

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To provide for an annual review of facilities utilization and needs for the District of Columbia Public Schools (“DCPS”) and to establish a process for the designation and disposition of surplus DCPS properties.

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 Act of 2013”.

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “DCPS property” shall refer to any building, facility, or real property subject to the jurisdiction of the Chancellor of the District of Columbia Public Schools (“DCPS”).

(2) “Significantly underutilized” means a DCPS property used primarily for DCPS administrative purposes that has occupied administrative offices in less than 25 percent of the property’s available square footage.

(3) “Surplus” means a property that is no longer needed for classroom instruction, swing space or for administrative purposes.

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

(5) “Vacant DCPS property” means a DCPS property that DCPS does not use for classroom instruction, swing space or DCPS administrative purposes.

### Sec. 3. Educational Facilities Plan

Beginning October 1, 2014, and every October 1 thereafter, the Chancellor shall submit to the Mayor and Council, and make publicly available, an Educational Facilities Plan setting forth DCPS facilities needs for the next five years. At a minimum, the plan shall:

(1) Identify each DCPS property and its current and intended use based on the following categories:

(A) In use primarily for classroom instruction;

(B) In use primarily for swing space;

(C) In use primarily for administrative purposes;

(D) In use by an entity other than DCPS under a valid lease or similar agreement;

or

(E) Vacant;

(2) Identify each DCPS property that is significantly underutilized;

(3) Provide the enrollment capacity, current enrollment, and five-year enrollment projections for DCPS as a whole and for each DCPS school;

(4) Describe the space DCPS projects it will need over the next 5 years for classroom instruction, swing space, and administrative purposes;

(5) Address issues of underutilization for each DCPS property with a utilization rate below 50 percent; and

(6) Provide the following for each vacant DCPS property:

1 (A) A recommendation as to whether or not the property should be designated as  
2 surplus; or

3 (B) A request to maintain the property within DCPS based on one or more of the  
4 following:

5 (I) The property is needed for classroom instruction based on five-  
6 year enrollment projections;

7 (II) The property is needed for swing space; or

8 (III) The property is needed for administrative purposes.

9 Sec. 4. Department of General Services review; designation of property as surplus.

10 (a) Within 90 days of submission of the Educational Facilities Plan, the Department of  
11 General Services ("Department") shall:

12 (1)(A) Review the Chancellor's request to maintain a vacant property within  
13 DCPS and approve such request only if the Department finds that the Chancellor has explained  
14 with particularity and to the Department's satisfaction the need for the property to be maintained  
15 based on one or more of the following:

16 (I) The property is needed for classroom instruction based on five-  
17 year enrollment projections;

18 (II) The property is needed for swing space; or

19 (III) The property is needed for administrative purposes.

20 (B) Any vacant property maintained by DCPS pursuant to this paragraph  
21 shall be designated as "intended for DCPS use" and shall retain such designation for 3 years.

22 The Department may extend the designation for one year after the initial 3-year period if the

Chancellor can justify the continuing need based on one or more of the justifications enumerated in section 3(5)(B).

(2) Designate as surplus:

(A) Any DCPS property that the Chancellor has recommended to be designated as surplus;

(B) Any vacant DCPS property that the Chancellor had requested to maintain as a DCPS property but that the Department did not approve based on a determination that the Chancellor failed to meet the justifications set forth in subsection (a)(1)(A);

(C) Any DCPS property that has been significantly underutilized for 2 consecutive years.

(b) The Department shall maintain a list of all surplus school properties and shall make the list publicly available on its website. The Department shall annually update the list within 75 days of the Chancellor's submission of the Educational Facilities Plan.

(c) As of the effective date of this act, the following DCPS properties, unless already disposed of through sale, lease or other authorized method, shall be declared as surplus and shall be subject to disposition pursuant to this act:

(1) Ferebee-Hope Elementary School, 3999 8th Street SE;

(2) Gibbs Elementary School, 500 19th Street NE;

(3) Hamilton Center, 1401 Brentwood Parkway NE;

(4) Kenilworth Elementary School, 1300 44th Street NE;

(5) Langston Elementary School, 33 P Street NW;

(6) Mamie D. Lee School, 100 Gallatin Street NE;

(7) Marshall Elementary School, 3100 Fort Lincoln Drive NE;

1 (8) Ron Brown Middle School, 4800 Meade Street NE

2 (9) Shaed Education Campus, 301 Douglas Street NE;

3 (10) Wilkinson Elementary School, 2330 Pomeroy Road SE;

4 (11) Winston Education Campus, 3100 Erie Street SE; and

5 (12) Young Elementary School, 820 26th Street NE.

6 Sec. 5. Disposal of surplus school properties; right of first offer.

7 (a) The Mayor shall dispose of surplus school properties through sale, long-term lease, or  
8 other authorized method and in accordance with the regulations promulgated under this act. Such  
9 regulations shall set forth a transparent process for evaluating offers for surplus school  
10 properties.

11 (b) Notwithstanding any other provision of law, regulation, or order relating to the  
12 disposition of a facility or property described in this act, the regulations shall provide a right of  
13 first offer with respect to the purchase, lease, transfer, or use of a surplus school property to the  
14 following entities, in order of priority:

15 (1) A public charter school that has occupied all, or substantially all, of the facility  
16 or property and is in good standing on its existing lease agreement;

17 (2) An organization providing educational or youth services under contract with  
18 the District government that has been a tenant of the facility or property and has occupied all, or  
19 substantially all, of the facility or property since on or before the effective date of this act, and is  
20 in good standing on its existing lease agreement;

21 (3) A public charter school that the Public Charter School Board determines is  
22 high-performing and financially sound and is not described in subparagraph (1); or

1 (4) An eligible applicant whose petition to establish a public charter school has  
2 been conditionally approved under Section 38-1802.03(d)(2) of the District of Columbia Official  
3 Code.

4 (c) A surplus school property shall not be offered to any entity other than those identified  
5 in paragraph (b) of this section until 36 months after the property has been made available to the  
6 entities identified in paragraph (b).

7 (d) At any time, the Chancellor may request the transfer of a surplus property that has not  
8 yet been disposed of back to DCPS due to projected enrollment increases. The Department may  
9 approve the Chancellor's request for the transfer of a surplus school property only if it finds that  
10 the Chancellor has explained with particularity and to the Department's satisfaction the need to  
11 transfer jurisdiction of the school property to DCPS based on projected enrollment increases.

12 Sec. 6. Show cause hearing.

13 (a) The Public Charter School Board ("PCSB") shall receive at any time written petitions  
14 from a charter school alleging that the Chancellor or the Department is not in compliance with  
15 the requirements of this act or implementing regulations with regard to specific properties.

16 (b) Within 30 days of receiving a petition pursuant to subsection (a), the PCSB shall  
17 investigate the allegations contained within the petition to determine whether the Chancellor or  
18 Department is in compliance with the requirements of this act and the implementing regulations.

19 (c) If the PCSB finds that the petition supports a reasonable belief that the Chancellor or  
20 the Department is not in compliance with this act or implementing regulations with regard to a  
21 specific property, the PCSB shall within 90 days of receiving the petition apply to the Superior  
22 Court for an order requiring the Chancellor or Department to show good cause why the Court  
23 should not require the Department to dispose of the property. For purposes of this section, the

1 Chancellor or Department shows good cause to prevent the disposal of a property by presenting a  
2 particularized need to retain a property that is related to classroom instruction, swing space or a  
3 DCPS administrative purpose.

4 (c) The Superior Court may, upon good cause shown, permit the Chancellor or the  
5 Department to maintain jurisdiction of a property. If the Chancellor or Department fails to show  
6 good cause, the Superior Court may direct the Department to dispose of a property pursuant to  
7 this act and its implementing regulations or direct the Chancellor or the Department to take, or  
8 refrain from taking, any other action.

9 (d) The Superior Court may require the Chancellor or Department to pay the PCSB  
10 reasonable attorney fees if the PCSB is the prevailing party.

#### 11 Sec. 7. Rulemaking.

12 The Department of General Services shall promulgate regulations pursuant to the District  
13 of Columbia Administrative Procedure Act, D.C. Code § 2-501 *et seq.*, as required in this act and  
14 as necessary for the implementation of this act.

#### 15 Sec. 8. Fiscal impact statement.

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

#### 19 Sec. 9. Effective date.

20 This act shall take effect following approval by the Mayor (or in the event of veto by the  
21 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as  
22 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

1 24, 1973 (87 Stat. 813: D.C. Official Code § 1-206.02(c)(1)) and publication in the District of  
2 Columbia Register.

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