

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 38.
EDUCATIONAL INSTITUTIONS.

CHAPTER 3A.
OMBUDSMAN FOR PUBLIC EDUCATION.

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CHAPTER 3A. OMBUDSMAN FOR PUBLIC EDUCATION.

§ 38-351. OFFICE OF OMBUDSMAN; ESTABLISHMENT; TERM.

(a)(1) There is established within the Department of Education an Office of Ombudsman for Public Education ("Office of Ombudsman"), which shall be headed by an Ombudsman appointed by the Mayor and confirmed by the Council in accordance with paragraph (2) of this subsection.

(2) The Mayor shall submit a nomination for Ombudsman to the Council for a 45- day period of review, excluding days of Council recess. If the Council does not approve or disapprove the nomination, by resolution, within this 45-day review period, the nomination shall be deemed approved.

(b) If a vacancy in the position of Ombudsman occurs as a consequence of resignation, disability, death, or other reason other than expiration of term, the Mayor shall appoint a replacement to fill the unexpired term in the same manner as provided in subsection (a) of this section; provided, that the Mayor shall submit the nomination to the Council within 30 days after the occurrence of the vacancy.

(c) The Ombudsman shall serve for a term of 3 years, and may be reappointed.

(June 12, 2007, D.C. Law 17-9, § 602, 54 DCR 4102.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

Law 17-9, the "Public Education Reform Amendment Act of 2007", was introduced in Council and assigned Bill No. 17-1, which was referred to Committee of the Whole. The Bill was adopted on first and second readings on April 3, 2007, and April 19, 2007, respectively. Signed by the Mayor on April 23, 2007, it was assigned Act No. 17-38 and transmitted to both Houses of Congress for its review. D.C. Law 17-9 became effective on June 12, 2007.

Miscellaneous Notes

Applicability: Section 607 of Law 17-9 provides that this title shall apply upon Congressional enactment of Title IX. Congress enacted the provisions of Title IX in Pub. L. 110-33, approved June 1, 2007.

§ 38-352. QUALIFICATIONS.

The Ombudsman shall:

- (1) Be appointed without regard to party affiliation;
- (2) Be appointed on the basis of integrity;
- (3) Possess a demonstrated ability to analyze issues and matters of law, administration, and policy;
- (4) Possess experience in the field of social work, counseling, mediation, law, policy, or public administration or auditing, accounting, or other investigative field; and
- (5) Have management experience that demonstrates an ability to hire and supervise qualified staff.

(June 12, 2007, D.C. Law 17-9, § 603, 54 DCR 4102.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-9, see notes following § 38-351.

§ 38-353. DUTIES.

(a) The Ombudsman shall:

- (1) Provide outreach to residents and parents, and to further this purpose, have the cooperation of all individuals within the public school system;
- (2) Encourage communication between residents and the Mayor regarding all levels of public education;
- (3) Serve as a vehicle for citizens to communicate their complaints and concerns regarding public education through a single office;
- (4) Respond to complaints and concerns in a timely fashion with accurate and helpful information;
- (5) Receive complaints and concerns from parents, students, teachers, and other District residents concerning public education, including personnel actions, policies, and procedures;
- (6) Determine the validity of any complaint quickly and professionally;
- (7) Examine and address valid complaints and concerns;
- (8) Generate options for a response, and offer a recommendation among the options;
- (9) Make a referral to the pertinent school official, when appropriate;
- (10) Identify systemic concerns raised by citizens, or otherwise received, related to public education;
- (11) Maintain a database that tracks complaints and concerns received according to various categories, including school level and location;
- (12) Submit to the Deputy Mayor for Public Education and the Chairman of the Council, on a monthly basis, an analysis of the preceding month, including complaint and resolution data;
- (13) Recommend policy changes, staff training, and strategies to improve the delivery of public education services;
- (14) Systemically track complaints and concerns, and periodically analyze the data and report to the Deputy Mayor for Education patterns of complaints and concerns that suggest a need for a policy change, staff training, or the implementation of strategic action to address an issue; and
- (15) Within 90 days of the end of each school year, submit to the Deputy Mayor for Education a report analyzing the work of the previous year, including an analysis of the types, and number, of:
 - (A) Inquiries;
 - (B) Complaints and concerns resolved informally;
 - (C) Complaints and concerns examined;
 - (D) Examinations pending;
 - (E) Recommendations made; and
 - (F) Recommendations that were followed, to the extent that it can be determined.

(June 12, 2007, D.C. Law 17-9, § 604, 54 DCR 4102.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-9, see notes following § 38-351.

§ 38-354. AUTHORITY.

The Ombudsman shall:

- (1) Have access to books, records, files, reports, findings, and all other papers, items, or property belonging to or in use by all departments, agencies, instrumentalities, and employees of District of Columbia Public Schools ("DCPS") necessary to facilitate the purpose of this chapter, excluding the Executive Office of the Mayor, the Council, and the District of Columbia courts;
- (2) Have full access to student educational records as allowed by federal and local law;
- (3) Speak in regard to educational issues under the purview of the Office of Ombudsman with any official or employee within the public school system without the permission of the individual's supervisor;
- (4) Examine an act or failure to act of any official or employee within the public school system;
- (5) Determine which complaints and concerns warrant further examination;
- (6) Examine any matter under the purview of the Office of Ombudsman absent a complaint;
- (7) Forward to the Office of the Inspector General all complaints and concerns that require an audit or

investigation of a school or a program, agency, or department within DCPS that falls within the purview of the Office of the Inspector General; and

(8) Forward to the Deputy Mayor for Education any policy recommendations that the Ombudsman determines would be helpful to prevent and detect corruption, mismanagement, waste, fraud, and abuse within DCPS.

(June 12, 2007, D.C. Law 17-9, § 605, 54 DCR 4102.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-9, see notes following § 38-351.

§ 38-355. LIMITATIONS; PROTECTIONS.

(a) The Ombudsman shall not:

(1) Disclose personally identifiable information regarding a student without the specific written consent of the student or parent, as required by federal and local law;

(2) Disclose the substance of a conversation with any teacher or other official or employee within the public school system without consent;

(3) Disclose the identity of any person who brings a complaint or provides information to the Ombudsman without the person's consent, unless the Ombudsman determines that disclosure is unavoidable or necessary to further the ends of an investigation;

(4) Have the authority to take any personnel action; or

(5) Examine the Executive Office of Mayor, the Council or its personnel, or the District of Columbia courts or its personnel.

(b) The Ombudsman shall not:

(1) Be compelled to testify in a legal or administrative proceeding regarding an Office of Ombudsman examination or to release information gathered during the course of an examination or investigation;

(2) Be held personally liable for the good faith performance of his or her responsibilities under this chapter, except that no immunity shall extend to criminal acts, or other acts that violate District or federal law; or

(3) Be subject to retaliatory action for the good faith performance of his or her responsibilities under this chapter.

(June 12, 2007, D.C. Law 17-9, § 606, 54 DCR 4102.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-9, see notes following § 38-351.