

**BOARD OF TRUSTEES  
UNIVERSITY OF THE DISTRICT OF COLUMBIA  
UDC RESOLUTION NO. 2019 - 11**

**SUBJECT: Notice Of Proposed Rulemaking, Amendment To 8B DCMR 411,  
Business Enterprises and Sales of Products and Services**

**WHEREAS**, pursuant to D.C. Official Code § 38-1202.01(a), the Board of Trustees (“Board”); has the power to adopt, prescribe, amend, repeal, and enforce bylaws, rules, and regulations it considers necessary for the governance and administration of the University; and

**WHEREAS**, pursuant to D.C. Official Code § 38-1202.06(13), it is the duty of the Board to perform such duties and make such regulations as may be necessary to carry out the purposes of the University and that such regulations are adopted in accordance with the provisions of D.C. Official Code § 2-505(a); and

**WHEREAS**, the University is seeking an amendment to 8B DCMR 411 in order to permit the University to engage in business activities, including the direct sales of goods and services to the general public; and

**WHEREAS**, the University’s auxiliary services department will provide oversight and ensure the University’s compliance with applicable laws and regulations pertaining to such activities.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Trustees of the University of the District of Columbia hereby takes proposed rulemaking action to amend Chapter 4 of the University Rules (Title 8B DCMR) to permit the University to engage in business activities as indicated in the Notice of Proposed Rulemaking attached hereto as Appendix A; and

**BE IT FURTHER RESOLVED** that the Acting General Counsel of the University is hereby directed to publish this Notice of Proposed Rulemaking in the D.C. Register as soon as is practicable for a comment period of not less than thirty (30) days, in accordance with the provisions of D.C. Official Code §2-505(a).

Submitted by the Operations Committee:

February 19, 2019

Approved by the Board of Trustees:

February 26, 2019

  
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Christopher D. Bell  
Chairperson of the Board

## **APPENDIX A**

# UNIVERSITY OF THE DISTRICT OF COLUMBIA

## NOTICE OF PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.01(a); 38-1202.06(13) (2012 Repl.) hereby gives notice of its intent to amend Chapter 4 (Budget and Finance) of Subtitle B (University of the District of Columbia) of Title 8 (Higher Education) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed rule is to permit the University to establish business enterprises, including the sales of products and services to the public.

The Board of Trustees will take final action to adopt these amendments to the University Rules in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

### **Chapter 4, BUDGET AND FINANCE, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:**

#### **Section 411, BUSINESS ENTERPRISES AND SALES OF PRODUCTS AND SERVICES, is amended as follows:**

- 411.1 The University may engage in any trade or business, including sales to the public.
- 411.2 Income generated from any trade or business, regularly carried on by the University, that is not substantially related to the University's educational activities may be taxable.
- 411.3 A University business enterprise may be operated as an auxiliary enterprise, subject to negotiated agreements with the University, if applicable, but shall in all cases be under the direct management, control, and supervision of the Chief Operating Officer of the University.
- 411.4 The University shall identify and report unrelated business income on its annual tax returns and remit any tax due, in compliance with federal, state, and local tax laws and regulations.
- 411.5 The Chief Operating Officer of the University shall ensure the University's compliance with sales tax regulations by collecting, accounting for, reporting and remitting the required sales tax in a timely manner, for all taxable sales and rentals.

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Comments should be filed with the Office of General Counsel, Building 39- Room 301-Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008.

Comments may also be submitted by email to [OfficeofGC@udc.edu](mailto:OfficeofGC@udc.edu). Individuals wishing to comment by email must include the phrase "Comment to Proposed Rulemaking: Business Enterprises and Sales of Products and Services" in the subject line.

**TO:** The Board of Trustees  
**FROM:** Managing Director of Finance *David A. Franklin*  
**DATE:** February 8, 2019  
**SUBJECT:** DCMR Change - Ch.8B411- Business Enterprises and Sales of Products and Services

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### **Conclusion**

It is concluded that there is no significant fiscal impact associated with the Board of Trustees' authority to adopt, prescribe, amend, repeal, and enforce bylaws, rules, and regulations that it believes necessary for the governance and administration of the University.

### **Background**

Pursuant to 8B DCMR, the Board of Trustees intends to revise its regulations to reflect administrative and management changes to the structure of the University through the amendment to Chapter 8B411 of the District of Columbia Municipal Regulations. The previous language of 8B DCMR 411.1, barred the University from entering "into competition with private industry for sales to the public"; prohibited private business operations on campus and restricted the public from utilizing dining facilities. The revised sections allows the University to engage in all business activities.

UDC's existing auxiliary services will provide oversight and ensure the University's compliance with applicable laws and regulations pertaining to such activities. The University will engage in the direct sale of goods and services to individuals, groups, or external agencies. Charges for goods and services shall be determined taking into account their full direct and indirect costs, including University overhead, and the price of such items in the private marketplace.

### **Financial Impact**

The University expects the fee revenue to off-set any costs associated with positioning the sales of any goods, products, or services but do not have sufficient data to project any specific amount of new revenues. However, income generated from any trade or business, regularly carried on by the University, that is not substantially related to the University's educational activities may be taxable. The University shall also identify and report unrelated business

income on its tax returns and remit any tax due, in compliance with federal, state, and local tax laws and regulations.