

Council in conjunction with, and before the adoption of, the Skyland Town Center Omnibus Act of 2014, passed on 2nd reading on April 8, 2014 (Enrolled version of Bill 20-382). Any substantive change shall be submitted to the Council consistent with section 1(b-1)(6) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(b-1)(6)).

Sec. 402. Approval of disposition.

Note,
§ 10-801

Notwithstanding An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801 *et seq.*), the Council approves the disposition of the Property to the Developer pursuant to the terms set forth in section 401.

TITLE V -- FISCAL IMPACT; EFFECTIVE DATE

Sec. 501. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 502. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

AN ACT

Bill 20-313
Act 20-319
effective
April 28, 2014

To amend the District of Columbia School Reform Act of 1995 regarding the process for the disposition and use of former District of Columbia public school buildings; and to amend the School Based Budgeting and Accountability Act of 1998 to require an annual supplement to the Master Facilities Plan and the designation of school buildings as surplus.

Codification
District of
Columbia
Official Code
2001 Edition

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Comprehensive Planning and Utilization of School Facilities Amendment Act of 2014”.

Comprehensive
Planning and
Utilization of
School
Facilities
Amendment
Act of 2014

Sec. 2. The District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1800 *et seq.*), is amended as follows:

(a) Section 2002 (D.C. Official Code § 38-1800.02) is amended as follows:

Amend
§ 38-1800.02

(1) A new paragraph (6A) is added to read as follows:

“(6A) *Charter school facility incubator.* – The term “charter school facility incubator” means a nonprofit organization that uses its facility or property to house a charter school for 5 years or until the charter school can acquire its own property, whichever occurs first.”.

(2) A new paragraph (8A) is added to read as follows:

“(8A) *DCPS.* – The term “DCPS” means the District of Columbia Public Schools, established by section 102 of the District of Columbia Public Schools Agency Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D. C. Official Code § 38-171).”.

(3) New paragraphs (17A) and (17B) are added to read as follows:

“(17A) *Eligible entity.* – The term “eligible entity” means:

“(A) A public charter school;

“(B) An eligible applicant whose petition to establish a public charter school has been conditionally approved pursuant to section 2203(d)(2);

“(C) A Board of Trustees; or

“(D) A charter school facility incubator.

“(17B) *Excess.* – The term “excess” means no longer needed for operational purposes for DCPS or another District agency.”.

(4) A new paragraph (30A) is added to read as follows:

“(30A) *School facility.* – The term “school facility” means a structure or real property that:

“(A) Is under the control of DCPS; or

“(B) Was previously under the control of DCPS or the Board of Education and is now under the control of the Mayor or another agency of the District government.”.

(b) Section 2209(b)(1) (D.C. Official Code § 38-1802.09(b)(1)) is amended as follows:

Amend
§ 38-1802.09

(1) Subparagraph (A) is amended to read as follows:

“(A) *In general.* ---

“(i) Notwithstanding any other provision of law, regulation, or order, the Mayor shall give the right of first offer to purchase, lease, or otherwise use an excess school facility to an eligible entity.

“(ii) In selecting an eligible entity for the purchase, lease, or use of an excess school facility, the Mayor shall give:

“(I) First preference to an existing tenant that is a public charter school that has occupied all, or substantially all, of the facility or property;

“(II) Second preference to a public charter school that the Public Charter School Board has determined to be high-performing and financially sound; and

“(III) Third preference to any other eligible entity.”.

(2) Subparagraph (B) is repealed.

(3) Subparagraph (C) is amended to read as follows:

“(C) *Terms of purchase or lease.* – The terms of purchase or lease of an excess school facility shall:

“(i) Be negotiated by the Mayor in accordance with terms and conditions set forth in regulations;

“(ii) Include rent or an acquisition price, whichever is applicable, that is equal to the appraised value of the excess school facility based on use of the property for school purposes; provided, that the Mayor may provide credits against the rental price, including a credit based on capital improvements made to the facility by the lessee, based upon a schedule of credits as set forth in regulations; and

“(iii) Include a lease period, if the excess school facility is to be leased, of not less than 25 years, and renewable for additional 25-year periods; provided, that a lease involving a co-location agreement may include a lease or renewal period of less than 25 years.”.

(4) New subparagraphs (D), (E), and (F) are added to read as follows:

“(D) *Disposition of an excess school facility.* ---

“(i) Within 6 months of a school facility being designated as excess pursuant to section 1104(e) of the School Based Budgeting and Accountability Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 38-2803(e)), the Mayor shall make the facility available pursuant to this paragraph.

“(ii) The Mayor may, at any time, determine any other school facility to be excess and make it available pursuant to this paragraph.

“(iii) The Mayor may offer an excess school facility to an entity other than an eligible entity only if the following conditions have been met:

“(I) The Mayor provided eligible entities with a right of first offer for the excess school facility pursuant to subparagraph (A) of this paragraph and no eligible entity was selected; and

“(II) The Mayor provided eligible entities an opportunity to submit unsolicited proposals for the purchase or lease of the excess school facility.

“(iv) The submission period for unsolicited proposals shall begin 30 days after the submission deadline in the right of first offer made pursuant to subparagraph (A) of this paragraph for the particular excess school facility and shall remain open for 12 months or until an eligible entity is selected, whichever occurs first. For purposes of reviewing the unsolicited proposals, the Mayor shall use the same evaluation criteria as set forth in the original right of first offer made pursuant to subparagraph (A) of this paragraph for the particular excess school facility.

“(v) Nothing in this section shall prohibit the Mayor from utilizing an excess school facility for another government use while the property is being offered to eligible entities as required by this act; provided, that the use does not interfere with the right of first offer as set forth in this section.

“(E) *Reclamation of an excess school facility.* ---

“(i) The Chancellor may, at any time, make a request to the Mayor based on the need for additional space as a result of projected enrollment increases to reclaim an excess school facility that has not yet been transferred pursuant to this subsection.

“(ii) The Mayor shall approve the Chancellor’s request only if the Chancellor has explained with particularity to the Mayor’s satisfaction the need for DCPS to reclaim the excess school facility. The request and the approval, or disapproval, shall be in writing and made publicly available on the Mayor’s website.

“(F) *Applicability of existing rules and regulations.* -- The rules and regulations in place on or before the effective date of the Comprehensive Planning and Utilization of School Facilities Amendment Act of 2014, passed on 2nd reading on April 8, 2014 (Enrolled version of Bill 20-313)(“2014 amendatory act”), shall continue to apply to an eligible applicant that has applied to purchase, lease, transfer, or use a school facility before the effective date of the 2014 amendatory act.”.

Sec. 3. The School Based Budgeting and Accountability Act of 1998, effective March, 26 1999 (D.C. Law 12-175; D.C. Official Code § 38-2801 *et seq.*), is amended as follows:

(a) A new section 1102a is added to read as follows:

“Sec. 1102a. Definitions.

“For the purposes of this act, the term:

“(1) “DCPS” means the District of Columbia Public Schools, established by section 102 of the District of Columbia Public Schools Agency Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D. C. Official Code § 38-171).

“(2) “Excess” means no longer needed for operational purposes for DCPS or another District agency.

“(3) “School facility” means a structure or real property that:

“(A) Is under the control of DCPS; or

“(B) Was previously under the control of DCPS or the Board of Education and is now under the control of the Mayor or another agency of the District government.

“(4) “Significantly underused” means a DCPS facility that is used primarily for administrative purposes and uses less than 25% of the property’s available square footage on a daily basis.

“(5) “Swing space” means a school facility reserved for future classroom instruction or DCPS administrative use during planned renovation, modernization, or construction of another school facility.

“(6) “Utilization” means the ratio of current enrollment to the total number of students that can be served in a space based on programmatic and scheduling requirements.”.

(b) Section 1104 (D.C. Official Code 38-2803) is amended as follows:

**Amend
§ 38-2803**

(1) Subsection (b) is amended as follows:

(A) Paragraph (1A) is repealed.

(B) Paragraph (2) is amended as follows:

(i) Subparagraph (B) is amended by striking the phrase “current level of utilization” and inserting the phrase “current level of utilization, projected 5-year facility needs for each local education agency” in its place.

(ii) Subparagraph (J) is amended by striking the word “and” at the end of the sentence.

(iii) Subparagraph (K) is amended by striking the semicolon and inserting the phrase “; and” in its place.

(iv) A new subparagraph (L) is added to read as follows:

“(L) A safety and security assessment of educational facilities based upon a comprehensive examination of the facility’s physical environment for crime vulnerabilities, including an analysis of:

“(i) Surveillance capabilities, both active and passive;

“(ii) Access control, including the ability to securely manage who enters and exits the facility; and

“(iii) Facility maintenance.”.

(C) A new paragraph (2A) is added to read as follows:

“(2A) Beginning on December 15, 2014, and every year thereafter, the OPEFP shall prepare and make publicly available an annual supplement to the Master Facilities Plan that includes:

“(A) Results of the Department of General Services annual survey as set forth in paragraph (3)(E) of this subsection;

“(B) Updated information on:

“(i) Enrollment projections at the local education agency level and the individual school level for both DCPS and public charter schools; and

“(ii) Facility needs for each local education agency;

“(C) A plan, including co-location options, to increase utilization at any school facility in use by DCPS with a utilization rate of less than 50%;

“(D) A plan to ensure that each school facility in use by DCPS that is at 95% utilization or above does not suffer from overcrowding but can sufficiently meet the facility and academic needs of its students; and

“(E) Each school facility’s designation as one or more of the following:

“(i) In use primarily for classroom instruction;

“(ii) In use primarily for swing space;

“(iii) In use primarily for DCPS administrative purposes, including storage;

“(iv) In use by an entity other than DCPS;

“(v) Vacant; or

“(vi) Significantly underused.”.

(D) Paragraph (3) is amended as follows:

(i) The lead-in language is amended by striking the phrase “Master Facilities Plan” and inserting the phrase “Master Facilities Plan and the annual supplement” in its place.

(ii) Subparagraph (A) is amended to read as follows:

“(A) The District of Columbia Public Schools, which shall transmit to the OPEFP:

“(i) Educational plans and policies it considers relevant to the facilities planning process;

“(ii) Educational specifications for each facility subject to modernization;

“(iii) Its 5-year enrollment projections; and

“(iv) Its 5-year projections of facility needs;”.

(iii) Subparagraph (B)(i) is amended to read as follows:

“(i) Collect and transmit to the OPEFP educational plans and policies of individual public charter schools, 5-year enrollment growth plans, data on existing public charter school facilities and facilities-related needs, and other information considered relevant to the planning process; and”.

(iv) Subparagraph (C) is amended by striking the word “and” at the end.

(v) Subparagraph (D) is amended by striking the period and inserting the phrase “; and” in its place.

(vi) A new subparagraph (E) is added to read as follows:

“(E) The Department of General Services, which shall conduct an annual survey to update information on the enrollment, utilization, and condition of each DCPS and charter school facility, including a review of whether or not the facility has a working carbon monoxide detector, and transmit the results to OPEFP.”.

(2) A new subsection (e) is added to read as follows: