

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Comprehensive Merit Personnel Act of 1978 to reflect those changes mandated by the Public Education Reform Amendment Act of 2007, **to create at-will employment positions for “management employees” within the Educational Service classification, and to allow the conversion of existing Educational Service employees within the defined at-will category to the amended classification, and to provide for training and retraining opportunities and retreat rights for any at-will employees subjected to a non-disciplinary separation from service.**

That this Act may be cited as the “Public Education Personnel Reform Amendment Act of 2007”.

(a) Section 801A (D.C. Official Code § 1-608.01a) is amended by striking the term “Boards” whenever it appears and inserting the term “Board” in its place.

1 (b) Section 801A (a) (D.C. Official Code § 1-608.01a (a)) is amended to read as
2 follows:

3 “(a) For the purpose of this subchapter, the term ‘Board’ means the Board of Trustees
4 of the University of the District of Columbia for educational employees of the University of
5 the District of Columbia.”

6 (c) Section 801A (b) (D.C. Official Code § 1-608.01a (b)) is amended to read as
7 follows:

8 “(b) The Mayor and the Board shall each issue rules and regulations governing the
9 employment, advancement, and retention in the Educational Service, which shall include all
10 educational employees of the District of Columbia employed by the District of Columbia
11 Public Schools and the Board, respectively. The rules and regulations shall be indexed and
12 cross-referenced as to the **incumbent** classification and compensation system.

13 “(1) University of the District of Columbia. In keeping with the purpose of
14 this chapter, the Board of Trustees of the University of the District of Columbia shall issue
15 rules and regulations embodying principles of merit and equal employment governing,
16 among others, appointment, promotion, retention, reassignment, professional development
17 and training, classification, and salary administration (except as provided in § **1-602.03**),
18 employee benefits, reduction-in-force, adverse **action**, grievances, and appeals, provided that
19 such rules and regulations concerning adverse actions and regulations covering adverse
20 actions and appeals shall be consistent with **subchapters V, VI, VII, XVII-A and XVII of**
21 **this chapter.**

1 “(2) District of Columbia Public Schools. The Mayor shall issue rules and
2 regulations which shall provide for the following:

3 “(A) A positive recruitment program designed to meet current and
4 projected personnel needs;

5 “(B) Open competition for initial appointment to the service;

6 “(C) Appointment procedures designed to achieve maximum
7 objectivity, reliability, and validity through a practical assessment of attributes necessary to
8 successful job performance and career development as provided in subchapter VII of **this**
9 **chapter**;

10 “(D) Appointments to be made on the basis of merit by selection from
11 the highest qualified available eligible persons based on specific job requirements, from
12 appropriate lists or files established on the basis of the provisions of subparagraphs (A), (B),
13 and (C) of this paragraph with appropriate regard for affirmative action goals and veterans
14 preference as provided in **subchapter VII of this chapter**;

15 “(E) **Appointments made without time limitation in accordance**
16 **with subparagraph (D) of this paragraph, as permanent Educational Service status**
17 **appointments upon satisfactory completion of a probationary period of at least 1 year;**

18 “(F) **Temporary and other time-limited appointments in**
19 **appropriate cases which do not confer permanent status, but are to be made, insofar as**
20 **practicable, in accordance with subparagraph (D) of this paragraph;**

21 “(G) **Appointments to continuing positions (in the absence of lists**
22 **of eligibles), which do not confer permanent status, subject to meeting minimum**

1 **qualification standards and subject to termination as soon as lists of qualified eligibles**
2 **for permanent appointment can be established in accordance with subparagraph (D) of**
3 **this paragraph;**

4 **“(H) Emergency appointments for not more than 30 days to**
5 **provide for maintenance of essential services in situations of natural disaster or**
6 **catastrophes where normal employment procedures are impracticable;**

7 **“(I) Promotion of permanent employees, giving due consideration**
8 **to demonstrated ability, quality and length of service;**

9 **“(J) Reinstatements, reassignments, and transfers of employees**
10 **with permanent status;**

11 **“(K) Establishment of programs, including trainee programs, designed**
12 **to attract and utilize persons with minimal qualifications, but with potential for development,**
13 **in order to provide career development opportunities for members of disadvantaged groups,**
14 **handicapped persons, women, and other appropriate target groups. These programs may**
15 **provide for permanent appointments to trainee or similar positions through competitive**
16 **procedures established by the Mayor and the Board;**

17 **“(L) (i) Reduction-in-force procedures, with: (I) a prescribed**
18 **order of separation based on tenure of appointment, length of service, including**
19 **creditable federal and military service, District residency, veterans preference, and**
20 **relative work performance; (II) priority reemployment consideration for employees**
21 **separated; (III) consideration of job sharing and reduced hours; and (IV) employee**
22 **appeal rights;**

1 **“(ii) Notwithstanding any other provision of law, the Mayor shall not**
2 **issue rules that require or permit non-school-based personnel or school administrators to be**
3 **assigned or reassigned to the same competitive level as classroom teachers;**

4 **“(M) Separation for cause, which shall be subject to the adverse**
5 **action and appeal procedures provided for in subchapter XVI-A of this chapter; and**

6 **“(N) Selections to the Educational Service shall be made in**
7 **accordance with equal employment opportunity principles as set forth in subchapter**
8 **VII of this chapter.**

9 **“(3) Repealed.**

10 **“(c) (1) For the purpose of this subsection, "relative" means, with respect to a**
11 **public official, an individual who is related to the public official as father, mother, son,**
12 **daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-**
13 **in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,**
14 **stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or**
15 **half sister.**

16 **“(2) A public official who appoints, employs, promotes, or advances, or**
17 **advocated such appointment, employment, promotion, or advancement of any**
18 **individual in violation of this subsection shall reimburse the District for any funds**
19 **improperly paid to such individual.**

20 **“(3) The Mayor and the Board may issue rules and regulations**
21 **authorizing the temporary employment, in the event of emergencies resulting from**

1 **natural disasters or similar unforeseen events or circumstances, of individuals whose**
2 **employment would otherwise be prohibited by this subsection.**

3 **“(4) A public official may not appoint, employ, promote, advance, or**
4 **advocate for appointment, employment, promotion, or advancement, in or to a position**
5 **in the agency in which he or she is serving or over which he or she exercises jurisdiction**
6 **or control, any individual who is a relative of the public official. An individual may not**
7 **be appointed, employed, promoted, or advanced in or to a position in an agency if such**
8 **appointment, employment, promotion, or advancement has been advocated by a public**
9 **official who is serving in or exercising jurisdiction or control over the agency, and is a**
10 **relative of the individual.**

11 **“(d) (1) Notwithstanding any provision of § 2-1401.01 et seq., an applicant for**
12 **District government employment in the Educational Service who is a bona fide resident**
13 **of the District at the time of application shall be given a hiring preference over a non-**
14 **resident applicant. This preference shall be in addition to, and not instead of,**
15 **qualifications established for the position.**

16 **“(2) An applicant claiming a hiring preference shall submit proof of bona**
17 **fide residency in a manner determined by the Mayor and the Board pursuant to**
18 **paragraph (5) of this subsection. If hired, the employee shall agree in writing to**
19 **maintain bona fide District residency for a period of 5 consecutive years from the**
20 **effective date of hire. Failure to maintain bona fide District residency for the**
21 **consecutive 5-year period shall result in forfeiture of employment.**

1 **“(3) Any individual hired under a previous residency law who was**
2 **subject to a residency requirement shall be treated as if the individual claimed a**
3 **preference and was hired pursuant to the Residency Preference Amendment Act of**
4 **1988.**

5 **“(4) In reductions-in-force, a resident District employee shall be**
6 **preferred for retention and reinstatement of employment over a non-resident District**
7 **employee. For purposes of this paragraph only, a non-resident District employee hired**
8 **prior to January 1, 1980, shall be considered a District resident. When the provisions of**
9 **this paragraph conflict with an effective collective bargaining agreement, the terms of**
10 **the collective bargaining agreement shall govern.**

11 **“(5) A District employee hired in the Educational Service prior to March**
12 **16, 1989, who elects to apply for a competitive promotion in the Educational Service**
13 **and to claim a preference, shall be bound by the provisions of paragraph (2) of this**
14 **subsection.**

15 **“(6) The Mayor and the Board shall, pursuant to subchapter I of Chapter**
16 **5 of Title 2, issue proposed rules to implement the preference system established by this**
17 **subsection. The proposed rules shall be submitted to the Council no later than**
18 **February 1, 1989, for a 45-day period of review, excluding Saturdays, Sundays, legal**
19 **holidays, and days of Council recess. If the Council does not approve or disapprove the**
20 **proposed rules, in whole or in part, by resolution within this 45-day review period, the**
21 **proposed rules shall be deemed approved.**

1 **“(7) (A) Except as provided in subparagraph (B), the Mayor and the**
2 **Board may not require an individual to reside in the District of Columbia as a condition**
3 **of employment in the Educational Services.**

4 **“(B) The Mayor and the Board shall provide notice to each**
5 **employee in the Educational Service of the provisions of this subsection that require an**
6 **employee claiming a residency preference to maintain District residency for 5**
7 **consecutive years, and shall only apply such provisions with respect to employees**
8 **claiming a residency preference on or after March 16, 1989.**

9 **“(e) Repealed.”**

10 **(d) A new subsection is added to read as follows:**

11 **“(f) (1) An appointment to a position within the District of Columbia Public**
12 **Schools, which position requires the incumbent thereof to meet the definition of**
13 **‘management employee’ pursuant to § 1-614.11 (5), that is ‘... any person whose**
14 **functions include responsibility for project management and supervision of staff and**
15 **the achievement of the project’s overall goals and objectives.’, and excluding all**
16 **employees appointed to occupy or currently occupying positions in a recognized**
17 **collective bargaining unit and those who were appointed before January 1, 1980, shall**
18 **be an at-will appointment. Employees appointed to at-will positions shall be given**
19 **severance pay in accordance with § 1-609.03 (f) upon separation for non-disciplinary**
20 **reasons.”**

21 **“(2) A person currently holding an appointment to a position within the**
22 **District of Columbia Public Schools who meets the definition of ‘management**

1 **employee’ as defined in § 1-614.11 (5)**, at the discretion of the personnel authority, may be
2 appointed non-competitively through the Educational Service unless the employee declines
3 the appointment. A person declining the appointment shall be entitled to a written 15-day
4 separation notice and shall be paid severance pay **in accordance with 1-609.03 (f)**.

5 “(3) Notwithstanding any other provision of law, the Mayor is authorized,
6 within the Mayor’s discretion, to identify incumbents employed within the central office of
7 the D.C. Public Schools, **who meet the definition of ‘management employee’ as defined in**
8 **§ 1-614.11 (5)**, who are not in an existing collective bargaining unit and who were not hired
9 before January 1, 1980, for separation from service. The Mayor may, by order, delegate any
10 or all of the functions described in this subsection to the Chancellor, or other designee, as
11 warranted for an orderly procedure for the termination of the employment of **‘management**
12 **employees’ within the employment of District of Columbia Public Schools’ central**
13 **office.**

14 “(4) As used in this subsection, the phrase **‘central office management**
15 **employee’** means any employee **who first meets the definition of ‘management employee’**
16 **pursuant to § 1-614.11 (5), excluding all employees appointed to occupy or currently**
17 **occupying positions in a recognized bargaining unit and those who were appointed**
18 **before January 1, 1980, and except for principals, and employees under their direction**
19 **and control, who are employed by District of Columbia Public Schools, wherever**
20 **located in the school system, who as a ‘management employee’, as defined in § 1-614.11**
21 **(5), reports to the Chancellor.**

1 “(5) Notwithstanding any rights or procedures established by any other
2 provision of this Act or by any other District law, rule, or regulation, any **District of**
3 **Columbia Public School ‘central office management employee’** who is **subjected to a**
4 **non-disciplinary separation from service** as a result of this Section shall be separated
5 without competition **or assignment rights**.

6 “(6) Each **‘central office management employee’** selected for **non-**
7 **disciplinary** separation pursuant to this subsection shall be given written notice of the
8 proposed separation at least 15 days before the effective date of his or her separation.

9 “(7) Any determination that a **‘central office management employee’** shall
10 be separated **on a non-disciplinary basis** from the central office pursuant to this subsection
11 shall not be subject to any internal or administrative review, except that the employee may
12 file a complaint contesting the determination or the separation pursuant to the procedure
13 established by § 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C.
14 Law 2-38; D.C. Official Code § 2-1403.03, **federal law, or common law.**)

15 “(8) A **‘central office management employee’** separated from the central
16 **office** pursuant this subsection is entitled to severance pay calculated in accordance with § 1-
17 **609.03 (f)**.

18 “(9) To the extent that the Mayor delegates power under paragraph (3) of this
19 subsection to the Chancellor, the Chancellor shall submit a listing to the Mayor of all
20 incumbents to be separated upon the delivery of separation notices to individual employees.

1 “(10) For purposes of this subsection, veterans preference eligibility will be
2 retained, and defined in accordance with federal laws and regulations issued by the United
3 States Office of Personnel Management.

4 **“(11) Upon non-disciplinary separation, ‘management employees’ of the
5 District of Columbia Public Schools central office shall be entitled to retreat, within
6 three months of the date of their termination, to a vacant position for which they are
7 qualified within the District of Columbia Public Schools.**

8 **“(12) Any ‘central office management employee’ who is subjected to a
9 non-disciplinary separation under this subsection shall be provided, by the District of
10 Columbia Public Schools, at the District of Columbia Public Schools’ expense, any and
11 all training, and/or re-training necessary for that person to qualify for a vacant
12 position(s) of their choice, for which they were qualified, within the District of
13 Columbia Public Schools.**

14 **“(13) The provisions of this subsection shall be applicable also to the non-
15 disciplinary separation of employees, who meet the definition of ‘management
16 employee’ pursuant to § 1-614.11 (5) of the Office of Public Education Facilities
17 Modernization and the Office of the State Superintendent of Education transferred
18 pursuant to the Public Education Reform Amendment Act of 2007, effective June 12,
19 2007 (D.C. Law 17-9).”**

20 (e) Section 903 (a) (4) (D.C. Official Code § 1-609.03 (a) (4)) is amended by striking
21 the phrase “The District of Columbia Board of Education” and inserting the phrase “The
22 Mayor” in its place.

1 **Section 4. Effective Date**

2 This Act shall take effect following approval by the Mayor (or in the event of veto by
3 the Mayor, action to override the veto), a 30 day period of Congressional review as provided
4 in Section 602 (c) (1) of the District of Columbia Home Rule Act, approved December 24,
5 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c) (1)), and publication in the District of
6 Columbia Register.

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