

A BILL 1

17-450 2

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA 3  
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To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to 6  
establish employment without tenure within the Educational Service classification; to 7  
require that the Mayor seek a voluntary separation incentive for certain employees of the 8  
District of Columbia, and to require the Mayor to submit an evaluation of the personnel 9  
reform provisions of this act in September 2012; and to amend the Public Education 10  
Reform Amendment Act of 2007 to provide that the Director of the Office of Public 11  
Education Facilities Modernization shall have maintenance authority at District of 12  
Columbia Public Schools facilities. 13

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this 14  
act may be cited as the “Public Education Personnel Reform Amendment Act of 2007”. 15

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 16  
1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is 17  
amended as follows: 18

(a) Section 801A (D.C. Official Code § 1-608.01a) is amended as follows: 19

(1) Subsection (a) is amended as follows: 20

(A) Strike the term “Boards” and insert the term “Board” in its place. 21

(B) Strike the phrase “the District of Columbia Board of Education for 22  
educational employees of the Board of Education and”. 23

**ENGROSSED ORIGINAL**

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

(A) The introductory language is amended by striking the term “Boards” 2  
both times it appears and inserting the term “Board” in its place. 3

(B) Paragraph (2) is amended to read as follows: 4

“(2)(A)(i) Excluding those employees in a recognized collective bargaining unit, 5  
those employees appointed before January 1, 1980, those employees who are based at a local 6  
school or who provide direct services to individual students, and those employees required to be 7  
excluded pursuant to a court order (collectively, “Excluded Employees”), a person appointed to a 8  
position within the Educational Service shall serve without job tenure. 9

“(ii) Except for Excluded Employees, the provisions of this 10  
paragraph shall apply to all nonschool-based personnel, as defined in section 301(13C), 11  
including: 12

“(I) All Educational Service employees within the District 13  
of Columbia Public Schools; 14

“(II) All Educational Service employees within the Office 15  
of Public Education Facilities Modernization; and 16

“(III) All Educational Service employees within the Office 17  
of the State Superintendent for Education transferred pursuant to the Public Education Reform 18  
Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; 54 DCR 4099). 19

**ENGROSSED ORIGINAL**

“(B)(i) A person employed within the Educational Service in DCPS, the Office of the State Superintendent for Education, and the Office of Public Education Facilities Modernization as of the effective date of the Public Education Personnel Reform Amendment Act of 2007 (D.C. Bill 17-450), who is not an Excluded Employee shall be reappointed noncompetitively to the Educational Service, in accordance with subparagraph (A) of this paragraph.

“(ii) Within 30 days of the effective date of the Public Education Personnel Reform Emergency Amendment Act of 2007, the Mayor shall notify in writing each employee of his or her reappointment. The employee shall accept or decline such reappointment within 10 days of receipt of the reappointment notice,

“(iii) A person declining such reappointment shall receive a written 15-day separation notice and shall be entitled to severance pay pursuant to section 2409.

“(iv) An employee who accepts reappointment who is subsequently terminated shall be terminated in accordance with subparagraph (C)(ii) and (iii) of this paragraph.

“(C)(i) A person employed within the Educational Service in DCPS, the Office of the State Superintendent for Education, or the Office of Public Education Facilities Modernization who is not an Excluded Employee, shall be a probationary employee for one year from his or her date of hire (“probationary period”) and may be terminated without notice or evaluation.

**ENGROSSED ORIGINAL**

“(ii) Following the probationary period, an employee may be 1  
terminated, at the discretion of the Mayor; provided, that the employee has been provided a 15- 2  
day separation notice and has had at least one evaluation within the preceding 6 months, a 3  
minimum of 30 days prior to the issuance of the separation notice. 4

“(iii) An employee terminated for non-disciplinary reasons may be 5  
given severance pay in accordance with section 903(f). 6

“(D) The Mayor may terminate an employee without notice or 7  
evaluation who has committed an egregious act. The term “egregious act” shall be defined by 8  
rule. 9

“(E) A terminated employee shall retain his or her veterans 10  
preference eligibility, if any, in accordance with federal laws and regulations issued by the United 11  
States Office of Personnel Management but shall be separated without competition, assignment 12  
rights, retreat rights, a right to re-assignment under either the Agency Reemployment Priority 13  
Program or the Displaced Employee Program established pursuant to section 2400 of the District 14  
of Columbia Personnel Manual, or a right to any internal or administrative review, subject to any 15  
right under the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. 16  
Official Code § 2-1401.01 *et seq*), federal law, or common law. 17

“(F)(i) The Mayor shall establish: 18

“(I) A positive recruitment program designed to meet 19  
current and projected personnel needs; 20

**ENGROSSED ORIGINAL**

“(II) A procedure for open competition for initial 1  
appointment to the Educational Service, designed to achieve maximum objectivity, reliability, 2  
and validity through a practical assessment of attributes necessary to successful job performance 3  
and career development as provided in section 702 and appointments of persons, made on the 4  
basis of merit, by selection from the highest qualified available eligible persons based on specific 5  
job requirements, with appropriate regard for affirmative action goals and veterans preference as 6  
provided in section 703. 7

“(III) Written position descriptions for each position within 8  
Educational Service and a process for updating the descriptions to maintain accurate and current 9  
position descriptions; and 10

“(ii) The Mayor shall provide a written copy of the relevant 11  
position description to each new employee and to each reappointed employee upon employment 12  
or reappointment. 13

“(G) Appointments to the Educational Service of persons shall be made in 14  
accordance with equal employment opportunity principles, as set forth in Title VII. 15

“(H) Temporary and other time-limited appointments, which do not 16  
confer permanent status, may be made in appropriate cases, at the discretion of the Mayor, 17  
including emergency appointments to provide for the maintenance of essential services in 18  
situations of natural disaster or catastrophes, where normal employment procedures are 19  
impracticable. 20

**ENGROSSED ORIGINAL**

“(I) Within 180 days of the effective date of the Public Education Personnel Reform Amendment Act of 2007 (D.C. Bill 17-450), the Mayor shall submit a list to the Council, for informational purposes, of those people employed within the Educational Service in DCPS, the Office of the State Superintendent for Education, and the Office of Public Education Facilities Modernization as of the effective date of the Public Education Personnel Reform Amendment Act of 2007 (D.C. Bill 17-450), who, pursuant to subparagraph (B) of this paragraph, declined reappointment and were terminated and who accepted reappointment but were subsequently terminated. The Mayor shall maintain a database of this information on an ongoing basis to be submitted to Council pursuant to section 4 of the Public Education Personnel Reform Amendment Act of 2007 (D.C. Bill 17-450).

“(J)(i) The Mayor shall establish reduction-in-force procedures, including:

“(I) A prescribed order of separation based on District residency and veterans preference;

“(II) Priority reemployment consideration of separated employees; and

“(III) Job sharing and reduced hours; if feasible.

“(ii) Notwithstanding any other provision of law or regulation, an Excluded Employee or a nonschool-based employee shall not be assigned or reassigned to replace a classroom teacher.

“(iii) For the purposes of this subparagraph, the term "reduction in

force" means a reduction in personnel, the need for which shall be declared by the Mayor, that is necessary due to a lack of funding or the discontinuance of a department, program, or function of an agency. A reduction in force shall not be considered a punitive or corrective action as it relates to an employee separated pursuant to the reduction in force and no blemish on an employee's record shall ensue.”.

(3) Subsection (c)(3) is amended by striking the term “Boards” and inserting the term “Board” in its place.

(4) Subsection (d) is amended by striking the term “Boards” wherever it appears and inserting the phrase “Mayor or Board” in its place.

(b) Section 903(a)(4) (D.C. Official Code § 1-609.03(a)(4)) is amended to read as follows:

“(4)(A) The Mayor may appoint 25 persons to the District of Columbia Public Schools; provided, that each person appointed pursuant to this paragraph shall be a District resident within 180 days of appointment and shall maintain District residency throughout the term of his or her appointment

“(B) The Mayor shall make his or her best efforts to ensure ward diversity in the appointments.”.

(c) Section 1111(a-1) (D.C. Official Code § 1-611.11(a-1)) is amended to read as follows:

“(a-1) Notwithstanding any other provision of law, rule, or regulation:

**ENGROSSED ORIGINAL**

“(1) Except for the Chancellor and any Excepted Service employees appointed 1  
pursuant to section 903(a)(4), every employee of the District of Columbia Public Schools shall 2  
be: 3

“(A) Classified as an Educational Service employee; 4

“(B) Placed under the personnel authority of the Mayor; and 5

“(C) Subject to all rules of the District of Columbia Public Schools. 6

“(2) Except for the Director and any Excepted Service employees appointed 7  
pursuant to section 903(a)(7), every employee of the Office of Public Education Facilities 8  
Modernization shall be: 9

“(A) Classified as an Educational Service employee; and 10

“(B) Placed under the personnel authority of the Mayor. 11

“(3) Except for the State Superintendent for Education and any Excepted Service 12  
employees appointed pursuant to section 903(a)(7), every employee transferred from DCPS to 13  
the Office of the State Superintendent for Education shall be: 14

“(A) Classified as an Educational Service employee; and 15

“(B) Placed under the personnel authority of the Mayor. 16

(d) Section 1709(b) (D.C. Official Code § 1-617.09(b)) is amended as follows: 17

(1) Paragraph (1) is amended by striking the phrase “Board of Education” and 18  
inserting the phrase “Public Schools” in its place. 19

(2) Paragraph (5) is amended by striking the phrase “unit; or” and inserting the 20

phrase “or;” in its place. 1

(3) Paragraph (6) is amended by striking the phrase “of Columbia.” and inserting  
the phrase “of Columbia; or” in its place. 2  
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(4) A new paragraph (7) is added to read as follows: 4

“(7) Employees within the Educational Service in the District of Columbia Public  
Schools, the Office of the State Superintendent for Education, and the Office of Public Education  
Facilities Modernization who serve without tenure pursuant to the Public Education Personnel  
Reform Amendment Act of 2007 (D.C. Bill 17-450).” 5  
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(e) Section 2402(a) (D.C. Official Code § 1-624.02(a)) is amended by striking the phrase  
“Educational Service and” and inserting the phrase “Educational Service, except those persons  
separated pursuant to section 801A(b)(2), and” in its place. 9  
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Sec. 3. Rulemaking. 12

The Mayor shall promulgate rules and regulations to implement the provisions of this act. 13  
The proposed rules shall be submitted to the Council for a 45-day period of review. If the 14  
Council does not approve or disapprove the proposed rules, by resolution, within the 45-day 15  
review period, the proposed rules shall be deemed approved. 16

Sec. 4. Voluntary early-retirement request. 17

The Mayor shall submit a request to the United States Office of Personnel Management 18  
that it authorize voluntary early retirement to employees in the Educational Services 19  
classification of the District of Columbia Public Schools, the Office of the State Superintendent 20

of Education, and the Office of Public Education Facilities Modernization hired prior to 1987 1  
and entitled to federal benefit payments. 2

Sec. 5. Evaluation and re-authorization. 3

On September 15, 2012, the Mayor shall submit to the Council an assessment of the 4  
personnel reform enacted by the Public Education Personnel Reform Amendment Act of 2007, 5  
(D.C. Bill 17-450) (“Education Personnel Reform Act”), which shall include: 6

(1) A comprehensive list of the employees terminated pursuant to the Education 7  
Personnel Reform Act, as described in section 801A(b)(2)(J) of the District of Columbia 8  
Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2- 9  
139; D.C. Official Code § 1-608.01a(b)(2)(J) “(ii) A reappointed employee who accepts 10  
reappointment pursuant to sub-subparagraph (i) of this subparagraph who is subsequently 11  
terminated shall be terminated in accordance with subparagraph (C) of this paragraph.); and 12

(2) An assessment of the progress in public education achieved as a result of the 13  
Education Personnel Reform Act that warrants continuation of the provisions of the Education 14  
Personnel Reform Act. 15

Sec. 6. Section 704(6) of the Public Education Reform Amendment Act of 2007, 16  
effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-453(6)), is amended to read as 17  
follows: 18

“(6) Direct and manage the modernization or new construction of DCPS facilities 19  
by approving and authorizing decisions at every stage of school modernization, including 20

planning, design, maintenance, procurement, and construction, in accordance with the Facilities 1  
Master Plan required by the School Modernization Financing Act, effective June 8, 2006 (D.C. 2  
Law 16-123; D.C. Official Code § 38-2971.01 *et seq.*); provided, that it shall not manage 3  
cleaning and janitorial services at DCPS facilities.”. 4

Sec. 7. Fiscal impact statement. 5

The Council adopts the fiscal impact statement in the committee report as the fiscal 6  
impact statement required by section 602 (c) (3) of the District of Columbia Home Rule Act, 7  
approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c) (3)). 8

Sec. 8. Effective date. 9

This act shall take effect following approval by the Mayor (or in the event of veto by the 10  
Mayor, action to override the veto), a 30-day period of Congressional review as provided in 11  
section 602 (c) (1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 12  
Stat. 813; D.C. Official Code § 1-206.02 (c) (1)), and publication in the District of Columbia 13  
Register. 14