

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 38.
EDUCATIONAL INSTITUTIONS.

CHAPTER 4.
USE OF SCHOOL BUILDINGS.

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DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 4. USE OF SCHOOL BUILDINGS.

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CHAPTER 4. USE OF SCHOOL BUILDINGS.

§ 38-401. CONTROL OF SCHOOL BUILDINGS; DISPOSITION OF PROCEEDS.

(a) The control of the public schools in the District of Columbia by the Board of Education shall extend to include the negotiation and approval of use, license, and lease agreements, with or without monetary consideration, with respect to the use of public school buildings and parts thereof and the grounds appurtenant thereto, and land intended for such use, by or for any of the following:

- (1) Any agency or agencies of the District of Columbia government, the United States government, or any international organization;
- (2) Any person or organization providing an educational or recreational program involving students of the public schools, other children, youth, or adults;
- (3) Any person or organization providing a supplementary educational program;
- (4) Any person or organization conducting civic meetings for the free discussion of public questions;
- (5) Any person or organization operating a social center, including, but not limited to, the following:
 - (A) A preschool center, child development center, or day care center;
 - (B) A health clinic or a counseling service;
 - (C) A community service program;
 - (D) A community-based consumer cooperative; or
 - (E) A studio or workshop for instruction, display, performance or promotion of the arts, or for other art-related purposes;
- (6) A playground or center for recreational activity; or
- (7) Any other use which the Board of Education may deem to be compatible with the normal use of the particular property and in the best interest of the local community, other than industrial uses, and which does not require major structural renovations at cost to the District of Columbia government to implement a particular agreement.

(b) In the execution of subsection (a) of this section, preference shall be given to agencies of the District of Columbia government.

(c) All fees and proceeds derived from licenses or use agreements entered into pursuant to this section and §§ 38-401.01 and 38-401.02 shall be paid to the Treasury of the District of Columbia, under regulations issued by the Mayor, and accounted for in the General Fund as a separate revenue source allocable to provide authority for the Board of Education to expend for the custody, cleaning, heating, air-conditioning, lighting, maintenance, security, and improvement of public school buildings and grounds, and the management of these licenses and use agreements. Any unobligated balance remaining 90 days subsequent to the end of the fiscal year in which the revenues were received shall be transferred by the Board of Education to the debt service fund to be applied toward the repayment of capital outlay loans and interest outstanding on public school buildings and grounds acquired and held for school purposes, pursuant to § 1-105 over and above the amount appropriated by the Congress of the United States to the District of Columbia for such purposes.

(c-1) All proceeds received by the Board of Education for leasing school buildings shall be deposited into the unrestricted fund balance of the General Fund of the District of Columbia.

(d) The authority of the Board of Education pursuant to this section shall be in addition to, and not in derogation of, the authority granted to the Board of Education by § 38-153 and by §§ 10-212, 10-223, and 10-224, insofar as these provisions relate to the use of buildings and grounds under the control of the Board of Education.

(e) The Board of Education shall, in accordance with subchapter I of Chapter 5 of Title 2, issue rules for the consideration and review of applications for the use of public school buildings and grounds by lease or otherwise, pursuant to this section. Final approval of each lease, license, or use agreement entered into by the Board of Education pursuant to this section and §§ 38-401.01 and 38-401.02 shall be reserved to the

Board of Education which may delegate to the Superintendent any of its authority.

(Mar. 4, 1915, 38 Stat. 1190, ch. 165, § 1; Sept. 29, 1982, D.C. Law 4-158, §§ 2, 5, 29 DCR 3632; Sept. 11, 1990, D.C. Law 8-158, § 5, 37 DCR 4167; Sept. 14, 2011, D.C. Law 19-21, § 9062, 58 DCR 6226.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-201.

1973 Ed., § 31-801.

Effect of Amendments

D.C. Law 19-21, in subsec. (c-1), substituted "unrestricted fund balance of the General Fund of the District of Columbia" for "Board of Education Real Property Improvement and Maintenance Fund established by the Board of Education Real Property Disposal Act of 1990".

Temporary Addition of Section

Section 4 of D.C. Law 11-215 amended subsection (c-1) to read as follows:

"(c-1) All proceeds received by the Board of Education for leasing school properties, including payments in lieu of taxes, shall be deposited into the Board of Education Real Property Improvement and Maintenance Fund established by § 9-402(b)(1) [§ 10-802, 2001 Ed.], and shall be available for expenditure, for the purposes set forth in that chapter until actually expended."

Section 7(b) of D.C. Law 11-215 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary amendment of section, see § 4 of the Oyster Elementary School Modernization and Development Project Emergency Act of 1996 (D.C. Act 11-385, August 28, 1996, 43 DCR 4799), and § 4 of the Oyster Elementary School Modernization and Development Project Congressional Adjournment Emergency Act of 1996 (D.C. Act 11-437, December 4, 1996, 44 DCR 104).

Legislative History of Laws

Law 4-158, "District of Columbia Board of Education Leasing Authority Act of 1982," was introduced in Council and assigned Bill No. 4-223, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on June 22, 1982, and July 6, 1982, respectively. Signed by the Mayor on July 29, 1982, it was assigned Act No. 4-232 and transmitted to both Houses of Congress for its review.

Law 8-158 was introduced in Council and assigned Bill No. 8-383, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on May 15, 1990, and May 29, 1990, respectively. Signed by the Mayor on June 18, 1990, it was assigned Act No. 8-220 and transmitted to both Houses of Congress for its review.

Law 11-215, the "Oyster Elementary School Modernization and Development Project Temporary Act of 1996," was introduced in Council and assigned Bill No. 11- 828. The Bill was adopted on first and second readings on July 17, 1996, and October 1, 1996, respectively. Signed by the Mayor on October 15, 1996, it was assigned Act No. 11-413 and transmitted to both Houses of Congress for its review. D.C. Law 11-215 became effective on April 9, 1997.

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

§ 38-401.01. ANNUAL REPORT.

The Board of Education shall submit to the Mayor of the District of Columbia and the Council of the District of Columbia, not later than January 15th of each year, a report covering all activities with respect to public school buildings and grounds that were undertaken during the preceding fiscal year pursuant to the authority granted by this section and §§ 38-401 and 38- 401.02. Such report shall include, but shall not be limited to:

- (1) All lease, use, or other agreements exceeding a period of 30 days, indicating the name of the tenant and the terms and conditions of the agreement;
- (2) An itemization of all collections and expenditures associated with each agreement;
- (3) A statement of the actual amount of funds transferred by the Board of Education towards the repayment of capital outlay loans and interest outstanding;
- (4) A statement of the actual condition of major structural components of each property under an agreement, and any repairs or improvements made thereto;
- (5) A list, including each parcel, of real property transferred by the Board of Education to the

Department of General Services and the date of each transfer; and

(6) A statement by the Board of Education of benefits and enhancements to the educational environment and the community resulting from the authority granted by this section and §§ 38-401 and 38-401.02, and recommendations, if any, for the improvement thereof.

(Sept. 29, 1982, D.C. Law 4-158, § 3, 29 DCR 3632.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-201.1.

Legislative History of Laws

For legislative history of D.C. Law 4-158, see Historical and Statutory Notes following § 38-401.

Transfer of Functions

The functions of the Department of General Services were transferred, in part, to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984, and transferred, in part, to the Department of Administrative Services by Reorganization Plan No. 5 of 1983, effective March 1, 1984.

§ 38-401.02. PUBLIC LIABILITY INSURANCE.

The Board of Education may by regulation require persons and organizations, other than District of Columbia and federal agencies, holding use agreements or lease agreements with the Board of Education to carry public liability insurance including protection of the interests of the District of Columbia and its officers, employees, and agents, and the Board of Education and its members, officers, employees, and agents, with respect to claims for personal injuries and other damages allegedly occurring at properties where these leases or use agreements exist.

(Sept. 29, 1982, D.C. Law 4-158, § 4, 29 DCR 3632.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-201.2.

Legislative History of Laws

For legislative history of D.C. Law 4-158, see Historical and Statutory Notes following § 38-401.

§ 38-402. CONTROL OF SCHOOL CONSTRUCTION AND REPAIRS.

The Director of the Department of Consumer and Regulatory Affairs ("Director") shall have the same authority, control over, and supervision of the construction or repair of a public school building as the Director has of the construction or repair of any privately owned building.

(Mar. 3, 1879, 20 Stat. 408, ch. 182; June 22, 1990, D.C. Law 8-143, § 4, 37 DCR 2972.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-202.

1973 Ed., § 31-803.

Legislative History of Laws

Law 8-131 was introduced in Council and assigned Bill No. 8-529. The Bill was adopted on first and second readings on February 27, 1990, and March 13, 1990, respectively. Signed by the Mayor on March 27, 1990, it was assigned Act No. 8-183 and transmitted to both Houses of Congress for its review.

Law 8-143 was introduced in Council and assigned Bill No. 8-504, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on March 27, 1990, and April 10, 1990, respectively. Signed by the Mayor on April 26, 1990, it was assigned Act No. 8-199 and transmitted to both Houses of Congress for its review.

§ 38-403. USE OF FRANKLIN SCHOOL FOR OFFICE PURPOSES.

The Board of Education is authorized to use all necessary floor and room space in the Franklin School

Building for office purposes.

(Mar. 3, 1917, 39 Stat. 1026, ch. 160; June 5, 1920, 41 Stat. 855, ch. 234; Feb. 26, 1925, 43 Stat. 993, ch. 342, § 5.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-203.

1973 Ed., § 31-804.

§ 38-404. RESTRICTION ON LOT 14 IN SQUARE 263.

The lot of land marked upon the plan of the City of Washington as lot No. 14, in square No. 263, which was conveyed to said City by the Commissioner of Public Buildings, under authority of an Act of Congress dated June 5, 1860, for the use of the public schools in said City, shall not be sold, assigned or conveyed or diverted, for any other purpose except as provided in § 38-405.

(R.S., D.C., § 317.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-204.

1973 Ed., § 31-805.

§ 38-405. SALE OF PART OF LOT 14 IN SQUARE 263.

The proceeds of that portion of lot No. 14, in square No. 263, which was authorized to be sold by an Act of Congress dated June 4, 1872, shall be invested by the authorities of the District in another lot or part of a lot in the City of Washington, and in improvements thereon; and the property so purchased shall be used for the purpose of the public schools, and for no other purpose.

(R.S., D.C., § 318.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-205.

1973 Ed., § 31-806.

§ 38-406. CERTAIN LAND GRANTED FOR COLORED SCHOOLS TO REVERT TO UNITED STATES.[REPEALED]

(Dec. 10, 1987, D.C. Law 7-45, § 2, 34 DCR 6845; July 25, 1990, D.C. Law 8-149, § 2, 37 DCR 3717; Aug. 17, 1991, D.C. Law 9-29, § 2, 38 DCR 4213; Mar. 20, 1998, D.C. Law 12-60, § 401, 44 DCR 7378; Apr. 13, 1999, D.C. Law 12-224, § 2, 46 DCR 483.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-206.

1973 Ed., § 31-807.

Temporary Repeal of Section

Section 2 of D.C. Law 13-220 repealed this section.

Section 4(b) of D.C. Law 13-220 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) repeal of section, see § 2 of the Lovejoy School new Housing and Economic Development Emergency Act of 2000 (D.C. Act 13-461, November 7, 2000, 47 DCR 9440).

Legislative History of Laws

Law 13-220, the "Lovejoy School New Housing and Economic Development Temporary Act of 2000", was

introduced in Council and assigned Bill No. 13-841. The Bill was adopted on first and second readings on October 3, 2000, and November 8, 2000, respectively. Signed by the Mayor on November 29, 2000, it was assigned Act No. 13-478 and transmitted to both Houses of Congress for its review. D.C. Law 13-220 became effective on April 3, 2001.

§ 38-407. PROPERTY EXCLUSIVELY FOR SCHOOL PURPOSES.

That parcel of land marked and designated upon the map of the City of Washington as part of lot No. 11, in square No. 141, beginning at the northwest corner of said lot, and running thence due south on the west line of said square, 50 feet; thence due east, 30 feet; thence due north, 50 feet; thence due west on the north line of said square, to the point of beginning, and also that piece of land marked and designated upon said map as a public reservation, located between 8th and 9th Streets and K Street and Virginia Avenue Southeast, known as the Anacostia engine house, together with the buildings and improvements thereon, are severally set apart and appropriated for the use of the public schools in the City of Washington, so long as they shall be occupied for that purpose, and no longer.

(R.S., D.C., § 320.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-207.

1973 Ed., § 31-808.

§ 38-408. UTILIZATION OF BUSINESS HIGH SCHOOL BUILDING.

Upon completion of the Roosevelt (Business) High School the building now occupied by the Business High School shall be utilized for senior high and elementary school purposes.

(Feb. 23, 1931, 46 Stat. 1395, ch. 282, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-208.

1973 Ed., § 31-809.

§ 38-409. ENTRANCES TO SCHOOL BUILDINGS.

On and after June 28, 1944, appropriations for the District of Columbia shall not be used for the maintenance of school in any building unless all outside doors thereto used as exits or entrances shall open outward and be kept unlocked every school day from one-half hour before until one-half hour after school hours.

(June 28, 1944, 58 Stat. 515, ch. 300, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-209.

1973 Ed., § 31-812.

Temporary Addition of Section

Temporary Oyster Elementary School modernization and development project: Section 2 of D.C Law 11-215 provided:

"Sec. 2. Definitions.

For purposes of this chapter, the terms:

- (1) "Board" means the Board of Education of the District of Columbia.
- (2) "Council" means the Council of the District of Columbia.
- (3) "District" means the District of Columbia Government.
- (4) "Mayor" means the Mayor of the District of Columbia.
- (5) "Payments in lieu of taxes" means payments into the Board of Education Real Property Improvement and

Maintenance Fund, established by § 9-402(b)(1)), of the equivalent of Class II property taxes at 100% of the assessed valuation of the privately owned building or structure occupying any portion of the Oyster School site.

(6) "Privately owned structure" means any building or structure not owned by the District of Columbia government or any of its agencies that is erected on the Oyster School site under a long-term lease or other agreement between a developer and the District of Columbia Public Schools."

Section 3 of D.C. Law 11-215 provided:

"Sec. 3. Authorization of private development of the Oyster Elementary School site.

(a) The Board of Education, pursuant to § 31-201 [§ 38-401, 2001 Ed.], is authorized to enter into a long-term land lease for private development of part of the James F. Oyster Elementary School site. Pursuant to § 31-201(c) [§ 38-401, 2001 Ed.], all proceeds derived from the private development, including payments in lieu of taxes ("PILOTS"), shall be deposited into the Board of Education Real Property Improvement and Maintenance Fund. Any proceeds which remain after paying the costs of modernizing Oyster Elementary School shall be used for repair, modernization and improvements of other school system facilities.

(b) Privately owned or used structure, erected or constructed on the Oyster School site, shall annually pay in lieu of taxes an amount that is equivalent to Class II property taxes at 100% of the assessed valuation of the privately owned or used structure."

Section 5 of D.C. Law 11-215 provided that "the Mayor, or in a control year, the Chief Financial Officer on behalf of the Mayor, shall issue rules to implement the provisions of this act. The rules shall be submitted to the Council of the District of Columbia within 60 days of enactment of this act."

Section 7(b) of D.C. Law 11-215 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary authorization, on an emergency basis, to privately develop a portion of the James F. Oyster School site, and to fund improvements to the Oyster School and other public school facilities through payments in lieu of taxes on the privately developed portion of the Oyster School site and for the issuance of rules to implement these provisions, see §§ 2, 3, and 5 of the Oyster Elementary School Modernization and Development Project Emergency Act of 1996 (D.C. Act 11-385, August 28, 1996, 43 DCR 4799) and §§ 2, 3, and 5 of the Oyster Elementary School Modernization and Development Project Congressional Adjournment Emergency Act of 1996 (D.C. Act 11-437, December 4, 1996, 44 DCR 104).

For temporary (90 day) addition of sections, see §§ 2, 3 of School-Based Enrichment Programs Emergency Act of 2012 (D.C. Act 19-529, November 2, 2012, 59 DCR 13330).

Legislative History of Laws

Law 11-215, the "Oyster Elementary School Modernization and Development Project Temporary Act of 1996," was introduced in Council and assigned Bill No. 11- 828. The Bill was adopted on first and second readings on July 17, 1996, and October 1, 1996, respectively. Signed by the Mayor on October 15, 1996, it was assigned Act No. 11-413 and transmitted to both Houses of Congress for its review. D.C. Law 11-215 became effective on April 9, 1997.