

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

DRAFT

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: September 22, 2020

SUBJECT: Report on Bill 23-817, “UDC Board of Trustees Term Limit Amendment Act of 2020”

The Committee of the Whole, to which Bill 23-817, “UDC Board of Trustees Term Limit Amendment Act of 2020” was referred, reports favorably thereon, and recommends approval by the Council.

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I. BACKGROUND AND NEED

The purpose of Bill 23-817 is to amend the term limits for the University of the District of Columbia (UDC) Board of Trustees (Board). Specifically, this bill extends the total length that a UDC Trustee, appointed by the Mayor, may serve consecutively, lengthening the time from two five-year terms to three five-year terms. Additionally, it provides clarity with regard to determining how long a Trustee has served and may continue to serve. Notably, the language in this bill is identical to the language included in D.C. Act 23-328, the “Coronavirus Support Congressional Review Emergency Amendment Act of 2020.”

UDC is both a Historically Black College and University (HBCU) and an urban land-grant institution. Formed in 1975 from the merger of the District of Columbia Teachers’ College,¹ the

¹ This college was formed from the merger of Miners Teacher College and Wilson Teachers College. See *UDC’s History*, UNIV. OF THE DISTRICT OF COLUMBIA, http://www.udc.edu/about_udc/history_university_district_columbia (last visited July 12, 2013).

Washington Technical Institute, and Federal City College,² UDC serves as the District's only public university. UDC's mission is to provide an affordable, post-secondary education to District residents and to "prepare students for immediate entry into the workforce, the next level of education, specialized employment opportunities or life-long learning."³ In furtherance of this mission, a law school was added in 1996⁴ and a community college in 2009.

According to D.C. Official Code Section 38-1202.01, UDC is governed by a Board of Trustees (Board), comprised of fifteen members.⁵ Of the fifteen, eleven are appointed by the Mayor with the advice and consent of the Council, three are alumni from either the University or one of its predecessor institutions, and one is a full-time student elected by the UDC student body.⁶ Prior to D.C. Act 23-328, both the alumni and appointed Trustees were only able to serve two, full five-year terms.⁷ However, the law was unclear as to what constitutes a full term, thereby causing confusion as to how many terms an individual has served, and therefore may serve in the future, if one or more of the terms that an individual serves is not for a complete five years.

Moreover, how the individual's predecessor vacated the seat is consequential in determining whether an individual has served or is serving a "full term." If his or her predecessor vacated the seat in the middle of the five-year term and the individual is appointed within that same five-year term, then the individual is considered to have served a partial term and would be eligible for an initial, full five-year term and a second full, five-year term. However, if the predecessor completed his or her term but then an individual was not appointed to that seat until a year or two into the next term, the successor would still be considered to have served a full five-year term despite not actually having served for the entire five years. Such a distinction is confusing, particularly when the history surrounding how the predecessor vacated the seat is unclear. Additionally, it does not achieve the goal of term limits, which are to ensure that an individual does not serve on a board for too long. Should one individual be able to serve on a board for 14 years because he happened to be filling a mid-term vacancy, but another cannot simply because he was appointed to a seat that had been vacated by an individual who had completed his or her term and the new individual was just slow in being appointed?

The simple answer is no. Both individuals should be allowed to serve on UDC's Board for the same number of years, regardless of how their predecessors vacated their seats. Yet, this has not been the case. Instead, UDC has lost strong Trustees over the years who wanted to continue to serve but could not due to the ambiguity in the law. In fact, UDC lost two dedicated Trustees just last year because of the confusing language in the law and is at risk of losing its current Board chair, Chris Bell, if the law is not permanently changed.

² D.C. Law 1-36 (effective Nov. 1, 1975).

³ *UDC Mission*, UNIV. OF THE DISTRICT OF COLUMBIA, <http://www.udc.edu/welcome/mission.htm> (last visited July 12, 2013).

⁴ See D.C. Law 11-152 (effective Aug. 1, 1996).

⁵ See D.C. Official Code § 38-1202.05 for a list of the duties of the UDC Trustees.

⁶ D.C. OFFICIAL CODE § 38-1202.01(c) (2001 ed.). Of the eleven appointed by the Mayor, seven must reside in the District at the time of their Council confirmation. *Id.* 38-1202.01(c-1).

⁷ D.C. Official Code § 38-1202.01 (legislative history).

Because Mr. Bell's term expired on May 15, 2020 and he is in a holdover status, as part of D.C. Act 23-326, the "Coronavirus Support Emergency Amendment Act of 2020,"⁸ its subsequent congressional review emergencies,⁹ and accompanying temporary legislation,¹⁰ the Council chose to amend D.C. Code Section 38-1202.01 on an emergency and temporary basis while Bill 23-817 worked its way through the permanent bill process. These measures allow a mayoral appointed UDC Trustee to serve three, five-year terms, for a total of 15 consecutive years, regardless of whether an individual is serving a partial or full term. Additionally, they clarify that an individual who has served as both an alumni and Mayoral appointed Trustee may also serve for a total of three, five-year terms, for a total of 15 consecutive years. Prior to the legislation, such an individual could only serve two, full five-year terms.

Bill 23-817 mirrors the emergency and temporary measures - amending D.C. Code Section 38-1202.01 to allow an appointed UDC Trustee and any UDC Trustee who has served as both an alumni-elected and mayoral appointee to serve three, five-year terms, for a total of 15 consecutive years, regardless of whether an individual is serving a partial or full term. While the Code previously only allowed for a Trustee to serve for two, full five-year terms – theoretically 10 years – the actual application of the law means that an individual can serve for three terms, and potentially 14 or so consecutive years. In fact, Dr. Elaine Crider, who is currently on UDC's Board, will have served for over 13 years when her term expires on May 15, 2023. Moreover, this change will allow Mr. Chris Bell to serve a third term and ensures that Mr. Jerome Shelton can continue to serve on the Board, as he served an alumni-elected Trustee for two, five-year terms, and was recently appointed by the Mayor to serve on UDC's Board as a mayoral appointed Trustee for another five years. If the Committee were to only allow for two, five-year terms, or a total of 10 consecutive years, these three individuals, who have all been great assets to UDC's Board, would no longer be able to continue to serve on the Board. Thus, the Committee supports individuals being able to serve for a total of three, five-year terms, or 15 consecutive years, regardless of whether they have served partial or full terms.

Given the confusion that has occurred over the past several years with regard to who can serve on UDC's Board and for how long, the Committee believes it is imperative that the Council approve Bill 23-817. The confusing language in the Code has already cost UDC strong, dedicated Trustees in the past. If this bill is not approved, that will occur again once the congressional review emergency and temporary legislation lapses. As the District's only public institution of higher education it is vital that UDC succeeds and continues to rise. This will only occur if UDC has a strong, stabilizing, and dedicated Board. Bill 23-817 ensures that is the case. For these reasons, the Committee recommends approval of Bill 23-817.

⁸ D.C. Act 23-326 was enacted on May 27, 2020 and expired on June 9, 2020.

⁹ Because D.C. Act 23-326 expired on June 9, 2020 and D.C. Act 23-334, the "Coronavirus Support Temporary Amendment Act of 2020," is still undergoing congressional review, the Council has had to approve two congressional review emergencies to fill in the gap. D.C. Act 23-328, the "Coronavirus Support Congressional Review Emergency Amendment Act of 2020," was enacted on June 8, 2020 and expired on September 6, 2020. Currently, the second congressional review emergency, D.C. Act 23-405, the "Coronavirus Support Second Congressional Review Emergency Amendment Act of 2020," is in place. It was enacted on August 19, 2020 and will expire on November 16, 2020.

¹⁰ D.C. Act 23-334, the "Coronavirus Support Temporary Amendment Act of 2020.

II. LEGISLATIVE CHRONOLOGY

- July 6, 2020 Bill 23-817, “UDC Board of Trustees Term Limit Amendment Act of 2020,” is introduced by Chairman Mendelson.
- July 7, 2020 Bill 23-817 is “read” at a legislative meeting; on this date the referral of the bill to the Committee of the Whole is official.
- July 10, 2020 Notice of Intent to Act on Bill 23-817 is published in the *District of Columbia Register*.
- July 10, 2020 Notice of a Public Hearing on Bill 23-817 is published in the *District of Columbia Register*.
- July 31, 2020 The Committee of the Whole holds a public hearing on Bill 23-817.
- September 22, 2020 The Committee of the Whole marks up Bill 23-817.

III. POSITION OF THE EXECUTIVE

No one testified on behalf of the Mayor. Mr. Troy LeMaile-Stovall, Chief Operating Officer of the University of the District of Columbia, testified on behalf of the University. His testimony is summarized in Section V of this report.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee received no testimony or comments from any Advisory Neighborhood Commission.

V. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on Bill 23-817 on July 31, 2020. The testimony from that hearing is summarized below. Copies of written testimony are attached to this report.

Troy LeMaile-Stovall, Chief Operating Officer, University of the District of Columbia, testified in support of Bill 23-817. Mr. LeMaile-Stovall stated that UDC supports Bill 23-817 because it provides much needed clarity to the law with regard to how long a Trustee, appointed by the Mayor, may serve on UDC’s Board of Trustees.

VI. IMPACT ON EXISTING LAW

Pursuant to D.C. Official Code § 38-1202.01, the Board shall be comprised of 15 Trustees – of whom 11 are appointed by the Mayor and confirmed by the Council, three are alumni of UDC or one of its three predecessor institutions, and one is a student representative. Prior to the enactment of D.C. Acts 23-326, 23-328, and 23-405, both mayoral appointed and alumni-elected Trustees were able to serve for two, full five-year terms. With the enactment of D.C. Acts 23-326, 23-328, and 23-405, the 11 appointed Trustees may serve for 15 consecutive years, irrespective of whether the terms are full or partial terms. Likewise, a Trustee who has served on the Board as both an alumni and appointed Trustee may serve for a total of 15 consecutive years, regardless of whether the terms have been partial or full terms. Bill 23-817 is the permanent version of D.C. Acts 23-326, 23-328, and 23-405.

VII. FISCAL IMPACT

Bill 23-817 will have no fiscal impact on the District of Columbia budget or financial plan. Pursuant to D.C. Official Code § 38-1202.04, trustees receive no compensation for their service on the Board. However, each trustee is entitled to be reimbursed up to \$4,000 annually for any “actual and necessary expenses incurred while actually engaged in service as a Trustee.”¹¹ Such expenses are included as part of the University’s annual budget.

VIII. SECTION-BY-SECTION ANALYSIS

<u>Section 1</u>	States the short title of Bill 23-817.
<u>Section 2</u>	.
<u>Section 3</u>	Adopts the Fiscal Impact Statement
<u>Section 4</u>	Establishes the effective date by stating the standard 30-day Congressional review language.

IX. COMMITTEE ACTION

On September 22, 2020, . . .

X. ATTACHMENTS

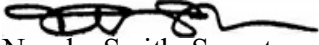
1. Bill 23-817 as introduced.
2. Written Testimony.

¹¹ *Id.* § 38-1202.04.

3. Fiscal Impact Statement for Bill 23-817.
4. Legal Sufficiency Determination for Bill 23-817
5. Comparative Print for Bill 23-817.
6. Committee Print for Bill 23-817.

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council
From :  Nyasha Smith, Secretary to the Council
Date : Monday, July 6, 2020
Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Monday, July 06, 2020. Copies are available in Room 10, the Legislative Services Division.

TITLE: "UDC Board of Trustees Term Limit Amendment Act of 2020", B23-0817

INTRODUCED BY: Chairman Mendelson

The Chairman is referring this legislation to Committee of the Whole.

Attachment
cc: General Counsel
Budget Director
Legislative Services


Chairman Phil Mendelson

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Public Postsecondary Education Reorganization Act to clarify the terms of service of alumni and appointed members of the University of the District of Columbia's Board and to make accompanying technical amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "UDC Board of Trustees Term Limit Amendment Act of 2020".

Sec. 2. Section 201(d)-(f) of The District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; D.C. Official Code § 38-1202.01(d)-(f)) are amended to read as follows:

"(d) All terms on the Board of Trustees shall begin on May 15th and shall end one or five years thereafter on May 14th. The student member elected pursuant to (c)(2) of this section shall serve for a term of one year. All other members shall serve for a term of five years.

Depending on the date of his or her election or appointment, a member of the Board of Trustees may not actually serve a full term.

"(e) A member of the Board of Trustees who is elected as an alumni pursuant to (c)(3) of this section may be re-elected to serve 1 additional term, after which the individual may not

33 again be elected pursuant to (c)(3) of this section until 5 years has passed since his or her last day
34 of service on the Board.

35 “(f) A member of the Board of Trustees who is appointed pursuant to (c)(1) of this
36 section may serve 3 full or partial terms consecutively. No member shall serve more than 15
37 consecutive years regardless of whether elected or appointed, and shall not serve thereafter until
38 5 years has passed since his or her last day of service on the Board.”.

39 Sec. 3. Fiscal Impact Statement.

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

43 Sec. 4. Effective date.

44 This act shall take effect following approval of the Mayor (or in the event of veto by the
45 Mayor, action by the Council to override the veto), a 60-day period of congressional review as
46 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
47 24, 1973 (87 Stat. 813; D.C Official Code § 1-206.22(c)(1)), and publication in the District of
48 Columbia Register.



Bill 23-817, UDC Board of Trustees Term Limit Amendment Act of 2020

Testimony of

Troy A. LeMaile-Stovall, Chief Operating Officer

Before the
The Council of the District of Columbia
Committee of the Whole
The Honorable Phil Mendelson, Chairman

July 31, 2020

9:00 A.M.

Live via Zoom Video Conference Broadcast
Council Channel 13 (Cable Television Providers)
DC Council Website (www.dccouncil.us)

Good morning Chairman Mendelson, members of the Council, staff, and the public. I am Troy LeMaile-Stovall, Chief Operating Officer for the University of the District of Columbia (UDC). I am pleased to testify before you today on Bill 23-817, the UDC Board of Trustees Term Limit Amendment Act of 2020.

Bill 23-817 rewrites sections of the law to provide some much-needed clarity regarding UDC Board of Trustees (BOT) service, including the start and end date of terms. Most importantly, the bill makes it clear that appointed Trustees can serve three partial or full terms consecutively, with a maximum of 15 consecutive years. This provision is extremely helpful as for many years the number of terms members served was heavily debated based upon whether a trustee began service at the beginning of a term or completed part of term previously vacated by another member. This bill ensures that highly effective BOT members can continue to serve without interruption.

We would like to thank you for introducing this bill, moving it forward, and the opportunity to testify. We fully support it and appreciate your continued support of UDC. I am happy to answer any questions you or any other Committee members may have.

COMPARATIVE PRINT - Bill 23-817, "UDC Board of Trustees Term Limit Amendment Act of 2020"
Committee of the Whole
September 22, 2020

§ 38-1202.01. Establishment of Board of Trustees and University

* * *

(d) All terms on the Board of Trustees shall begin on May 15th and shall end one or five years thereafter on May 14th. The student member elected pursuant to (c)(2) of this section shall serve for a term of one year. All other members shall serve for a term of five years. Depending on the date of his or her election or appointment, a member of the Board of Trustees may not actually serve a full term. ~~The student member of the Board of Trustees shall server for a term of one year, Beginning on May 15th following his or her election.~~

(e) A member of the Board of Trustees who is elected as an alumni pursuant to (c)(3) of this section may be re-elected to serve 1 additional term, after which the individual may not again be elected pursuant to (c)(3) of this section until 5 years has passed since his or her last day of service on the Board. ~~Except as provided in § 1202.02(1) [repealed], each nonstudent member of the Board of Trustees shall serve for a 5-year term, beginning on May 15th following his or her election or confirmation by the Council.~~

(f) A member of the Board of Trustees who is appointed pursuant to (c)(1) of this section may serve 3 full or partial terms consecutively. No member shall serve more than 15 consecutive years regardless of whether elected or appointed, and shall not serve thereafter until 5 years has passed since his or her last day of service on the Board. ~~A member of the Board of Trustees who has completed a full 5-year term in accordance with~~

~~subsection (e) of this section may be reappointed or re-elected to serve 1 additional term, after which the former member may not become a Trustee by election by appointment until May 15th of the 5th year following the year in which the former member left the Board. Service pursuant to §38-1202.02(1) [repealed] for the remainder of the term of a Trustee who has died or resigned shall not, by itself or in conjunction with other service, constitute a bar to the re-election or reappointment of a person who has served as a Trustee.~~

1 **COMMITTEE PRINT**
2 **Committee of the Whole**
3 September 22, 2020
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10 A BILL

11 23-817
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15 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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20 clarify the terms of service of alumni and appointed members of the University of the
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23 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
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31 Depending on the date of his or her election or appointment, a member of the Board of Trustees
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33 “(e) A member of the Board of Trustees who is elected as an alumni pursuant to (c)(3) of
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37 “(f) A member of the Board of Trustees who is appointed pursuant to (c)(1) of this
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39 consecutive years regardless of whether elected or appointed, and shall not serve thereafter until
40 5 years has passed since his or her last day of service on the Board.”.

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49 24, 1973 (87 Stat. 813; D.C Official Code § 1-206.22(c)(1)), and publication in the District of
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