

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 38.
EDUCATIONAL INSTITUTIONS.

CHAPTER 18A.
MISCELLANEOUS PUBLIC CHARTER SCHOOL
PROVISIONS.

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SCHOOL PROVISIONS.

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CHAPTER 18A. MISCELLANEOUS PUBLIC CHARTER SCHOOL PROVISIONS.

SUBCHAPTER I. PUBLIC SCHOOL AND PUBLIC CHARTER SCHOOL FACILITIES SHARING.

§ 38-1831.01. UTILIZATION OF SPACE IN DISTRICT OF COLUMBIA PUBLIC SCHOOLS BY PUBLIC CHARTER SCHOOLS.

(a) The District of Columbia Public School ("DCPS") system shall allow existing public charter schools that are chartered by the District of Columbia Board of Education or the Public Charter School Board prior to September 30, 2002, to utilize space in DCPS facilities, where such facilities are currently or projected to be underutilized because of decreased or stagnant student enrollment.

(b)(1) As payment for the space allocation, the public charter school shall pay, from its facility allowance, a portion of all funding amounts dealing with capital and maintenance costs or an amount agreeable to the charter school and DCPS.

(2) This amount of payment shall be agreed upon by DCPS and the Charter School before relocation of any public charter school into a public school facility. The fee charged shall be added to the individual school's budget.

(3) The Superintendent of Schools, in cooperation with the Board of Education, shall provide a plan for the co-location of public schools chartered after October 1, 2002, to the Council, by March 1, 2003.

(c) The Board of Education shall promulgate rules to implement the provision of this chapter.

(Oct. 1, 2002, D.C. Law 14-190, § 3422, 49 DCR 6968.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 14-190, see notes following § 38-1208.01.

SUBCHAPTER II. PUBLIC CHARTER SCHOOL FINANCING AND SUPPORT.

§ 38-1833.01. OFFICE OF PUBLIC CHARTER SCHOOL FINANCING AND SUPPORT.

(a) There is established within the District of Columbia, under the authority of the Mayor, an Office of Public Charter School Financing and Support.

(b) The Office shall have the following three functions:

(1) To administer the credit enhancement fund for public charter schools under section 603(e) of the Student Loan Marketing Association Reorganization Act of 1996 (20 U.S.C. 1155(e)), subject to the provisions of such section.

(2) To administer the Direct Loan Fund for Charter School Improvement under § 38-1833.02, subject to the provisions of such section.

(3) To develop, implement and provide oversight for other public charter school financing programs and support services as requested by the Mayor and the Council of the District of Columbia.

(c) The functions described in subsection (b) of this section may be provided by the Office directly or under contract with a qualified provider.

(Feb. 20, 2003, 117 Stat. 130, Pub. L. 108-7, § 143(a); Oct. 18, 2004, 118 Stat. 1348, Pub. L. 108-335, 340(b).)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

Pub. L. 108-335, in subsec. (a), substituted "under the authority of the Mayor" for "under the authority of the Department of Banking and Financial Institutions".

§ 38-1833.02. DIRECT LOAN FUND FOR CHARTER SCHOOL IMPROVEMENT.

- (a) There is established within the District of Columbia a Direct Loan Fund for Charter School Improvement.
- (b) The Direct Loan Fund for Charter School Improvement shall be administered by the Office of Charter School Financing and Support, except that no loan may be made under this section without the approval of the committee described in section 603(e)(3)(C)(iii) of the Student Loan Marketing Association Reorganization Act of 1996 (20 U.S.C. 1155(e)(3)(C)(iii)).
- (c) Funds distributed under this section shall be for construction, purchase, renovation, and maintenance of charter school facilities.
- (d) Loans distributed under this section shall not exceed \$2,000,000 per charter school campus.
- (e) The Office of Charter School Financing and Support shall determine what interest rates and terms apply to loans granted under this section. In determining the rates and terms of a loan granted to a charter school, the Office of Charter School Financing and Support should do its best to provide low interest options and flexible terms.
- (f) To be eligible for a loan under this subsection, an applicant shall be one of the following:
 - (A) A public charter school with a charter in effect pursuant to Chapter 18 of this title which meets or exceeds its performance goals as outlined in its originating charter;
 - (B) A limited liability company that participates in a New Markets Tax Credit program transaction structure with public charter schools; or
 - (C) A nonprofit corporation that develops and finances a facility that will be occupied by a public charter school throughout the term of the loan; provided, that in the event the facility financed under this subsection is not occupied by a public charter school, the loan shall be deemed to be in default.
- (g) In repaying a loan granted under this section, a debtor may use facility maintenance funds granted to them by the District of Columbia Public Schools.
- (h) The term of a loan within the context of a New Markets Tax Credit as this term is defined in the Internal Revenue Code, may extend to 7 years; all other loan terms under this subsection shall not exceed 5 years.

(Feb. 20, 2003, 117 Stat. 131, Pub. L. 108-7, 143(b); Sept. 24, 2010, D.C. Law 18-223, § 4012, 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 4042, 58 DCR 6226.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-223, in subsec. (d), substituted "school campus" for "school".

D.C. Law 19-21 rewrote subsec. (f); and added subsec. (h). Prior to amendment, subsec. (f) read as follows:

"(f) To be eligible for a loan under this section, an applicant shall be a public charter school with a charter in effect pursuant to Chapter 18 of this title which meets or exceeds its performance goals as outlined in its originating charter."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 4012 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) amendment of section, see § 4042 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 18-223, see notes following § 38-103.

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

Section 603(e), referred to in subsec. (b), is codified at 20 U.S.C.A. § 1155(e) and pertains to school facility construction and repair in the District of Columbia. 20 U.S.C. A. § 1155(e), as of December 8, 2004, reads as follows:

"(e) Establishment of account

"(1) In general

"Notwithstanding any other provision of law, the District of Columbia Financial Responsibility and Management Assistance Authority shall establish an account to receive--

"(A) amounts collected from the sale and proceeds resulting from the exercise of stock warrants pursuant to section 1087-3(c)(9) of this title;

"(B) amounts and proceeds remitted as compensation for the right to assign the 'Sallie Mae' name as a trademark or service mark pursuant to section 1087- 3(e)(3) of this title; and

"(C) amounts and proceeds collected from the sale of the stock of the Corporation and deposited pursuant to subsection (c)(3) of this section.

"(2) Amounts and proceeds

"(A) Amounts and proceeds relating to Sallie Mae

"The amounts and proceeds described in subparagraphs (A) and (B) of paragraph (1) shall be used to finance public elementary and secondary school facility construction and repair within the District of Columbia or to carry out the District of Columbia School Reform Act of 1995.

"(B) Amounts and proceeds relating to Connie Lee

"The amounts and proceeds described in subparagraph (C) of paragraph (1) shall be used to finance public and public charter elementary and secondary school facility construction and repair within the District of Columbia. Of such amounts and proceeds, \$5,000,000 shall be set aside for a credit enhancement revolving fund for public charter schools in the District of Columbia, to be administered and disbursed in accordance with paragraph (3).

"(3) Credit enhancement revolving fund for public charter schools

"(A) Distribution of amounts

'Of the amounts in the credit enhancement revolving fund established under paragraph (2)(B)--

"(i) 50 percent shall be used to make grants under subparagraph (B); and

"(ii) 50 percent shall be used to make grants under subparagraph (C).

"(B) Grants to eligible nonprofit corporations

"(i) In general

"Using the amounts described in subparagraph (A)(i), the Mayor of the District of Columbia shall make and disburse grants to eligible nonprofit corporations to carry out the purposes described in subparagraph (E).

"(ii) Administration

"Subject to subparagraph (F), the Mayor shall administer the program of grants under this subparagraph, except that if the committee described in subparagraph (C)(iii) is in operation and is fully functional prior to the date the Mayor makes the grants, the Mayor may delegate the administration of the program to the committee.

"(C) Other grants

"(i) In general

"Using the amounts described in subparagraph (A)(ii), the Mayor of the District of Columbia shall make grants to entities to carry out the purposes described in subparagraph (E).

"(ii) Participation of schools

"A public charter school in the District of Columbia may receive a grant under this subparagraph to carry out the purposes described in subparagraph (E) in the same manner as other entities receiving grants to carry out such activities.

"(iii) Administration through committee

"Subject to subparagraph (F), the Mayor shall carry out this subparagraph through the committee appointed by the Mayor under the second sentence of paragraph (2)(B) (as in effect prior to November 22, 2000). The committee may enter into an agreement with a third party to carry out its responsibilities under this subparagraph.

"(iv) Cap on administrative costs

"Not more than 5 percent of the funds available for grants under this subparagraph for a fiscal year may be

used to cover the administrative costs of making grants under this subparagraph for the fiscal year.

"(D) Special rule regarding eligibility of nonprofit corporations

"In order to be eligible to receive a grant under this paragraph, a nonprofit corporation must provide appropriate certification to the Mayor or to the committee described in subparagraph (C)(iii) (as the case may be) that it is duly authorized by two or more public charter schools in the District of Columbia to act on their behalf in obtaining financing (or in assisting them in obtaining financing) to cover the costs of activities described in subparagraph (E)(i).

"(E) Purposes of grants

"(i) In general

"The recipient of a grant under this paragraph shall use the funds provided under the grant to carry out activities to assist public charter schools in the District of Columbia in--

"(I) obtaining financing to acquire interests in real property (including by purchase, lease, or donation), including financing to cover planning, development, and other incidental costs;

"(II) obtaining financing for construction of facilities or the renovation, repair, or alteration of existing property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other incidental costs;

"(III) enhancing the availability of loans (including mortgages) and bonds; and

"(IV) obtaining lease guarantees (in accordance with regulations promulgated by the Office of Public Charter School Financing).

"(ii) No direct funding for schools

"Funds provided under a grant under this subparagraph may not be used by a recipient to make direct loans or grants to public charter schools.

"(F) Role of Office of Public Charter School Financing and Support

"During fiscal year 2003 and each succeeding fiscal year, the Office of Public Charter School Financing and Support shall be responsible for receiving applications, making payments, and otherwise administering this paragraph, except that no grant may be made under this paragraph without the approval of the committee described in subparagraph (C)(iii)."

Miscellaneous Notes

Short title: Section 4011 of D.C. Law 18-223 provided that subtitle B of title IV of the act may be cited as the "Direct Loan Fund for Charter School Improvement Amendment Act of 2010".

Short title: Section 4041 of D.C. Law 19-21 provided that subtitle E of title IV of the act may be cited as "Direct Loan Fund for Charter School Improvement Amendment Act of 2011".

SUBCHAPTER III. EVALUATION OF AUTHORIZING BOARDS.

§ 38-1835.01. BIENNIAL EVALUATION OF CHARTER SCHOOL AUTHORIZING BOARDS.

(a) Biennial management evaluation of the District of Columbia Chartering Authorities for the District of Columbia Public Charter Schools shall be conducted by the Comptroller General of the United States.

(b) Evaluation shall include the following:

- (1) Establish standards to assess each authorizer's procedures and oversight quality.
- (2) Identify gaps in oversight and recommendations.
- (3) Review processes of charter school applications.
- (4) Extent of ongoing monitoring, technical assistance, and sanctions provided to schools.
- (5) Compliance with annual reporting requirements.
- (6) Actual budget expenditures for the preceding 2 fiscal years.
- (7) Comparison of budget expenditures with mandated responsibilities.
- (8) Alignment with best practices.
- (9) Quality and timeliness of meeting § 38-1802.11(d), as amended.

(c) The Government Accountability Office shall submit to the Committees on Appropriations of the House of Representatives and Senate, no later than May 1, 2005, a baseline report on the performance of each

authorizer in meeting the requirements of the School Reform Act of 1995.

(d) Hereafter § 38-1802.14(f), shall apply to the District of Columbia Board of Education Charter Schools Office.

(Oct. 18, 2004, 118 Stat. 1352, Pub. L. 108-335, § 346.)

HISTORICAL AND STATUTORY NOTES

References in Text

The School Reform Act of 1995, referred to in subsec. (c), is title II of Pub. L. 104-134, April 26, 1996, 110 Stat. 1321 [226], codified as Chapter 18 of Title 38.

SUBCHAPTER IV. PUBLIC CHARTER SCHOOL FACILITIES ALLOTMENT TASK FORCE.

§ 38-1837.01. ESTABLISHMENT.

(a) There is established a Public Charter School Facilities Allotment Task Force ("Task Force"). The Task Force shall:

(1) Consult with:

(A) Public charter schools;

(B) The Council;

(C) Relevant District government agencies; and

(D) Banking, or other financial, professionals to determine the financial implications of any changes to the current uniform per student formula for the public charter schools facilities allotment.

(2) Conduct a comprehensive analysis of facilities expenditures among public charter schools, including the allowable facilities expenditures recommended by the Mayor, and identify additional factors bearing on expenditures, if any, for consideration;

(3) Develop recommendations for a cost-based allocation formula for the public charter schools facilities allotment; and

(4) Identify cost-saving strategies and measures to ensure that public charter schools facilities allotment funds are used exclusively on public charter school facilities.

(b) The Task Force shall submit to the Council its analysis and recommendations, including its recommendation for a cost-based allocation formula for the public charter schools facilities allotment, by November 30, 2009.

(c) The Task Force shall be disbanded by no later than December 31, 2009.

(Mar. 3, 2010, D.C. Law 18-111, § 4021, 57 DCR 181.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 4021 of Fiscal Year 2010 Budget Support Emergency Act of 2009 (D.C. Act 18-187, August 26, 2009, 56 DCR 7374).

For temporary (90 day) addition, see § 4021 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 § 4021 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

Law 18-111, the "Fiscal Year 2010 Budget Support Act of 2009", was introduced in Council and assigned Bill No. 18-203, which was referred to the Committee on the Whole. The bill was adopted on first and second readings on May 12, 2009, and September 22, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-255 and transmitted to both Houses of Congress for its review. D.C. Law 18-111 became effective on March 3, 2010.

Miscellaneous Notes

Short title: Section 4020 of D.C. Law 18-111 provided that subtitle C of title IV of the act may be cited as the "Public Charter School Facilities Allotment Task Force Establishment Act of 2009".

§ 38-1837.02. OVERSIGHT AND COMPOSITION OF THE TASK FORCE.

(a) The Public Charter School Board shall oversee the Task Force, which shall be comprised of the following members, or their designees:

- (1) The Mayor;
- (2) The Chairman of the Council;
- (3) The Deputy Mayor for Education;
- (4) The State Superintendent of Education;
- (5) The Chairperson of the Public Charter School Board;
- (6) The Executive Director of the Public Charter School Board; and
- (7) The Chief Financial Officer for the District of Columbia.

(b) The following shall serve as advisory members of the Task Force;

- (1) The chief financial officers, or their designees, of at least 6 public charter schools, representing a range of enrollment, grade levels, and geographic location;
- (2) Professionals in the field of public charter school financing;
- (3) Representatives from public charter school advocacy groups; and
- (4) Other individuals considered necessary or beneficial by the Public Charter School Board.

(Mar. 3, 2010, D.C. Law 18-111, § 4022, 57 DCR 181.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 4022 of Fiscal Year 2010 Budget Support Emergency Act of 2009 (D.C. Act 18-187, August 26, 2009, 56 DCR 7374).

For temporary (90 day) addition, see § 4022 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 § 4022 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

For Law 18-111, see notes following § 38-1837.01.