

AN ACT

Codification
District of
Columbia
Official Code

2001 Edition

2007 Winter
Supp.

West Group
Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Nonprofit Corporation Act to authorize the involuntary dissolution of a nonprofit corporation operating a public charter school when the charter for the school has been revoked, not renewed, or voluntarily relinquished, and to provide that a plan of distribution for such a nonprofit corporation be developed and executed by the chartering authority in accordance with procedures established by the Public Charter Schools Act of 1996 and the District of Columbia School Reform Act of 1995; to amend the Public Charter Schools Act of 1996 and the District of Columbia School Reform Act of 1995 to require that a nonprofit corporation operating a public charter school dissolve if the charter for the school is revoked, not renewed, or voluntarily relinquished, and to establish procedures for the dissolution, to clarify that the powers conferred upon a public charter school can only be used for the purposes of operating the public charter school, and to clarify that the only purpose for the nonprofit corporation is operating the public charter school; to amend An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia to authorize the Board of Library Trustees to accept donations, gifts, grants, and other assets for the benefit of the District of Columbia Public Library; to amend the Acceptance of use of gifts by District Entities Act of 2002 to authorize the Board of Library Trustees to accept and use gifts to the District of Columbia Public Library without prior approval by the Mayor.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Charter School Assets and Facilities Preservation Amendment Act of 2006".

Sec. 2. The District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Official Code § 29-301.01 *et seq.*), is amended as follows:

(a) Section 49 (D.C. Official Code § 29-301.49) is amended as follows:

Amend
§ 29-301.49

(1) The lead-in text is amended by striking the word "A" and inserting the phrase "Except as provided in subsection (b) of this section, a" in its place.

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

ENROLLED ORIGINAL

“(b) A plan of distribution for a corporation organized under this act for the purpose of operating a public charter school pursuant to either the Public Charter Schools Act of 1996, effective May 29, 1996 (D.C. Law 11-135; D.C. Official Code § 38-1701.01 *et seq.*) (“Public Charter Schools Act”), or the District of Columbia School Reform Act of 1995, approved April 12, 1996 (110 Stat. 1321-107; D.C. Official Code § 38-1800.01 *et seq.*) (“School Reform Act”), shall be developed and executed in accordance with sections 210a and 2213a of those acts, respectively.”

(b) Section 53 (D.C. Official Code § 29-301.53) is amended by adding a new subsection (c) to read as follows: **Amend § 29-301.53**

“(c) A corporation organized under this act for the purpose of operating a public charter school pursuant to either the Public Charter Schools Act or the School Reform Act shall be dissolved involuntarily by a decree of the court in an action instituted by the Mayor or his designee in the name of the District of Columbia if the charter for the public charter school has been revoked, has not been renewed, or has been voluntarily relinquished and the corporation has failed to voluntarily dissolve as required by sections 210a and 2213a of those acts, respectively.”

Sec. 3. The Public Charter Schools Act of 1996, effective May 29, 1996 (D.C. Law 11-135; D.C. Official Code § 38-1701.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 38-1701.01) is amended by adding a new paragraph (10A) to read as follows: **Amend § 38-1701.01**

“(10A) “Nonprofit Corporation Act” means the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Official Code § 29-301.01 *et seq.*).”

(b) Section 202 (D.C. Official Code § 38-1702.02) is amended as follows:

(1) Subsection (a)(11) is amended by striking the phrase “school;” and inserting the phrase “school, which shall include provisions governing the distribution of the corporation’s assets upon dissolution that comply with the requirements of section 210a;” in its place. **Amend § 38-1702.02**

(2) Subsection (d) is amended as follows:

(A) Paragraph (1) is amended by striking the word “and” at the end.
(B) Paragraph (2) is amended by striking the period at the end and inserting the phrase “; and” in its place.

(C) A new paragraph (3) is added to read as follows:

“(3) The articles of incorporation and bylaws of the nonprofit corporation operating the charter school, which shall contain provisions satisfying the requirements of section 210a.”

(c) Section 205 (D.C. Official Code § 38-1702.05) is amended as follows: **Amend § 38-1702.05**

(1) A new subsection (b-1) is added to read as follows:

“(b-1) 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.”.

(2) Subsection (p) is amended to read as follows:

“(p)(1) A charter school shall be organized under the Nonprofit Corporation Act and its sole purpose shall be the operation of the public charter school.

“(2) The charter school shall not be deemed, considered, or construed to be an entity of the District of Columbia government.”.

(d) A new section 210a is added to read as follows:

“Sec. 210a. Mandatory dissolution.

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

“(1) Has been revoked by the Board;

“(2) Has not been renewed by the Board; 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 section 48 of the Nonprofit Corporation Act 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 section 48(3)-of the Nonprofit Corporation Act 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 the effective date of the Public Charter School Assets and Facilities Preservation Amendment Act of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-624), 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 section 201.

“(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 section 48(3) of the Nonprofit Corporation Act.

“(2) The plan shall:

“(A) Provide that assets to be distributed pursuant to section 48(3) of the Nonprofit Corporation Act 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 after closure of the school, the Board of Trustees shall complete and submit to the chartering authority 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) Furnishings;

“(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 authorizing entity, 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 authorizing entity 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.”.

Sec. 4. The District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321-107; D.C. Official Code § 38-1800.01 *et seq.*), is amended as follows:

(a) Section 2002 (D.C. Official Code § 38-1800.02) is amended by adding a new paragraph (24A) to read as follows:

Amend
§ 38-1800.02

ENROLLED ORIGINAL

“(24A) NONPROFIT CORPORATION ACT. - The term “Nonprofit Corporation Act” means the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Official Code § 29-301.01 *et seq.*).

(b) Section 2202(8) (D.C. Official Code § 38-1802.02(8)) is amended by striking the phrase “school;” and inserting the phrase “school, which shall include provisions governing the distribution of the corporation’s assets upon dissolution that comply with the requirements of section 2213a;” in its place.

Amend
§ 38-1802.02

(c) Section 2204 (D.C. Official Code § 38-1802.04) is amended as follows:

Amend
§ 38-1802.04

(1) A new subsection (b-1) is added to read as follows:

“(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.”

(2) Subsection (c)(16) is amended by striking the phrase “the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-501 *et seq.*)” and inserting the phrase “the Nonprofit Corporation Act and its sole purpose shall be the operation of the public charter school” in its place.

(d) Section 2206(c) (D.C. Official Code § 38-1802.06(c)) is amended by striking the period at the end and inserting the phrase “, 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.” in its place.

Amend
§ 38-1802.06

(e) Section 2212 (D.C. Official Code § 38-1802.12) is amended by adding a new paragraph (3) to read as follows:

Amend
§ 38-1802.12

“(3) The articles of incorporation and bylaws of the nonprofit corporation operating the charter school, which shall contain provisions satisfying the requirements of section 2213a.”

(f) A new section 2213a is added to read as follows:

“Sec. 2213a. 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 section 48 of the Nonprofit Corporation Act 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 section 48(3) of the Nonprofit Corporation Act 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 the effective date of the Public Charter School Assets and Facilities Preservation Amendment Act of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-624), 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 section 2212.

“(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 section 48(3) of the Nonprofit Corporation Act.

“(2) The plan shall:

“(A) Provide that assets to be distributed pursuant to section 48(3) of the Nonprofit Corporation Act 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.”.

Sec. 5. An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896 (29 Stat. 244; D.C. Official Code § 39-101 *et seq.*), is amended as follows:

(a) Section 1 (D.C. Official Code § 39-101) is amended by striking the phrase “and the Mayor of the said District is authorized on behalf of said District to accept and take title to all gifts, bequests, and devises for the purpose of aiding in the maintenance or endowment of said library”.

Amend
§ 39-101

(b) A new section 7a is added to read as follows:

“Sec. 7a. Authority to accept donations and gifts.

“(a) The Board of Library Trustees may accept donations, gifts by devise or bequest, grants, and any other type of asset, except real property as defined in section 1a of An Act authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, effective March 15, 1990 (D.C. Law 8-96; D.C. Official Code § 10-801.01), from individuals, clubs, groups, corporations, partnerships, and other governmental entities. The Board shall approve any donation, gift, grant, or asset with a value of \$10,000 or more, but may delegate the acceptance of any donation, gift, grant, or asset with a value of less than \$10,000 to the librarian of the public library.

“(b) The Board shall manage the property or funds in accordance with the provisions or conditions of the donation, gift, grant, or other type of asset, including the investment of the principal of the property or funds.

“(c) All monetary donations permitted under subsection (a) of this section shall be made available to the District of Columbia Public Library through the private grant revenue source included in the District of Columbia Public Library’s annual operating budget.

ENROLLED ORIGINAL

“(d) The Board shall issue rules to implement this section. The rules shall govern the acceptance and use of donations and gifts, record-keeping requirements, audit procedures, accessibility of records for public inspection, and any other areas that the Board considers appropriate.”.

Sec. 6. Section 4602 of the Acceptance and use of gifts by District Entities Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 1-329.01), is amended by adding a new subsection (e) to read as follows:

**Amend
§ 1-329.01**

“(e) This section shall not apply to the Board of Library Trustees, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the District of Columbia Public Library without prior approval by the Mayor.”.

Sec. 7. 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. 8. 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.

Chairman
Council of the District of Columbia

Mayor
District of Columbia