

AN ACT

D.C. ACT 21-465

IN THE COUNCIL FOR THE DISTRICT OF COLUMBIA

JULY 21, 2016

To amend the District of Columbia School Reform Act of 1995 to define conflicting interest transactions for public charter schools and establish governance and reporting obligations with respect to conflicting interest transactions, to require contracts between public charter schools and school management organizations to contain a provision whereby the school management organization agrees to provide to the public charter school for production to the eligible chartering authority books, records, papers, or documents pertaining to the services the school management organization provided or has agreed to provide to the public charter school, and to establish a public charter school's failure to comply with its conflict of interest obligations or to conform its contract with a school management organization to the provisions of this act as fiscal mismanagement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Charter School Fiscal Transparency Amendment Act of 2016".

Sec. 2. The District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; 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 (30C) to read as follows:

"(30C) *School management organization.* — The term "school management organization" means an entity that a public charter school identifies in its charter petition or petition for charter revision with which the public charter school contracts to provide management or oversight services regarding the school's expenditures, administration, personnel, or instructional methods. The term "school management organization" does not include an entity with which a public charter school contracts solely to provide administrative support services, such as:

"(A) Payroll processing or information technology services;

"(B) Academic support services; or

"(C) Temporary management services recommended by the eligible chartering authority to improve the performance of a public charter school."

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

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

“(1A) *Conflicting interest transactions for public charter schools.* —

“(A) *In general.* — As of the effective date of the Public Charter School Fiscal Transparency Amendment Act of 2016, passed on 2nd reading on June 28, 2016 (Enrolled version of Bill 21-115), and notwithstanding any other provision of law, a contract or transaction between a public charter school and any of the following shall constitute a conflict of interest:

“(i) An individual who is a founder of the public charter school, or who is a current or former trustee, director, member, member of a designated body, officer, or key leader of the public charter school;

“(ii) A family member of any of the individuals identified in sub-paragraph (i) of this subparagraph;

“(iii) An entity identified as submitting a petition to establish the public charter school pursuant to section 2202(13);

“(iv) An entity in which an individual identified in sub-paragraph (i) of this subparagraph serves as a member of the board of directors or has a financial interest; or

“(v) An entity in which a family member of an individual identified in sub-paragraph (i) of this subparagraph serves as a member of the board of directors or has a financial interest.

“(B) *Voidability.* — A contract or transaction described in subparagraph (A) of this paragraph shall be void or voidable unless the following conditions are satisfied:

“(i) The material facts as to the conflicting relationship or interest and as to the contract or transaction are known or disclosed to the Board of Trustees before the meeting at which the contract or transaction is authorized;

“(ii) The Board of Trustees authorizes the contract or transaction in good faith by an affirmative vote of a majority of disinterested trustees; and

“(iii) The contract or transaction is fair to the public charter school as of the time it is authorized.

“(C) *Quorum at meetings to authorize conflicting interest transactions.* — Common or interested trustees may be counted in determining the presence of a quorum at a meeting of the trustees at which a contract or transaction described in subparagraph (A) of this paragraph is authorized.

“(D) *Record of vote on conflicting interest transactions.* — The minutes of the meeting at which a conflicting interest contract or transaction is authorized shall reflect:

“(i) The material facts as to the conflicting relationship or interest and as to the contract or transaction; and

“(ii) The identity and vote of each disinterested trustee who voted.

“(E) *Reporting of conflicting interest transactions.* — The Board of Trustees shall report any conflicting interest contract or transaction it authorizes to the Public Charter School Board within 3 days of authorization.

“(F) *Fiscal mismanagement.* — An eligible chartering authority may consider a public charter school’s failure to comply with this paragraph to be fiscal

mismanagement.

“(G) *Definitions.* — For the purposes of this paragraph, the term:

“(i) “Family member” means an individual who is legally or biologically related to another individual, or an individual who is legally or biologically related to the spouse or domestic partner of another individual.

“(ii) “Founder” means an individual identified in a petition to establish a public charter school pursuant to section 2202(13).

“(iii) “Key leader” means an individual holding any administrative, financial, operations, legal, or executive position at a public charter school as identified in the public charter school’s charter agreement.

“(iv) “Designated body”, “Director”, “Member”, and “Officer” shall have the same meanings as provided in D.C. Official Code § 29-401.02(8), (9), (24), and (29), respectively.

(2) A new paragraph (22) is added to read as follows:

“(22) *School management contracts.* — A public charter school may procure the services of a school management organization; provided, that it complies with subparagraphs (A) and (B) of this paragraph.

“(A) A public charter school shall submit a proposed agreement containing the provision described in subparagraph (B) of this paragraph in a petition to establish a public charter school, a petition to revise its charter, or an application to renew its charter to the eligible chartering authority for review, and it shall submit the executed agreement to the eligible chartering authority within 30 days of receiving approval of its petition or application.

“(B)(i) Any executed agreement for services between a public charter school and a school management organization shall include a provision whereby the school management organization agrees, under the following circumstances, to provide to the public charter school for production to the eligible chartering authority books, records, papers, and documents related to services the school management organization provided or has agreed to provide to the public charter school:

“(I) The public charter school requests such records from the school management organization; and either

“(II) The annual fee the public charter school agrees to pay to the school management organization or any of its related entities, as defined by section 201(h)(4)(B)-(C) of the Economic Recovery Tax Act of 1981, approved August 13, 1981 (95 Stat. 218; 26 U.S.C. § 168(h)(4)(B)-(C)), is equal to or exceeds 20% of the school’s annual revenue; or

“(III) The annual revenue the school management organization expects to derive from District public charter schools will exceed 25% of the school management organization’s projected total annual revenue.

“(ii) The school management organization shall have the burden of producing records to demonstrate that it does not expect the revenue it derives from District public charter schools to exceed 25% of its projected total annual revenue.


“(C) *Fiscal mismanagement.* — An eligible chartering authority may consider a public charter school’s failure to comply with subparagraphs (A) or (B) of this paragraph as fiscal mismanagement; provided, that an eligible chartering authority shall not consider a public charter school to be out of compliance with this paragraph if the public charter school has submitted a petition or application that complies with subparagraph (A) of this paragraph within 180 days of the effective date of the Public Charter School Fiscal Transparency Amendment Act of 2016, passed on 2nd reading on June 28, 2016 (Enrolled version of Bill 21-115).”.

Sec. 3. Fiscal impact statement.


The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. 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
APPROVED
July 21, 2016



**COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004**

Docket No. **B21-115**

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FIRST READING, 06/07/2016

VOICE VOTE

RECORDED VOTE ON REQUEST

APPROVED

ABSENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson	X				Evans	X				Orange	X			
Alexander	X				Grosso	X				Silverman	X			
Allen	X				May	X				Todd	X			
Bonds	X				McDuffie	X								
Cheh	X				Nadeau	X								

X - Indicate Vote

AB - Absent

NV - Present, Not Voting

CERTIFICATION RECORD

Secretary to the Council

7.7.16

Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FINAL READING, 06/28/2016

VOICE VOTE

RECORDED VOTE ON REQUEST

APPROVED

ABSENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson	X				Evans	X				Orange	X			
Alexander	X				Grosso	X				Silverman	X			
Allen	X				May	X				Todd	X			
Bonds	X				McDuffie	X								
Cheh	X				Nadeau	X								

X - Indicate Vote

AB - Absent

NV - Present, Not Voting

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Chmn. Mendelson					Evans					Orange				
Alexander					Grosso					Silverman				
Allen					May					Todd				
Bonds					McDuffie									
Cheh					Nadeau									

X - Indicate Vote

AB - Absent

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CERTIFICATION RECORD

Secretary to the Council

Date