4411 Chesapeake St NW Washington, DC 20016

October 10, 2017

Director Greer Johnson Gillis

DC Department of General Service

2000 14th St NW

Washington, DC 20009

Dear Director Gillis:

I have been a DC resident since 1984 and I am the founder and President of two local 501(c)(3) non-profit youth soccer organizations that are chartered in Washington D.C.  One, called “First Touch Soccer (FTS)” ([www.FirstTouchSoccer.org](http://www.firsttouchsoccer.org/)), was established in 2006 and the other, called “DC Youth Futbol Club (DCYFC),” ([www.DCYouthFutbolClub.org](http://www.dcyouthfutbolclub.org/)) was chartered in 2014. These organizations are made up of nearly 300 children ages 6 to 14, approximately 90% of whom are District of Columbia residents.

As you know, athletic field space in the District is scarce—an issue that concerns many District residents and has garnered significant media attention.[[1]](#footnote-1)  The Department of Parks and Recreation has limited public recreation space to accommodate the growing demand for youth activities and in particular, the demand for soccer fields.  Therefore, many youth and other sports organizations have turned to using DC Public School (DCPS) fields.

On behalf of both FTS and DCYFC, in the past 2 months, a Deal Middle School parent and our organizations have made several attempts to access and use the Alice Deal Middle School field in Ward 3. Each time, the school has denied our requests in a manner that not only disadvantages our D.C.-based non-profit organizations but also violates D.C. law. In fact, we did not receive even the courtesy of a response to our latest requests, having sent applications to Deal three times on March 1, June 22 and August 22, 2017, contrary to the process outlined by D.C. law..

Notably, during the time in which our organizations have been denied access altogether, a for-profit company chartered in Maryland was granted access to Deal Middle School every Friday afternoon in the Spring and Fall 2017. This is very concerning, given this business has also been routinely granted access to several elementary schools, and is ineligible to use DCPS fields under D.C. law. The issuance by DGS Office of Realty of a field permit to allow an out-of-state, for-profit company that has not paid taxes in D.C., before a D.C.-based non-profit is fundamentally unfair—and violates DC Municipal Regulations.

**We therefore urge the Department of General Services (DGS)[[2]](#footnote-2) to issue a memorandum to all DCPS schools to clarify existing rules and make sure school administrators understand their roles and responsibilities in granting requests for use of DCPS athletic fields.**

***First,*** DCPS administrators must adhere to the following process for denial of an organization’s request to use school facilities and fields, established by DC Municipal Regulations (DCMR) 1-1401, 1-1402, and 1-1403:

* The applicant must be notified in writing for the reasons for disapproval;
* The administrator should inform applicant of right to appeal disapproval;
* Within 5 calendar days, the applicant or permittee can appeal a disapproved decision.

***Second,*** DCPS administrators must adhere to DC Municipal Regulations governing which organizations can be granted access to the school facilities and fields so that ineligible organizations are not permitted to take up the already-scarce field time.

Notably, for-profit or commercial organizations are not permitted to enter into a DGS Office of Realty contract, which makes them ineligible for DCPS field access:

*DCMR 19-712: Use of School Facilities: Commercial Activities*

*712.1 - The use of school and recreation facilities shall not be granted for commercial activities or for profit.*

***Third,*** even among eligible organizations, DCPS administrators must take into account the priority factors established by DCPS Directive 604.2:

*The following factors will be taken into consideration in determining additional usage of DCPS grounds or facilities, on a first come, first serve basis:*

* *First priority for usage will be given to DCPS programs and activities;*
* *Second priority will be given to non-profit groups whose activities support children;*
* *Third priority will be given to non-profit organizations or groups that are organized by the surrounding community of the respective school;*
* *Fourth priority will be extended to other DC government agencies; and*
* *Fifth priority will be given to commercial and service enterprises.*

***Fourth,*** we urge DGS to encourage DCPS administrators to consider an entity’s domicile or the percentage of D.C. residents in the organization when making field time allocations. This approach would be consistent with field use regulations recently promulgated by the Department of Parks and Recreation (DPR) that give organizations with D.C. ties priority over non-D.C. groups:

*DCMR 19-717 Priority of Permitted Uses*

*717.2 - If more than one (1) applicant is seeking a permit for the same permitted use or equipment at the same time, the Department shall establish the following priority:*

1. *Department-sponsored activities;*
2. *Non-profit partners such as Programmatic Partners, Park Partners, and Collaborative Partners or designated organizations recognized by the Department in a written agreement;*
3. *Athletic programs organized by DCPS, District public charter schools, or the DCSAA for competitive league play and not for intramurals;*
4. *Youth non-profit organizations, including schools,* ***principally serving District residents;***
5. *Adult non-profit organizations* ***principally serving District residents;***
6. *Other organizations, groups, or individuals for private use* ***that are based in the District****; and then*
7. *Others.*

To satisfy DPR’s “principally serving District residents” and “based in the District” requirements above, an organization or other group seeking field space must demonstrate that it is both “incorporated in the District ***and*** that at least seventy-five percent (75%) of the participants are District residents.” DCMR 19-724.2 (Residency).

At bottom, DCPS administrators should be applying applicable law. It is unfortunate that you need to be requested to address this, but these administrators should be using uniform, objective criteria in allocating use of their athletic fields and facilities in accordance with existing D.C. regulations. This would make the allocation process transparent, eliminate subjective factors such as favoritism from the process, avoid the arbitrary and opaque nature of the current application and selection process, and level the playing field for all organizations to be equally evaluated based on their role in and contribution to the D.C. community.

**For the reasons explained, FTS and the DCYFC strongly urge DGS to issue a memorandum to DCPS administrators containing specific language which:**

* **Requires the DCPS school principal to issue a written explanation of permit denial;**
* **Provides for an appeal of any denial within 5 days as established by existing rules;**
* **Encourages the issuance of field permits to DC chartered 501(c)(3) non-profit organizations, reminding everyone of the requirements of applicable regulations; and**
* **Reminds individuals that the law prohibits the issuance of field permits to out-of-state and for-profit entities ahead of non-profit organizations chartered in the District of Columbia.**

Our members and I are available and would like to meet at your convenience within the next few weeks to discuss this with you and/or your staff.  Thank you for your time and consideration. We look forward to your response and working with you to allow D.C. non-profits serving our community’s youth to prosper and thrive in all neighborhoods of the city.

Sincerely,

Mitch Dubensky

cc: Mary Cheh, DC Councilmember

1. Chason, Rachel. “Field wars: Organized league clashes with pickup players in gentrifying neighborhood,” WASHINGTON POST (July 21, 2017); Sadon, Rachel. “After Outcry, League Relinquishes Columbia Heights Soccer Field,” DCIST (July 21, 2017); Sadon, Rachel. “11 D.C. Fields Fail Safety Test As A Local Debate Over Artificial Turf Begins To Heat Up,” DCIST (Sept. 18, 2017). [↑](#footnote-ref-1)
2. DGS has authority and oversight over the issuance of contracts for use of DCPS facilities. DCMR Ch. 1-14 (Rules and Procedures for the Occasional Use of Public Buildings and Grounds…). [↑](#footnote-ref-2)