GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

TO: District of Columbia Zoning Commission

FROM: Ellen McCarthy, Director

05-29

SUBJECT Recommendation for Emergency Rulemaking and Setdown of Permanent Rule Authorizing a Temporary Increase of Enrollment to Accommodate Students Displaced Due to the Effects of Hurricane Katrina

DATE: September 15, 2005

The Association of Independent Schools of Greater Washington (the Association) has requested, and the Office of Planning (OP) recommends, that the Zoning Commission adopt emergency rulemaking to allow schools which are subject to a limit on the number of students to enroll students from the area affected by Hurricane Katrina on a limited basis, for a limited time We request that the Commission take this action at its public meeting on September 15, 2005 The Office of the Attorney General reviewed the proposed rule and recommends that the Commission set the proposal for a public hearing, believing that the expiration of the emergency in 120 days could leave the schools open to enforcement action. In order to ensure that the rule would not remain in effect longer than necessary, OAG has also added a "sunset" provision.

Specifically, we request the Commission to add the following provisions to §206

206.4 Students who were displaced due to the effects of Hurricane Katrina may attend a private school existing as of September 15, 2005, without being counted against the limit on the number of students which may be a condition of an order of the Board of Zoning Adjustment; Provided, that the number of students to be accommodated at a school shall not exceed ten percent of the maximum number permitted or twenty students, whichever is less;

206.5 Subsection 206.4 shall expire on July 1, 2006.

Under the Administrative Procedure Act ("APA"), approved October 21, 1968, (82 Stat 1206; D C Official Code § 2-505(c) (2001)), an agency may adopt a rule without going through the normal process of notice and hearing where "the adoption of a rule is necessary for the immediate preservation of the public peace, health, safety, welfare, or morals " The amendment allowing students to be enrolled shall remain in effect for a period of 120 days from the date of adoption

The Association and OP submit that the circumstances described above constitute a situation within the meaning of the APA, justifying action on an emergency basis to take effect immediately. We also request the Commission to authorize immediate publication of the hearing notice

ZONING COMMISSION
CASE No. 05-29
EXHIBIT No. 1

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