Mayor, the District of Columbia Council, and the Authority shall contain school-by-school budgets and shall also:

- (1) Be broken out on the basis of appropriated funds and nonappropriated funds, control center, responsibility center, agency reporting code, object class, and object;
- (2) Indicate by position title, grade, and agency reporting code all staff budgeted for each District of Columbia public school, and indicate on an object class basis all other-than-personal-services financial resources allocated to each school; and
- (3) Indicate the amount and reason for all changes made to the initial fiscal year 1997 gross operating budget and appropriated funds request from the revised fiscal year 1996 gross operating budget required by subsection (b) of this section.

(Apr. 26, 1996, 110 Stat. 1321 [270], Pub. L. 104-134, § 2753.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.73.

**§§ 38-1807.54, 38-1807.55. [RESERVED]**

**§ 38-1807.56. PRESERVATION OF SCHOOL-BASED STAFF POSITIONS.[REPEALED]**

(Apr. 26, 1996, 110 Stat. 1321 [271], Pub. L. 104-134, § 2756; Oct. 20, 2005, D.C. Law 16-33, § 4022(a), 52 DCR 7503.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.76.

*Emergency Act Amendments*

For temporary (90 day) repeal of section, see § 4022(a) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

*Legislative History of Laws*

For Law 16-33, see notes following § 38-1306.

**§ 38-1807.57. PRESERVATION OF SCHOOL-BASED STAFF POSITIONS.**

(a) *Findings.* -- The Council of the District of Columbia finds that:

- (1) In Fiscal Year 2006, the District of Columbia Public Schools ("DCPS") will receive a core budget of \$779,309,000 with additional funding in the amount of \$21 million for the Superintendent's school reform initiatives.
- (2) Despite an overall increase in funding for DCPS, local schools have been forced to develop plans to reduce their workforces because the 3.07% increase in the uniform per student funding formula does not cover the average step increase of 4.77% included in collective bargaining agreements approved by the Mayor and Council.
- (3) The Council believes that these reductions, which would come one year following the elimination of 500 school-based positions, are unacceptable and, if implemented, would be injurious to the DCPS.
- (4) As a result, there is a need to avert layoffs of more than 300 staff at individual schools.
- (5) DCPS should absorb the cost of the step increases from non-local school budget funds.

(b) *Restrictions on reductions of school-based employees.* -- To the extent that a reduction in the number of full-time equivalent positions for the District of Columbia public schools is required to remain within the budget established for the public schools in appropriations acts, no reductions shall be made from the full-time equivalent positions for school-based teachers, principals, counselors, librarians, or other school-based educational positions that were established as of the end of Fiscal Year 2005, unless the Board of Education makes a determination based on student enrollment that:

- (1) Fewer school-based positions are needed to maintain established pupil-to-staff ratios; or



(2) Reductions in positions for other than school-based employees are not practicable.

(c) *Definition.* -- The term "school-based educational position" means a position located at a District of Columbia public school or other position providing direct support to students at such a school, including a position for a clerical, stenographic, or secretarial employee, but not including any part-time educational aide position.

(Apr. 26, 1996, 110 Stat. 1321 [271], Pub. L. 104-134, § 2757, as added Oct. 20, 2005, D.C. Law 16-33, § 4022(b), 52 DCR 7503.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Emergency Act Amendments*

For temporary (90 day) addition, see § 4022(b) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

##### *Legislative History of Laws*

For Law 16-33, see notes following § 38-1306.

##### *Miscellaneous Notes*

Short title of subtitle C of title IV of Law 16-33: Section 4021 of D.C. Law 16-33 provided that subtitle C of title IV of the act may be cited as the Preservation of School-Based Staff Positions Amendment Act of 2005.

## **SUBCHAPTER VIII. ESTABLISHMENT AND ORGANIZATION OF THE COMMISSION ON CONSENSUS REFORM IN THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.[EXPIRED]**

### **§ 38-1808.51. COMMISSION ON CONSENSUS REFORM IN THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.[EXPIRED]**

(Apr. 26, 1996, 110 Stat. 1321 [272], Pub. L. 104-134, § 2852.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.81.

### **§ 38-1808.52. PRIMARY PURPOSE AND FINDINGS.[EXPIRED]**

(Apr. 26, 1996, 110 Stat. 1321 [273], Pub. L. 104-134, § 2852.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.82.

### **§ 38-1808.53. DUTIES AND POWERS OF THE CONSENSUS COMMISSION.[EXPIRED]**

(Apr. 26, 1996, 110 Stat. 1321 [274], Pub. L. 104-134, § 2853.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 31-2853.83.

### **§ 38-1808.54. IMPROVING ORDER AND DISCIPLINE.[EXPIRED]**

(Apr. 26, 1996, 110 Stat. 1321 [275], Pub. L. 104-134, § 2854.)

#### *HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.84.

### **§ 38-1808.55. EDUCATIONAL PERFORMANCE AUDITS.[EXPIRED]**

(Apr. 26, 1996, 110 Stat. 1321 [275], Pub. L. 104-134, § 2855.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.85.

### **§ 38-1808.56. INVESTIGATIVE POWERS.[EXPIRED]**

(Apr. 26, 1996, 110 Stat. 1321 [276], Pub. L. 104-134, § 2856.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.86.

### **§ 38-1808.57. RECOMMENDATIONS OF THE CONSENSUS COMMISSION.[EXPIRED]**

(Apr. 26, 1996, 110 Stat. 1321 [276], Pub. L. 104-134, § 2857.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.87.

### **§ 38-1808.58. EXPIRATION DATE.[EXPIRED]**

(Apr. 26, 1996, 110 Stat. 1321 [276], Pub. L. 104-134, § 2858.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.88.

*Miscellaneous Notes*

Expiration of subchapter VIII: Pub. L. 104-134, § 258, codified as § 38- 1808.58, provided that this subchapter shall be effective during the period beginning on April 26, 1996 and ending 7 years after such date.

## **SUBCHAPTER IX. PARENT ATTENDANCE AT PARENT-TEACHER CONFERENCES.**

### **§ 38-1809.01. POLICY.**

Notwithstanding any other provision of law, the Mayor is authorized to develop and implement a policy encouraging all residents of the District of Columbia with children attending a District of Columbia public school to attend and participate in at least one parent-teacher conference every 90 days during the academic year.

(Apr. 26, 1996, 110 Stat. 1321 [276], Pub. L. 104-134, § 2901.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 31-2853.91.

*Emergency Act Amendments*

For temporary (90 day) addition of § 38-1851, see § 3322 of Fiscal Year 2003 Budget Support Emergency Act of 2002 (D.C. Act 14-453, July 23, 2002, 49 DCR 8026).