



District of Columbia

REGISTER

HIGHLIGHTS

- DC Council passes Resolution Law 20-143, Vending Regulation Emergency Declaration Resolution of 2013
- DC Council schedules a public hearing on Bill 20-309, Fair Student Funding and School-Based Budgeting Act of 2013
- DC Public Library proposes revisions to the behavior rules governing the use of the DC Public Library
- DC Public Schools proposes guidelines for determining the Out-of-Boundary lottery start and end dates
- Board of Ethics and Government Accountability publishes the list of persons who filed or requested an extension for filing financial disclosure statements
- Office of the State Superintendent of Education announces funding availability for the FY2014 21st Century Community Learning Centers Grant
- DC Public Charter School Board requests public comment on the 2014 application guidelines for new charter schools in the District of Columbia

DISTRICT OF COLUMBIA REGISTER

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The District of Columbia Office of Documents and Administrative Issuances (ODAI) publishes the *District of Columbia Register* (ISSN 0419-439X) (*D.C. Register*) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979 (25 DCR 6960). The policies which govern the publication of the *D.C. Register* are set forth in Title 1 of the District of Columbia Municipal Regulations, Chapter 3 (Rules of the Office of Documents and Administrative Issuances.) Copies of the Rules may be obtained from the Office of Documents and Administrative Issuances. Rulemaking documents are also subject to the requirements of the *District of Columbia Administrative Procedure Act*, District of Columbia Official Code, §§2-501 *et seq.*, as amended.

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COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-212****"District Department of Transportation Parking Meter
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Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-924 on first and second readings September 19, 2012 and October 16, 2012, respectively. Following the signature of the Mayor on October 31, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-514 and was published in the November 23, 2012 edition of the D.C. Register (Vol. 59, page 13283). Act 19-514 was transmitted to Congress on January 10, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-514 is now D.C. Law 19-212, effective March 5, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 14,15,16,17,18,22,23,24,25,28,29,30,31


Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-213****"Reckless Driving Temporary Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-951 on first and second readings September 19, 2012 and October 16, 2012, respectively. Following the signature of the Mayor on October 31, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-515 and was published in the November 23, 2012 edition of the D.C. Register (Vol. 59, page 13285). Act 19-515 was transmitted to Congress on January 10, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-515 is now D.C. Law 19-213, effective March 5, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 14,15,16,17,18,22,23,24,25,28,29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-214

**"Allen Chapel A.M.E. Senior Residential Rental Project Property
Tax Exemption Clarification Temporary Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-899 on first and second readings September 19, 2012 and October 16, 2012, respectively. Following the signature of the Mayor on November 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-516 and was published in the November 23, 2012 edition of the D.C. Register (Vol. 59, page 13287). Act 19-516 was transmitted to Congress on January 10, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-516 is now D.C. Law 19-214, effective March 5, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 14,15,16,17,18,22,23,24,25,28,29,30,31


Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-215****"Extension of Time to Dispose of the Eastern Avenue
Property Temporary Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-904 on first and second readings September 19, 2012 and October 16, 2012, respectively. Following the signature of the Mayor on November 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-517 and was published in the November 23, 2012 edition of the D.C. Register (Vol. 59, page 13290). Act 19-517 was transmitted to Congress on January 10, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-517 is now D.C. Law 19-215, effective March 5, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 14,15,16,17,18,22,23,24,25,28,29,30,31
Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28
Mar. 1,4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-216

**"Extension of Time to Dispose of the Strand
Theater Temporary Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-906 on first and second readings September 19, 2012 and October 16, 2012, respectively. Following the signature of the Mayor on November 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-518 and was published in the November 23, 2012 edition of the D.C. Register (Vol. 59, page 13292). Act 19-518 was transmitted to Congress on January 10, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-518 is now D.C. Law 19-216, effective March 5, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 14,15,16,17,18,22,23,24,25,28,29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-217****"General Obligation Bonds and Bond Anticipation Notes
for Fiscal Years 2013-2018 Authorization Temporary Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-916 on first and second readings October 2, 2012 and October 16, 2012, respectively. Following the signature of the Mayor on November 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-519 and was published in the November 23, 2012 edition of the D.C. Register (Vol. 59, page 13294). Act 19-519 was transmitted to Congress on January 10, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-519 is now D.C. Law 19-217, effective March 5, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 14,15,16,17,18,22,23,24,25,28,29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4

COUNCIL OF THE DISTRICT OF COLUMBIA


NOTICE

D.C. LAW 19-218

"Processing Sales Tax Clarifying Temporary Amendment Act of 2012"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-976 on first and second readings October 2, 2012 and October 16, 2012, respectively. Following the signature of the Mayor on November 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-520 and was published in the November 23, 2012 edition of the D.C. Register (Vol. 59, page 13309). Act 19-520 was transmitted to Congress on January 10, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-520 is now D.C. Law 19-218, effective March 5, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 14,15,16,17,18,22,23,24,25,28,29,30,31


Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-219****"Income Tax Withholding Statements Electronic
Submission Temporary Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-978 on first and second readings October 2, 2012 and October 16, 2012, respectively. Following the signature of the Mayor on November 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-521 and was published in the November 23, 2012 edition of the D.C. Register (Vol. 59, page 13311). Act 19-521 was transmitted to Congress on January 10, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-521 is now D.C. Law 19-219, effective March 5, 2013.



PHIL MENDELSON
Chairman of the Council


Days Counted During the 30-day Congressional Review Period:

Jan. 14,15,16,17,18,22,23,24,25,28,29,30,31
Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28
Mar. 1,4

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-220****"Clarification of Personal Property Tax Revenue
Reporting Temporary Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-980 on first and second readings October 2, 2012 and October 16, 2012, respectively. Following the signature of the Mayor on November 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-522 and was published in the November 23, 2012 edition of the D.C. Register (Vol. 59, page 13313). Act 19-522 was transmitted to Congress on January 10, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-522 is now D.C. Law 19-220, effective March 5, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 14,15,16,17,18,22,23,24,25,28,29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-221

**"Temporary Assistance for Needy Families
Time Delay Temporary Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-902 on first and second readings September 19, 2012 and October 16, 2012, respectively. Following the signature of the Mayor on November 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-523 and was published in the November 23, 2012 edition of the D.C. Register (Vol. 59, page 13315). Act 19-523 was transmitted to Congress on January 10, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-523 is now D.C. Law 19-221, effective March 5, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 14,15,16,17,18,22,23,24,25,28,29,30,31
Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28
Mar. 1,4

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-222****"Metropolitan Washington Airports Authority Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-829 on first and second readings October 2, 2012 and October 16, 2012, respectively. Following the signature of the Mayor on November 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-524 and was published in the November 23, 2012 edition of the D.C. Register (Vol. 59, page 13317). Act 19-524 was transmitted to Congress on January 10, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-524 is now D.C. Law 19-222, effective March 5, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 14,15,16,17,18,22,23,24,25,28,29,30,31

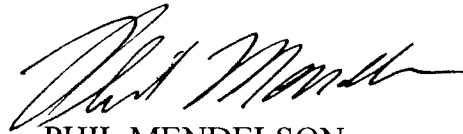
Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-223****"Employee Transportation Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-354 on first and second readings July 10, 2012 and October 2, 2012, respectively. Following the signature of the Mayor on November 5, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-534 and was published in the November 30, 2012 edition of the D.C. Register (Vol. 59, page 13537). Act 19-534 was transmitted to Congress on January 10, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-534 is now D.C. Law 19-223, effective March 5, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 14,15,16,17,18,22,23,24,25,28,29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4

COUNCIL OF THE DISTRICT OF COLUMBIA


NOTICE

D.C. LAW 19-224

**"Allen Chapel A.M.E. Senior Residential Rental Project
Property Tax Exemption Clarification Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-162 on first and second readings October 16, 2012 and November 1, 2012, respectively. Following the signature of the Mayor on November 16, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-535 and was published in the November 30, 2012 edition of the D.C. Register (Vol. 59, page 13548). Act 19-535 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-535 is now D.C. Law 19-224, effective March 19, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-225

"Hire Date Reporting Amendment Act of 2012"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-739 on first and second readings October 16, 2012 and November 1, 2012, respectively. Following the signature of the Mayor on November 15, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-536 and was published in the November 30, 2012 edition of the D.C. Register (Vol. 59, page 13551). Act 19-536 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-536 is now D.C. Law 19-225, effective March 19, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-226

**“Fiscal Year 2013 Budget Support Technical
Clarification Temporary Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-947 on first and second readings September 19, 2012 and November 1, 2012, respectively. Following the signature of the Mayor on November 16, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-537 and was published in the November 30, 2012 edition of the D.C. Register (Vol. 59, page 13553). Act 19-537 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-537 is now D.C. Law 19-226, effective March 19, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

COUNCIL OF THE DISTRICT OF COLUMBIA**NOTICE****D.C. LAW 19-227****“School-Based Enrichment Programs Temporary Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1004 on first and second readings October 16, 2012 and November 1, 2012, respectively. Following the signature of the Mayor on November 15, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-538 and was published in the November 30, 2012 edition of the D.C. Register (Vol. 59, page 13576). Act 19-538 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-538 is now D.C. Law 19-227, effective March 19, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

COUNCIL OF THE DISTRICT OF COLUMBIA

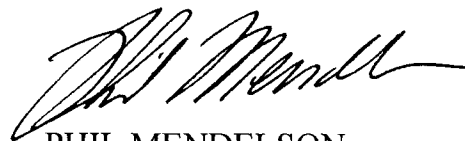
NOTICE

D.C. LAW 19-228

**"Office of the Chief Financial Officer Audit Report
Transparency Temporary Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1006 on first and second readings October 16, 2012 and November 1, 2012, respectively. Following the signature of the Mayor on November 16, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-539 and was published in the November 30, 2012 edition of the D.C. Register (Vol. 59, page 13578). Act 19-539 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-539 is now D.C. Law 19-228, effective March 19, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-229

"Health Benefits Plan Members Bill of Rights Amendment Act of 2012"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-376 on first and second readings October 16, 2012 and November 1, 2012, respectively. Following the signature of the Mayor on November 20, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-546 and was published in the November 30, 2012 edition of the D.C. Register (Vol. 59, page 13592). Act 19-546 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-546 is now D.C. Law 19-229, effective March 19, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-230

“Uniform Real Property Transfer on Death Act of 2012”

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-753 on first and second readings October 16, 2012 and November 1, 2012, respectively. Following the signature of the Mayor on November 20, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-547 and was published in the November 30, 2012 edition of the D.C. Register (Vol. 59, page 13606). Act 19-547 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-547 is now D.C. Law 19-230, effective March 19, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-231

**"General Obligation Bonds and Bond Anticipation Notes
for Fiscal Years 2013-2018 Authorization Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-917 on first and second readings October 16, 2012 and November 1, 2012, respectively. Following the signature of the Mayor on November 20, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-548 and was published in the November 30, 2012 edition of the D.C. Register (Vol. 59, page 13617). Act 19-548 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-548 is now D.C. Law 19-231, effective March 19, 2013.



PHIL MENDELSON
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

ENROLLED ORIGINAL

A RESOLUTION

20-136

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency, due to Congressional review, with respect to the need to provide property insurance for risks to District government real property assets for earthquake and earthquake-related hazards, to authorize the agency to enter into contracts with other insurance companies and re-insurers, and to require the agency's plan of operation to be modified to include procedures for offering property insurance.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Captive Earthquake Property Insurance Congressional Review Emergency Declaration Resolution of 2013".

Sec. 2. The Captive Earthquake Property Insurance Emergency Amendment Act, effective March 20, 2013 (D.C. Act 20-39; 60 DCR 4663), was adopted by the Council on an emergency basis on March 5, 2013, and will expire on June 18, 2013. The Captive Earthquake Property Insurance Temporary Amendment Act of 2013, signed by the Mayor on April 24, 2013 (D.C. Act 20-63; 60 DCR 6407), was transmitted to Congress on May 6, 2013, and is pending Congressional review. The projected law date for D.C. Act 20-63 is June 24, 2013. This Congressional review emergency is necessary to prevent a gap in the law.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Captive Earthquake Property Insurance Congressional Review Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. The resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-137

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend subsection 807.1 of Title 23 of the District of Columbia Municipal Regulations to revise the definition of an "egregious" first-time sale to minor violation, and clarify that an Alcoholic Beverage Control Board licensee that can be established to have had a pattern of prior alcoholic beverage sales or service to minors has committed an "egregious" first-time sale to minor violation and is not entitled to a written warning.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Egregious First-Time Sale to Minor Clarification Congressional Review Emergency Declaration Resolution of 2013".

Sec. 2. (a) In March, the Council enacted the Egregious First-Time Sale to Minor Clarification Emergency Amendment Act of 2013, effective March 19, 2013 (D.C. Act 20-34; 60 DCR 4644) ("emergency legislation"), and in April, the Egregious First-Time Sale to Minor Clarification Temporary Amendment Act of 2013, was signed by the Mayor on April 25, 2013 (D.C. Act 20-60; 60 DCR 6399) ("temporary legislation"). The emergency and temporary legislation amended subsection 807.1 of Title 23 of the District of Columbia Municipal Regulations to revise the definition of an "egregious" first-time sale to minor violation, and clarify that an Alcoholic Beverage Control Board licensee that can be established to have had a pattern of prior alcoholic beverage sales or service to minors has committed an "egregious" first-time sale to minor violation and is not entitled to a written warning.

(b) The emergency legislation will expire on June 17, 2013, before the temporary legislation is projected to become law.

(c) It is important that the provisions of the emergency legislation continue in effect, without interruption, until the temporary legislation is in effect.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Egregious First-Time Sale to Minor Clarification Congressional Review Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-138

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend the District of Columbia Public Assistance Act of 1982 to delay the scheduled additional 25% reduction of Temporary Assistance for Needy Families payments for 6 months, from April 1, 2013, until October 1, 2013.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Temporary Assistance for Needy Families Time Extension Congressional Review Emergency Declaration Resolution of 2013".

Sec. 2. (a) The Temporary Assistance for Needy Families Time Extension Emergency Amendment Act of 2013, effective March 14, 2013 (D.C. Act 20-26; 60 DCR 4614), is set to expire on June 12, 2013. The Temporary Assistance for Needy Families Time Extension Temporary Amendment Act of 2013, signed by the Mayor on April 23, 2013 (D.C. Act 20-59; 60 DCR 6397) ("Temporary Act"), is pending Congressional review and has a projected law date of June 24, 2013.

(b) There exists an immediate need to prevent a gap in legal authority and ensure the continued delay of the scheduled additional 25% reduction of Temporary Assistance for Needy Families ("TANF") payments until the Temporary Act is in place. This 6-month delay will provide TANF recipients, subject to the benefit reduction, the necessary time to access services and prepare for their eventual transition off TANF.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Temporary Assistance for Needy Families Time Extension Congressional Review Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-139

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency with respect to the need to approve Change Orders No. 005 through No. 009 to the Contract for design-build services for the new Dunbar Senior High School between the District of Columbia government and Smoot/Gilbane, A Joint Venture, Contract No. GM-11-M-0531-FM, and to authorize payment to Smoot/Gilbane, A Joint Venture, in the aggregate amount of \$5,357,569.14 for the goods and services to be received under these change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Change Orders No. 005 through No. 009 to Contract No. GM-11-M-0531-FM Approval and Payment Authorization Emergency Declaration Resolution of 2013".

Sec. 2.(a) There exists an immediate need to approve Change Orders No. 005 through No. 009 to Contract No. GM-11-M-0531-FM for design-build services and additional project scope at the new Dunbar Senior High School in the aggregate amount of \$5,257,569.14 and to authorize payment for the goods and services to be received under these change orders.

(b) The Council of the District of Columbia previously approved Contract No. GM-11-M-0531-FM (CA 19-0213), GMP Amendment Change Order No. 001 (CA 19-0310), and Change Order No. 004 (CA 19-0457). The aggregate value of Change Orders No. 005 through No. 008 was under \$1 million; thus, these change orders did not require Council approval.

(c) Change Order No. 009 will cause the aggregate value of the change orders issued to exceed the \$1 million threshold pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval of Change Orders No. 005 through No. 009 in the aggregate amount of \$5,357,569.14 is necessary to compensate Smoot/Gilbane, A Joint Venture, for work to be completed at the new Dunbar Senior High School.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders No. 005 through No. 009 to Contract No. GM-11-M-0531-FM Approval and Payment Authorization Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-140

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To authorize and establish a Pro Bono Legal Volunteer Program for the Council of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Council of the District of Columbia Pro Bono Legal Volunteer Program Establishment Resolution of 2013”.

Sec. 2. The Council finds that:

(1) Equal access to justice, without regard to income, is fundamental to our system of justice and integral to our democratic society. Litigants who are represented by counsel are statistically more successful than their unrepresented counterparts, and legal assistance can be essential to an individual’s ability to access necessary services and programs. The District of Columbia, as our nation’s capital and the seat of democracy, should serve as a model in the provision of legal services and ensure all residents have equal access to the justice system.

(2) Rule 6.1 of the D.C. Rules of Professional Conduct, which is intended to “incorporate[] the legal profession’s historical commitment to the principle that all persons in our society should be able to obtain necessary legal services,” provides that lawyers “should participate in serving those persons, or groups of persons, who are unable to pay all or a portion of reasonable attorney’s fees or who are otherwise unable to obtain counsel.”

(3) An October 2012 Report of the Pro Bono Task Force of the Legal Services Corporation (“Pro Bono Report”) recently noted that “Government lawyers are potentially a major resource for pro bono assistance, but they also face unique obstacles.”

(4) In 1996, President William J. Clinton issued Executive Order 12988, which directed federal agencies to “develop appropriate programs to encourage and facilitate pro bono legal and other volunteer service by government employees.” Since the adoption of the Executive Order, according to the Pro Bono Report, 37 federal agencies within the District have established pro bono programs and 15 have adopted policies that authorize administrative leave for *pro bono* legal work.

(5) In 2009, the Judicial Conferences of the District of Columbia issued a resolution calling on members of the Bar to commit 50 hours of *pro bono* legal service each year.

(6) According to a recent study by the American Bar Association’s Standing Committee on Pro Bono and Public Service, less than half of government attorneys seek out *pro bono* activities. Yet, in a recent survey of Council employees who are attorneys, an

ENROLLED ORIGINAL

overwhelming majority said that they would participate in *pro bono* activities if the Council offered a program.

Sec. 3. To help facilitate *pro bono* legal activities for Council employees:

(1) The Council hereby authorizes and establishes the Pro Bono Legal Volunteer Program for the Council of the District of Columbia (“Pro Bono Program”).

(2) The General Counsel is authorized to administer the Pro Bono Program.

(3) The Pro Bono Program shall be open to all Council employees who are licensed to practice law in any jurisdiction, subject to rules governing the unauthorized practice of law, and as permitted by statute, regulation, or other rule or guideline.

(4) The Pro Bono Program is authorized to coordinate *pro bono* opportunities with other District offices, agencies, and instrumentalities.

(5) The Council authorizes up to 20 hours of administrative leave per calendar year for Council employees participating in the Pro Bono Program to engage in Pro Bono Program-related activities and responsibilities. Administrative leave will be subject to approval by the employee’s supervisor.

(6) The General Counsel shall adopt Policies and Guidelines for the Pro Bono Program and all Pro Bono Program participants must adhere to the policies and guidelines established by the Pro Bono Program.

Sec. 4. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A RESOLUTION

20-141

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency with respect to the need to prohibit the electric company from shutting off service when the heat index is forecasted to be 95 degrees Fahrenheit or above.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Heat Wave Safety Emergency Declaration Resolution of 2013".

Sec. 2. (a) There exists an immediate need to protect District residents who are vulnerable to health impairments that may be caused by periods of extreme heat and who may be unable to cool their homes if their electricity is shut off.

(b) District law prohibits utilities from disconnecting service when the forecast predicts that the temperature will be 32 degrees Fahrenheit or below during the following 24 hours.

(c) Exposure to extreme heat is more likely than extreme cold to cause people to experience negative health consequences, including death; yet, the District does not prohibit the disconnection of electricity during or directly preceding periods of extreme heat analogous to the prohibition on disconnections during or directly preceding periods of extreme cold.

(d) Enacting a prohibition on the disconnection of electricity during or directly preceding periods of extreme heat will provide a measure of security for District residents without creating undue hardship for the electric company.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Heat Wave Safety Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-142

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency with respect to the need to exempt from taxation certain property owned or leased by YMCA of Metropolitan Washington or YMCA Community Investment Initiative, nonprofit organizations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “YMCA Community Investment Initiative Real Property Tax Exemption Emergency Declaration Resolution of 2013”.

Sec. 2. (a) Young Men’s Christian Association of Metropolitan Washington (“YMCA”), a tax-exempt 501(c)(3) organization, is the tenant under a long-term lease (“Lease”) with the YMCA Community Investment Initiative (“YMCA CII”) Anthony Bowen YMCA located at 1325 W Street, N.W., described as Lot 2010, Square 234, in Ward 1.

(b) YMCA will be going to closing for the permanent financing for the new Anthony Bowen YMCA through the New Markets Tax Credit (“NMTC”) program, administered by the U.S. Treasury Department.

(c) The NMTC program requires that the borrower own the property being financed. For this reason, YMCA has formed a subsidiary, YMCA Community Investment Initiative, to be the borrower. At closing on the NMTC financing, YMCA will assign its interest in the Lease to YMCA CII, which will immediately sublease the property to YMCA.

(d) YMCA is currently exempt from District of Columbia real property, possessory interest, recordation, and transfer taxes with respect to the YMCA subsidiary. However, the YMCA subsidiary is not.

(e) Without real property, possessory interest, transfer, and recordation tax exemptions for the YMCA subsidiary, the YMCA would be forced to incur enormous, unanticipated taxes in connection with the NMTC loan transition.

(f) D.C. Official Code § 47-1024 expressly states that “[a]ll property belonging to the Young Men’s Christian Association of the District of Columbia, used and occupied by that Association, shall, so long as the same is so owned and occupied, be exempt from taxation, national and municipal...”.

(g) The financing transaction, for the purposes of utilizing federal credits, is wholly consistent with the intent of that statute.

ENROLLED ORIGINAL

(h) YMCA will not profit from the NMTC structure described above. The only reason for this structure is that it is required under the NMTC program.

(i) YMCA currently owns the YMCA subsidiary property and thus is exempt from real property, possessory interest, recordation, and transfer taxes with respect to the YMCA subsidiary property.

(j) After the NMTC financing closes, YMCA will continue to own the YMCA subsidiary and will operate the Anthony Bowen YMCA facility to carry out its charitable activities in the U Street/Cardozo/Shaw neighborhoods and beyond.

(k) The transaction is revenue neutral to the District as the property will continue to be owned, used, and controlled by YMCA, which would ordinarily benefit from the provisions of District of Columbia Official Code § 47-1024.

(l) The NMTC transaction is scheduled to close on May 28, 2013.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the YMCA Community Investment Initiative Real Property Tax Exemption Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-143

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency with respect to the need to amend the Vending Regulation Act of 2009 to allow the Council to vote to approve in part or in whole the proposed regulations issued pursuant that act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Vending Regulation Emergency Declaration Resolution of 2013".

Sec. 2. The Council of the District of Columbia finds that:

(1) In 2009, the Council passed the Vending Regulation Act of 2009, which gave the Council the authority to approve or disapprove the proposed rules issued by the Mayor to implement the act.

(2) The fourth proposed rulemaking, PR 20-0125, the Vending Business License Regulation Resolution of 2013, was introduced in the Office of the Secretary by Chairman Mendelson at the request of the Mayor on March 8, 2013.

(3) The Committee on Business, Consumer and Regulatory Affairs held a public roundtable on PR 20-0125 on May 10, 2013, at which time it became clear that the Department of Consumer and Regulatory Affairs had delayed enforcing the laws during the 4-year long rulemaking process in anticipation of the new regulations.

(4) The Council should have the authority to vote to approve in whole or in part the proposed regulations issued by the Mayor to help expedite the approval process of the sections of the regulations that are not in controversy.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Vending Business Regulation Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-144

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency, with respect to the need to amend the Health Benefit Exchange Authority Establishment Act of 2011 to clarify the requirements for qualified health plans on the exchange and participation in the exchange marketplace before the federally mandated open enrollment date of October 1, 2013.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Better Prices, Better Quality, Better Choices for Health Coverage Emergency Declaration Resolution of 2013”.

Sec. 2. (a) Bill 20-0240, the Better Prices, Better Quality, Better Choices for Health Coverage Amendment Act of 2013, was introduced by Chairman Mendelson at the request of the Mayor in April 2013, and referred to the Committee on Health. The bill amends the Health Benefit Exchange Authority Establishment Act of 2011 and sets forth additional detail regarding plans and participation in the exchange marketplace.

(b) Due to various mandatory constraints imposed by the legislative process including the need for a hearing, the committee’s review and markup of the bill, and mayoral and Congressional review of the bill, emergency legislation is necessary before enacting the permanent bill so that the final pieces of the District of Columbia’s Health Benefit Exchange can be timely implemented.

(c) The Affordable Care Act requires all states implementing their own exchanges to have an online portal available for open enrollment by October 1, 2013, with member coverage beginning on January 1, 2014.

(d) Before the date of open enrollment, and as early as August 1, 2013, the Health Benefit Exchange online portal must undergo a series of tests involving multiple governmental agencies and the federal government. All plans, rates, and associated material must be filed by insurance carriers and uploaded to the exchange’s online portal before that time. Additionally, the plans and rates must be reviewed and approved by the Department of Insurance, Securities, and Banking (“DISB”) before the plans and rates can be uploaded to the exchange’s online portal.

(e) The Health Benefit Exchange has set a date of May 31, 2013 for insurance carriers to file their plans and rates with DISB so that they can be timely reviewed, approved, and potentially amended and re-approved, and uploaded before August 1, 2013.

ENROLLED ORIGINAL

(f) The Better Prices, Better Quality, Better Choices for Health Coverage Emergency Amendment Act of 2013 stipulates the detailed requirements of the qualified health plans that will be offered on the exchange, including benefits pertaining to prescription drugs, mental health and substance abuse, and habilitative services.

(g) The Better Prices, Better Quality, Better Choices for Health Coverage Emergency Amendment Act of 2013 also sets forth provisions for individuals, small businesses, and insurance producers' participation in the exchange marketplace.

(h) Insurance carriers will rely on this legislation to determine their plans and rates.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Better Prices, Better Quality, Better Choices for Health Coverage Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-145

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency with respect to the need to approve Change Orders Nos. 1 and 2 and Change Directive No. 2 to the Contract for Design-Build Services for the Phase 1 Modernization of Simon Elementary School between the District of Columbia government and Forney Enterprises, Inc., Contract No. DCAM-12-M-1031J-FM, and to authorize payment to Forney Enterprises, Inc. in the aggregate amount of \$2,737,274.22 for the goods and services received under these change orders and change directive.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Change Orders Nos. 1 and 2 and Change Directive No. 2 to Contract No. DCAM-12-M-1031J-FM Approval and Payment Authorization Emergency Declaration Resolution of 2013".

Sec. 2.(a) There exists an immediate need to approve Change Orders Nos. 1 and 2 and Change Directive No. 2 to Contract No. DCAM-12-M-1031J-FM for design-build services, additional project scope, outstanding change requests, and the close-out of the Phase 1 project at Simon Elementary School and to authorize payment in the aggregate amount of \$2,737,274.22 for the goods and services received under these change orders and change directive.

(b) The Council of the District of Columbia Council previously approved Contract No. DCAM-12-M-1031J-FM (CA 19-0361). A zero dollar administrative Change Directive No. 1 was then issued. Change Order No. 1 in the amount of \$949,506.93 and Change Directive No. 002 in the amount of \$10,000 were subsequently issued with an aggregate value of less than \$1 million; thus, Council approval was not required at that time. Change Order No. 2, in the amount of \$1,777,767.29, increases the aggregate value of the Contract, since Council's last approval, over the \$1 million threshold pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51); thus, Council approval is required.

(c) Approval of Change Orders Nos. 1 and 2 and Change Directive No. 2 to Contract No. DCAM-12-M-1031J-FM in the aggregate amount of \$2,737,274.22 is necessary to compensate Forney Enterprises, Inc., for work completed at Simon Elementary School.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders Nos. 1 and 2 and Change Directive No. 2 to Contract No. DCAM-12-M-1031J-FM Approval and Payment Authorization Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-146

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency with respect to the need to approve Change Order No. 2 to the Contract for Design-Build Services for the Phase 1 Modernization of Leckie Elementary School between the District of Columbia government and Forney Enterprises, Inc., Contract No. DCAM-12-M-1031F-FM, and to authorize payment to Forney Enterprises, Inc., in the amount of \$1,833,339.67 for the goods and services received under this change order.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Change Order No. 2 to Contract No. DCAM-12-M-1031F-FM Approval and Payment Authorization Emergency Declaration Resolution of 2013".

Sec. 2.(a) There exists an immediate need to approve Change Order No. 2 to Contract No. DCAM-12-M-1031F-FM for design-build services, additional project scope, outstanding change requests, and the close-out of the Phase 1 project at Leckie Elementary School and to authorize payment in the aggregate amount of \$1,833,339.67 for the goods and services received under this change order.

(b) The Council of the District of Columbia previously approved Contract No. DCAM-12-M-1031F-FM (CA 19-0349) with a guaranteed maximum price ("GMP") of \$4,239,245. Change Order No. 1 was an administrative change that did not increase the Contract's GMP. Change Order No. 2 in the amount of \$1,833,339.67 causes the aggregate value of change orders issued after the Council's approval to exceed the \$1 million threshold pursuant to D.C. Official Code § 1-204.51; thus, Council approval is required. Of this increase to the Contract's GMP, \$440,000 was previously authorized by a partial release of work under Change Order No. 2 and is included in the \$1,833,339.67 total.

(c) Approval of Change Order No. 2 in the aggregate amount of \$1,833,339.67 is necessary to compensate Forney Enterprises, Inc., for work completed at Leckie Elementary School.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Order No. 2 to Contract No. DCAM-12-M-1031F-FM Approval and Payment Authorization Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-147

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency with respect to the need to approve Change Orders Nos. 1 through 3 to the Contract for Design-Build Services for the Phase 1 Modernization of Nalle Elementary School between the District of Columbia government and Forrester Construction Company, Contract No. DCAM-12-M-1031G-FM, and to authorize payment to Forrester Construction Company in the amount of \$1,815,828.23 for the goods and services received under these change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Change Orders Nos. 1 through 3 to Contract No. DCAM-12-M-1031G-FM Approval and Payment Authorization Emergency Declaration Resolution of 2013”.

Sec. 2.(a) There exists an immediate need to approve Change Orders Nos. 1 through 3 to Contract No. DCAM-12-M-1031G-FM for design-build services, additional project scope, outstanding change requests, and the close-out of the Phase 1 project at Nalle Elementary School and to authorize payment in the aggregate amount of \$1,815,828.23 for the goods and services received under these change orders.

(b) The Council of the District of Columbia previously approved Contract No. DCAM-12-M-1031G-FM (CA 19-0387) with a guaranteed maximum price (“GMP”) of \$6,837,819. Change Order No. 1 in the amount of \$386,442.30 and Change Order No. 2 in the amount of \$536,975 were subsequently issued with an aggregate increase of less than \$1 million; thus, Council approval was not required at that time. Change Order No. 3, in the amount of \$892,410.93, will increase the aggregate contract value by an amount over \$1 million pursuant to D.C. Official Code § 1-204.51; hence, Council approval is required.

(c) Approval of Change Orders Nos. 1 through 3 in the aggregate amount of \$1,815,828.23 is necessary to compensate Forrester Construction Company for work completed at Nalle Elementary School.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change

ENROLLED ORIGINAL

Orders Nos. 1 through 3 to Contract No. DCAM-12-M-1031G-FM Approval and Payment Authorization Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-148

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency with respect to the need to approve Contract No. DCHT-2012-C-0016 and Modification Nos. M0001, M0002, M0003, and M0004 to Contract No. DCHT-2012-C-0016 to manage and administer the District’s non-emergency transportation services program for the District’s Medicaid eligible fee-for service recipients and to authorize payment for the services received and to be received under the contract

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. DCHT-2012-C-0016 and Modification Nos. M0001, M0002, M0003 and M0004 to Contract No. DCHT-2012-C-0016 Approval and Payment Authorization Emergency Declaration Resolution of 2013”.

Sec. 2. (a) There exists an immediate need to approve Contract No. DCHT-2012-C-0016 and Modification Nos. M0001, M0002, M0003 and M0004 to Contract No. DCHT-2012-C-0016 and to authorize payment for the services received and to be received under the contract.

(b) The District originally entered into a contract (DCHC-2007-E-0001) with Medical Transportation Management, Inc. ("MTM") to provide non-emergency transportation services program for the District’s Medicaid eligible fee-for service recipients from July 20, 2007, through July 19, 2008, with 4 one-year options.

(c) Upon expiration of the final option period Emergency Contract No. DCHT-2012-C-0016 was awarded to MTM on August 31, 2012 through December 29, 2012 in the amount of \$6,370,988.00.

(d) Modification No. M0001 extended Emergency Contract DCHT-2012-C-0016 for the period of December 30, 2012 to January 12, 2013 for a total of \$893,723.00.

(e) Modification No. M0002 extended Emergency Contract DCHT-2012-C-0016 for the period of January 13, 2013 to January 31, 2013 for a total of \$1,212,910.00.

(f) Modification No. M0003 extended Emergency Contract DCHT-2012-C-0016 for the period of February 1, 2013 to February 28, 2013 for a total of \$2,103,360.00.

(g) Modification No. M0004 extended Emergency Contract DCHT-2012-C-0016 for the period of March 1, 2013 to March 14, 2013 for a total of \$893,723.00.

ENROLLED ORIGINAL

(h) Council approval is necessary because the value of Contract No. DCHT-2012-C-0016 and Modification Nos. M0001, M0002, M0003 and M0004 to Contract No. DCHT-2012-C-0016 are more than \$1,000,000 during a 12-month period.

(i) Approval is necessary to allow the continuation of these vital services. Without this approval, MTM cannot be paid for services provided in excess of \$1,000,000.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. DCHT-2012-C-0016 and Modification Nos. M0001, M0002, M0003 and M0004 to Contract No. DCHT-2012-C-0016 Approval and Payment Authorization Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-149

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency with respect to the need to retroactively approve the award of a contract option period 2 in the amount of \$1,340,000.00 with Vision McMillan Partners, LLC, for development management services for the McMillan Sand Filtration project.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. DCEB-DMPED-11-C-0023 Approval and Payment Authorization Emergency Declaration Resolution of 2013”.

Sec. 2. (a) There exists an immediate need for the Council to approve a contract with Vision McMillan Partners, LLC, for development management services for the McMillan Sand Filtration project.

(b) The Office of the Deputy Mayor for Planning and Economic Development awarded a base contract on April 15, 2011, for an amount not to exceed \$900,000.00 to Vision McMillan Partners, LLC (“Contract”). The services provided under the contract are development management services for the McMillan Sand Filtration project with the intent of seeking and obtaining approval of the master plan for the development of the site. The term of the Contract was from April 15, 2011 through November 30, 2011.

(c) The Contract was further extended through exercise of option period one in December 2011 to continue the required services. The amount of the option period was \$1,340,000.00. The contract option period expired on November 30, 2012. After discussions with the contractor and contract administrator, it was determined that a partial option period should be exercised to allow the contractor to submit a detailed budget for the entire amount of the full option period. A partial option was exercised in the not to exceed amount of \$900,000.00 with additional amounts totaling \$440,000.00. The new amount of the FY13 option period totals \$1,340,000.00.

(d) Council approval of the FY13 contract option period and authorization of payment for services to be received are needed on an emergency basis to ensure that the needed development management services are not compromised and to prevent the project schedule in question from falling behind relative to the approval of the master plan.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. DCEB-DMPED-11-C-0023 Approval and Payment Authorization Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-150

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To declare the existence of an emergency with respect to the need to approve an amendment to the term sheet for District-owned real property located at 1421 Euclid Street, N.W., known for tax and assessment purposes as Lot 0811 in Square 2665.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Justice Park Property Term Sheet Amendment Emergency Declaration Resolution of 2013”.

Sec. 2. (a) The Council approved the Justice Park Disposition Approval Resolution of 2011, effective April 5, 2011 (Res. 19-77; 58 DCR 3199), pursuant to An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801 *et seq.*) (“Act”), which was accompanied by a term sheet dated November 10, 2010 that was executed by the Deputy Mayor for Planning and Economic Development and the proposed developer. The term sheet outlined certain terms and conditions of the disposition of the real property located at 1421 Euclid Street, N.W. (“Property”), as required by the Act.

(b) The project has overcome several hurdles since first being approved, including a difficult lending market for affordable housing, zoning and parking constraints, as well as community requests for a smaller scale development that resulted in a decrease in the project’s scale from 37 residential units to 30 residential units. During this time, the developer saw a demand for affordable housing within the deaf community and designed the units to include features specifically for those with hearing impairments.

(c) A preliminary design review meeting with the Zoning Commission was held on March 21, 2012 to review the proposed development plans and compliance with zoning regulations. The Zoning Commission and the developer determined that the Property could not achieve the off-street parking requirements for a 30 residential unit building, therefore a reduction of off-street parking spaces from 15 spaces to 14 spaces and a corresponding reduction in units from 30 residential units to 28 residential units would be necessary to make the project compliant with the zoning regulations.

(d) The Zoning Commission, by letter dated May 15, 2012, determined that the revised development plan with 14 parking spaces and 28 residential units complied with the off-street parking requirements contained in Chapter 21 of the Zoning Regulations.

ENROLLED ORIGINAL

(e) The Council approved the Extension of Time to Dispose of the Justice Park Property Emergency Act of 2013, effective May 15, 2013 (D.C. Act 20-66; 60 DCR 7230), to authorize an extension of time within which the Mayor may dispose of the Property.

(f) Pursuant to the Act, the Mayor must submit a resolution to the Council detailing any substantial changes to the term sheet for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess.

(g) An initial change in unit count from 37 residential units to 30 residential units was previously authorized by the Council approved term sheet, which required a minimum of 30 residential units; however the additional reduction of 2 extra units below the minimum requirement of 30 residential units necessitated review and approval by Council.

(h) The Mayor submitted a resolution with a redlined term sheet that amends the unit count, the gross square feet of the project, and the parking spaces at the project, and includes revisions requested by the developer to facilitate the financing and development of affordable units on the Property.

(i) Closing for the Property cannot occur without Council approval of the amendments to the term sheet.

(j) Without immediate approval by Council, the development project cannot receive the necessary investments to receive the Low Income Housing Tax Credit equity investment from Wells Fargo.

(k) The cost of market rate housing in the Columbia Heights neighborhood has risen by 17.4% since December 2010, and the market rate for rentals has increased by 3.8% since December 2010, exacerbating the need for additional affordable units in the Columbia Heights neighborhood. The expeditious review and approval by the Council of the amended term sheet is essential to delivering this long awaited and important affordable housing project to District residents. Because the deaf community in Washington, D.C. is underserved and typically does not locate in Columbia Heights because of the lack of suitable affordable housing, these units were designed to accommodate the deaf and those who are hard of hearing.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Justice Park Property Term Sheet Amendment Approval Resolution of 2013 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-151

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2013

To approve, on an emergency basis, an amendment to the term sheet for District-owned real property located at 1421 Euclid Street, N.W., known for tax and assessment purposes as Lot 0811 in Square 2665.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Justice Park Property Term Sheet Amendment Emergency Approval Resolution of 2013”.

Sec. 2. (a) The Council approved the Justice Park Disposition Approval Resolution of 2011, effective April 5, 2011 (Res. 19-77; 58 DCR 3199), pursuant to An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801 *et seq.*) (“Act”), which was accompanied by a term sheet dated November 10, 2010 that was executed by the Deputy Mayor for Planning and Economic Development and the proposed developer. The term sheet outlined certain terms and conditions of the disposition of real property located at 1421 Euclid Street, N.W., as required by section 1(b-1)(2) of the Act.

(b) Pursuant to section 1(b-1)(6) of the Act, the Mayor has submitted an amended term sheet along with this resolution, in redline form, that reflects a change in the scale of the project and a few revisions to the term sheet requested by the developer to facilitate the financing and development of the property.

(c) The Council hereby approves the amended term sheet submitted with this resolution and authorizes the disposition of real property located at 1421 Euclid Street, N.W., in accordance with the terms and conditions set forth therein.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

ENROLLED ORIGINAL

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

BILLS con't

- B20-315 Public Education Governance Improvement Act of 2013
Intro. 06-04-13 by Councilmember Catania and referred to the Committee on Education
-
- B20-316 DC Water Community Benefits Act of 2013
Intro. 06-04-13 by Councilmembers Evans, Wells, McDuffie, Graham and Bonds and referred to the Committee on Transportation and the Environment
-
- B20-317 Free Transportation for Students Amendment Act of 2013
Intro. 06-04-13 by Councilmembers Bowser, Bonds and Cheh and referred to the Committee on Transportation and the Environment
-
- B20-318 Senior Citizen Real Property Tax Relief Act of 2013
Intro. 06-04-13 by Councilmembers Bonds, Orange, Alexander, McDuffie, Cheh, Evans, Barry, Graham, Grosso and Bowser and referred to the Committee on Finance and Revenue
-
- B20-319 Neighborhood Parking Protection Act of 2013
Intro. 06-04-13 by Councilmembers Wells and Cheh and referred to the Committee on Transportation and the Environment
-
- B20-320 Shared Use of School Property in the District Act of 2013
Intro. 06-04-13 by Chairman Mendelson and Councilmembers Alexander, McDuffie and Wells and referred to the Committee on Judiciary and Public Safety
-
- B20-321 Human Rights Act Notice Requirement Amendment Act of 2013
Intro. 06-04-13 by Councilmember Barry and referred to the Committee on Workforce and Community Affairs
-
- B20-322 Pretrial and Post-Conviction Supervision Amendment Act of 2013
Intro. 06-04-13 by Chairman Mendelson and referred to the Committee on Judiciary and Public Safety
-

BILLS con't

B20-323 Post-Arrest Process Clarification Amendment Act of 2013
Intro. 06-04-13 by Chairman Mendelson and Councilmember Wells and referred to the Committee on Judiciary and Public Safety

B20-324 Traffic Adjudication Amendment Act of 2013
Intro. 06-04-13 by Chairman Mendelson and Councilmember Graham and referred to the Committee on Transportation and the Environment

B20-326 Ban on Combustion of Coal Act of 2013
Intro. 06-06-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

B20-327 Stroke System of Care Act of 2013
Intro. 06-06-13 by Chairman Mendelson and Councilmembers Alexander, Catania, Grosso and Wells and referred sequentially to the Committee on Judiciary and Public Safety and the Committee on Health

B20-328 Increasing Access to High Quality Educational Opportunities Act of 2013
Intro. 06-07-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education

PROPOSED RESOLUTIONS

PR20-324 Sense of the Council on Fair and Lawful Federally Contracted Employment Resolution of 2013
Intro. 06-04-13 by Councilmembers McDuffie, Barry, Grosso, Alexander, Bonds, Wells and Chairman Mendelson and retained by the Council

PR20-328 Out-of-Boundary Process Regulations Approval Resolution of 2013
Intro. 06-06-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education

PR20-332 Contract No. CFOPD-13-C-003, Instant Ticket Product and Services Approval Resolution of 2013
Intro. 06-07-13 by Chairman Mendelson at the request of the Chief Financial Officer and retained by the Council with comments from Finance and Revenue

**Council of the District of Columbia
Committee on Business, Consumer, and Regulatory Affairs
Notice of Public Hearing**

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite G-6 Washington, DC 20004

**COUNCILMEMBER VINCENT B. ORANGE, SR., CHAIR
COMMITTEE ON BUSINESS, CONSUMER, AND REGULATORY
AFFAIRS
ANNOUNCES A PUBLIC HEARING**

ON

- **B20-29, the District of Columbia Distillery Pub Licensure Act of 2013**
- **B20-197, the Manufacturers Sunday Sale Amendment Act of 2013**
- **B20-234, the Manufacturer Sunday Tasting Permit Amendment Act of 2013**

**TUESDAY, JULY 9, 2013, 2:00 P.M
JOHN A. WILSON BUILDING, ROOM 412
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004**

Councilmember Vincent B. Orange, Sr. announces the scheduling of a public hearing by the Committee on Business, Consumer, and Regulatory Affairs on the following measures:

- B20-29, the District of Columbia Distillery Pub Licensure Act of 2013
- B20-197, the Manufacturers Sunday Sale Amendment Act of 2013
- B20-234, the Manufacturer Sunday Tasting Permit Amendment Act of 2013

The public hearing is scheduled for Tuesday, July 9, 2013 at 2:00 p.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Ave., NW, Washington, DC 20004.

B20-29, the “District of Columbia Distillery Pub Licensure Act of 2013” proposes to amend Title 25 of the DC Official Code to allow for a distillery pub permit for the on-site production of distilled spirits for consumption on-premises and permit the sale in sealed containers for off-premise consumption private label brands of distilled spirits.

B20-234, the “Manufacturer Sunday Tasting Permit Amendment Act of 2013” proposes to amend Title 25 of the DC Official Code to allow the holder of a manufacturer’s license to conduct tastings on Sundays.

B20-197, the “Manufactures Sunday Sale Amendment Act of 2013” proposes to amend Title 2 of the DC Official Code to allow a licensee under a manufacturer’s license, class A or B, to sell alcoholic beverages between hours of 7:00 a.m. and midnight Monday through Sunday.

Individuals and representatives of organizations who wish to testify at the public roundtable are asked to contact Faye Caldwell or Gene Fisher of the Committee on Business, Consumer, and Regulatory Affairs at (202) 727-6683 or by email at fcaldwell@dccouncil.us or gfisher@dccouncil.us and provide their name(s), address, telephone number, email address and organizational affiliation, if any, by close of business Tuesday, July 2, 2013. Each witness is requested to bring 20 copies of his/her written testimony. Representatives of organizations and government agencies will be limited to 5 minutes in order to permit each witness an opportunity to be heard. Individual witnesses will be limited to 3 minutes.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. The official record will remain open until close of business Friday, July 19, 2013. Copies of written statements should be submitted to the Committee on Business, Consumer, and Regulatory Affairs, Council of the District of Columbia, Suite G-6 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON EDUCATION
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Suite 119, Washington, DC 20004

**COUNCILMEMBER DAVID A. CATANIA
CHAIRMAN, COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC HEARING**

on

**Bill 20-123 “CARDIOPULMONARY RESUSCITATION AND AUTOMATED EXTERNAL
DEFIBRILLATOR REQUIREMENTS AMENDMENT ACT OF 2013”**

on

**Monday, July 1, 2013 at 11:00 a.m.
Hearing Room 120, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David A. Catania, Chairman of the Committee on Education, announces the scheduling of a Public Hearing by the Committee on Education on Bill 20-123, the Cardiopulmonary Resuscitation and Automated External Defibrillator Requirements Amendment Act of 2013. The public hearing will take place on Monday July 1, 2013 at 11:00 a.m. in room 120 of the John A. Wilson Building.

The purpose of the hearing is to provide the public and government witnesses an opportunity to testify on the bill which would amend the Public Access to Automated External Defibrillator Act of 2000 to require the Mayor to develop and implement a Cardiopulmonary Resuscitation and Automated External Defibrillator program for District schools.

Those who wish to testify are asked to contact Mr. Jamaal Jordan with the Committee on Education at (202) 724-8061 or via email at JJordan@dccouncil.us and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business on Thursday, June 28, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 119 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, July 7, 2013.

**Council of the District of Columbia
Committee on Health
Notice of Public Hearing
1350 Pennsylvania Ave., N.W., Washington, D.C. 20004**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH ANNOUNCES A PUBLIC HEARING**

on

**Bill 20-127, the “Prescription Drug Monitoring Program Amendment Act of 2013”
and
Proposed Resolution 20-280, the “Health Services Planning Regulations Approval Resolution of
2013”**

on

**Friday, July 12, 2013
11:00 a.m., Room 120, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health, announces a public hearing on Bill 20-127, the “Prescription Drug Monitoring Program Amendment Act of 2013” and Proposed Resolution 20-280, the “Health Services Planning Regulations Approval Resolution of 2013.” The public hearing will be held at 11:00 a.m. on Friday, July 12, 2013 in Room 120 of the John A. Wilson Building.

Bill 20-127 and Proposed Resolution 20-280 have been referred to the Committee on Health. The purpose of Bill 20-127 to improve the District’s ability to identify and reduce diversion of prescription drugs in 18 an efficient and cost effective manner that will not impede the appropriate medical 19 utilization of controlled substances; and to enhance patient care by providing prescription 20 monitoring information that will assure legitimate use of controlled substances in health care, 21 including palliative care, research and other medical and pharmacological uses. The purpose of PR20-280 is to approve the proposed rules to implement the Health Services Planning Program Reestablishment Act of 1996.

Those who wish to testify should contact Ms. Rayna Smith, Committee Director, at (202) 741-2111 or via e-mail at rsmith@dccouncil.us and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Wednesday, July 10, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Wednesday, July 10, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Rayna Smith, Committee Director, Room 115 of the Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, July 26, 2013.

Council of the District of Columbia
Committee on Economic Development
Notice of Public Hearing
1350 Pennsylvania Avenue, N.W. Washington, DC 20004

**COUNCILMEMBER MURIEL BOWSER, CHAIRPERSON
COMMITTEE ON ECONOMIC DEVELOPMENT**

ANNOUNCES A PUBLIC HEARING

ON

Bill 20-139, Condominium Amendment Act of 2013

And

Bill 20-294, the St. Elizabeths East Redevelopment Support Act of 2013

JULY 2, 2013

10:30 AM

ROOM 120

JOHN A. WILSON BUILDING

1350 PENNSYLVANIA AVENUE, N.W.

On July 2, 2013, Councilmember Muriel Bowser, Chairperson of the Committee on Economic Development will hold a public hearing to consider Bill 20-139, the “Condominium Amendment Act of 2013,” and Bill 20-294, the “St. Elizabeths East Redevelopment Support Act of 2013.”

Bill 20-139 was introduced by Councilmember Mary Cheh and makes a host of technical and substantive changes meant to improve the creation, governance, and management of condominiums.

Bill 20-294 would authorize the Deputy Mayor for Planning and Economic Development to issue grants for the specific purpose of supporting job training and job creation programs, community improvement programs, as well as redevelopment and historic preservation projects associated with St. Elizabeths East Campus. This specific grant authority would permit the issuance of grants to support the technology innovation center to be located at St. Elizabeths East Campus and the proposed culinary center to be located in Ward 8. In addition the proposed legislation would approve a land swap between the District and the Washington Metro Area Transit Authority necessary for the redevelopment of a portion of the St. Elizabeths Campus. The land swap is necessary to enable the extension of 13th Street, SE, pursuant to the St. Elizabeths master plan and grant WMATA easements and fee title to the areas currently operated and maintained as part of the green line Metrorail system near the St Elizabeths East Campus.

The public roundtable will begin at 10:30 AM in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

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Individuals and representatives of organizations wishing to testify should contact Judah Gluckman, Legislative Counsel for the Committee on Economic Development, at (202) 724-8025, or jgluckman@dccouncil.us and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business Friday, June 28, 2013. Persons presenting testimony may be limited to 3 minutes in order to permit each witness an opportunity to be heard.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Economic Development, Council of the District of Columbia, Suite 112 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

**Council of the District of Columbia
Committee on Health
Notice of Public Hearing
1350 Pennsylvania Ave., N.W., Washington, D.C. 20004**

REVISED

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH ANNOUNCES A PUBLIC HEARING**

on

Bill 20-153, the “Omnibus Health Regulation Amendment Act of 2013”

on

**Friday, June 28, 2013
11:00 a.m., Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health, announces a public hearing on Bill 20-153, the “Omnibus Health Regulation Amendment Act of 2013.” The public hearing will be held at 11:00 a.m. on Friday, June 28, 2013 in Room 500 of the John A. Wilson Building. **Please note that this hearing notice reflects a new date and location.**

Bill 20-153 has been referred to the Committee on Health. The purpose of Bill 20-153 is to regulate several health professions that are currently unregulated and to strengthen the oversight of the practice of veterinary medicine by incorporating it as a health profession. It will permit the performance of general and sedation anesthesia by dentists and dental facilities. Further, the legislation adds dental hygiene teaching licensure and amends the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 to require home care agencies to provide skilled nursing and therapeutic services in order to be consistent with the federal Medicare laws.

Those who wish to testify should contact Mr. Ronald King, Senior Policy Advisor, at (202) 741-0909 or via e-mail at rking@dccouncil.us and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Wednesday, June 26, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Wednesday, June 26, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Rayna Smith, Committee Director, Room 115 of the Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, July 12, 2013.

Council of the District of Columbia

Committee on Health

Notice of Public Hearing

1350 Pennsylvania Ave., N.W., Washington, D.C. 20004

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH ANNOUNCES A PUBLIC HEARING**

on

B20-168, the "Cottage Food Act of 2013"

Monday, July 1, 2013

11:00 a.m., Room 123, John A. Wilson Building

1350 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health, announces a hearing on B20-168, the "Cottage Food Act of 2013". The public hearing will be held at 11:00 a.m. on Monday, July 1, 2013 in Room 123 of the John A. Wilson Building.

The stated purpose of Bill 20-168 is to amend the Department of Health Functions Clarification Act of 2001 to permit cottage food 18 businesses in the District, to permit cottage food businesses to operate without a license 19 from the Department of Health if the specific laws concerning cottage food businesses 20 are followed, to authorize the Department of Health to define food products to be sold by 21 cottage food businesses, to establish storage and labeling requirements for food products 22 produced by cottage food businesses, to authorize inspections of cottage food businesses 23 if a complaint is received by the Department of Health, and to authorize the Department 24 of Health to issue regulations concerning cottage food businesses.

Those who wish to testify should contact Rayna Smith, Committee Director, at (202) 741-2111 or via e-mail at rsmith@dccouncil.us and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Thursday, June 27, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Thursday, June 27, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Melanie Williamson, Room 115 of the Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004. The record will close at 5:00 p.m. on Monday, July 15, 2013.

**Council of the District of Columbia
Committee on Business, Consumer, and Regulatory Affairs
Notice of Public Hearing**

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite G-6 Washington, DC 20004

**COUNCILMEMBER VINCENT B. ORANGE, SR., CHAIR
COMMITTEE ON BUSINESS, CONSUMER, AND REGULATORY
AFFAIRS
ANNOUNCES A PUBLIC HEARING**

ON

**B20-181, THE “SMALL AND CERTIFIED BUSINESS ENTERPRISE
DEVELOPMENT AND ASSISTANCE AMENDMENT ACT OF 2013”**

**FRIDAY, JULY 12, 2013, 2:00 P.M
JOHN A. WILSON BUILDING, ROOM 412
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004**

Councilmember Vincent B. Orange, Sr. announces the scheduling of a public hearing by the Committee on Business, Consumer, and Regulatory Affairs on B20-181, the “Small and Certified Business Enterprise Development and Assistance Amendment Act of 2013”. The public hearing is scheduled for Friday, July 12, 2013 at 2:00 p.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Ave., NW, Washington, DC 20004.

B20-18, proposes to amend the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005 for the purposes of amending the Certified Business Enterprise (CBE) Program, re-designating the Act, making clarifying and technical changes to the Act, providing penalties for CBE fraud, and for other purposes.

Individuals and representatives of organizations who wish to testify at the public roundtable are asked to contact Faye Caldwell or Gene Fisher of the Committee on Business, Consumer, and Regulatory Affairs at (202) 727-6683 or by email at fcaldwell@dccouncil.us or gfisher@dccouncil.us and provide their name(s), address, telephone number, email address and organizational affiliation, if any, by close of business Friday, July 5, 2013. Each witness is requested to bring 20 copies of his/her written testimony. Representatives of organizations and government agencies will be limited to 5 minutes in order to permit each witness an opportunity to be heard. Individual witnesses will be limited to 3 minutes.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. The official record will remain open until close of business Monday,

July 22, 2013. Copies of written statements should be submitted to the Committee on Business, Consumer, and Regulatory Affairs, Council of the District of Columbia, Suite G-6 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

**Council of the District of Columbia
Committee on Business, Consumer, and Regulatory Affairs
Notice of Public Hearing**

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite G-6 Washington, DC 20004

**COUNCILMEMBER VINCENT B. ORANGE, SR., CHAIR
COMMITTEE ON BUSINESS, CONSUMER, AND REGULATORY
AFFAIRS
ANNOUNCES A PUBLIC HEARING**

ON

**B20-203, THE “DC BUSINESS IMPROVEMENT DISTRICT
AMENDMENT ACT OF 2013”**

**FRIDAY, JULY 12, 2013, 10:00 A.M
JOHN A. WILSON BUILDING, ROOM 412
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004**

Councilmember Vincent B. Orange, Sr. announces the scheduling of a public roundtable by the Committee on Business, Consumer, and Regulatory Affairs on B20-203, the “DC Business Improvement District Amendment Act of 2013”. The public hearing is scheduled for Friday, July 12, 2013 at 10:00 a.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Ave., NW, Washington, DC 20004.

B20-203, the “DC Business Improvement District Amendment Act of 2013” amends the Business Improvement Districts Act of 1996 (D.C. Law 11-134, DC Official Code § 2-1215.01 et seq.) for the purposes of updating laws concerning business improvement districts, to update the payment of business improvement district and vault taxes.

Individuals and representatives of organizations who wish to testify at the public roundtable are asked to contact Faye Caldwell or Gene Fisher of the Committee on Business, Consumer, and Regulatory Affairs at (202) 727-6683 or by email at fcaldwell@dccouncil.us or gfisher@dccouncil.us and provide their name(s), address, telephone number, email address and organizational affiliation, if any, by close of business Friday, July 5, 2013. Each witness is requested to bring 20 copies of his/her written testimony. Representatives of organizations and government agencies will be limited to 5 minutes in order to permit each witness an opportunity to be heard. Individual witnesses will be limited to 3 minutes.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. The official record will remain open until close of business Friday,

July 26, 2013. Copies of written statements should be submitted to the Committee on Business, Consumer, and Regulatory Affairs, Council of the District of Columbia, Suite G-6 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

**Council of the District of Columbia
Committee on Health
Notice of Public Hearing
1350 Pennsylvania Ave., N.W., Washington, D.C. 20004**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH ANNOUNCES A PUBLIC HEARING**

on

**Bill 20-232, the “Trauma Technologists Amendment Act of 2013”,
Bill 20-174, the “Medicaid Reimbursement for Chiropractic Services Amendment Act of 2013”
and
Bill 20-175, the “Health Professional Recruitment Amendment Act of 2013”**

on

**Tuesday, July 2, 2013
11:00 a.m., Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health, announces a public hearing on Bill 20-232, the “Trauma Technologists Amendment Act of 2013,” Bill 20-174, the “Medicaid Reimbursement for Chiropractic Services Amendment Act of 2013,” and Bill 20-175, the “Health Professional Recruitment Program Amendment Act of 2013.” The public hearing will be held at 11:00 a.m. on Tuesday, July 2, 2013 in Room 123 of the John A. Wilson Building.

Bills 20-232, 20-174, and 20-175 have been referred to the Committee on Health. The purpose of Bill 20-232 is to amend the District of Columbia Health Occupations Revision Act of 1985 to make technical corrections, to require trauma technologists to be licensed, to establish an Advisory Committee on Trauma Technologists, and to establish the minimum qualifications for licensure of Trauma Technologists. The purpose of Bill 20-174 is to allow for Medicaid reimbursement for chiropractic services. And the purpose of Bill 20-175 is to amend the District of Columbia Health Professional Recruitment Program Act of 2005 to allow for chiropractic participation.

Those who wish to testify should contact Ms. Rayna Smith, Committee Director, at (202) 741-2111 or via e-mail at rsmith@dccouncil.us and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Monday, July 1, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Monday, July 1, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Rayna Smith, Committee Director, Room 115 of the Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004. The record will close at 5:00 p.m. on Tuesday, July 15, 2013.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON EDUCATION
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Suite 119, Washington, DC 20004

**COUNCILMEMBER DAVID A. CATANIA
CHAIRMAN, COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC HEARING**

on

Bill 20-309 the “Fair Student Funding and School-Based Budgeting Act of 2013”

on

Tuesday, July 2, 2013 at 9 a.m. in Hearing Room 412 (for Government Witnesses)

and

Thursday, July 11, 2013 at 9 a.m. in Hearing Room 123 (for Public Witnesses)

**John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David A. Catania, Chairman of the Committee on Education, announces the scheduling of a Public Hearing by the Committee on Education on Bill 20-309, the Fair Student Funding and School-Based Budgeting Act of 2013. The public hearing for government witnesses will take place on Tuesday, July 2, 2013 at 9:00 a.m. in room 412 of the John A. Wilson Building. The public hearing for members of the public to testify will be on Thursday, July 11, 2013 in hearing room 123.

The purpose of the hearing is to provide the public an opportunity to testify on the bill which would amend the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998 to provide for additional supplements for students eligible for free and reduced meals, for students at schools with low graduation rates, and for students enrolled in career and technical education programs and would require that at least 80 percent of local funds within DCPS be allocated to schools. In addition, the bill would provide for greater principal autonomy in school budget development, establish certain school support expenditures that are the responsibility of the Chancellor, provide for school stabilization of local funding and provide for student transportation subsidies

Those who wish to testify are asked to contact Mr. Jamaal Jordan with the Committee on Education at (202) 724-8061 or via email at JJordan@dccouncil.us and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business on Tuesday July 9, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 119 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday July 19, 2013.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON EDUCATION
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Suite 119, Washington, DC 20004

**COUNCILMEMBER DAVID A. CATANIA,
CHAIRPERSON COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC HEARING**

On

**Bill 20-310, "The Individual School Accountability Act of 2013,"
Bill 20-311, "The Focused Student Achievement Act of 2013,"
Bill 20-328, "Increasing Access to High Quality Educational Opportunities Act of 2013,"
and Bill 20-041, "Reading Development and Grade 3 Retention Act of 2013"**

On

Tuesday, July 9, 2013 at 9:00 a.m. in Hearing Room 500, (for Public witnesses),

And

Tuesday, July 2, 2013 at 9:00 a.m., in Hearing Room 412, (for Government witnesses)

**John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004**

Councilmember David A. Catania, Chairperson of the Committee on Education, announces the scheduling of a Public Hearing on Bill 20-310, "The Individual School Accountability Act of 2013," Bill 20-311, "The Focused Student Achievement Act of 2013," Bill 20-328, "Increasing Access to High Quality Educational Opportunities Act of 2013," and Bill 20-041, "Reading Development and Grade 3 Retention Act of 2013". For public witnesses the hearing will be held on Tuesday, July 9, 2013 at 9:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW. The Committee will hear from government witnesses on Tuesday, July 2, 2013 at 9:00 a.m. in room 412.

The purpose of the hearing is to provide the public and the executive an opportunity to comment on proposed measures regarding school accountability, student achievement and promotion, and authorizing the Chancellor of the District of Columbia Public Schools the ability to approve Innovation Schools or charter schools that will operate under the oversight of the Office of the Chancellor.

Those who wish to testify are asked to contact Jamaal Jordan, Staff Assistant, at jjordan@dccouncil.us or at (202) 724-8061, by Friday, July 5, 2013. Written statements are encouraged, and will be made a part of the official record. Statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 119, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Tuesday, July 23, 2013.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON EDUCATION
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Suite 119, Washington, DC 20004

**COUNCILMEMBER DAVID A. CATANIA
CHAIRMAN, COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC HEARING**

on

**Bill 20-312 “Unified Public Education Lottery Act of 2013”
Bill 20-313 “Comprehensive Planning and Utilization of School Facilities Act of 2013”**

on

Tuesday, July 2nd, 2013 at 9 a.m. in Hearing Room 412 (for Government Witnesses)

and

Wednesday, July 3rd, 2013 at 9 a.m. in Hearing Room 412 (for Public Witnesses)

**John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David A. Catania, Chairman of the Committee on Education, announces the scheduling of a Public Hearing by the Committee on Education on Bill 20-312, the Unified Public Education Lottery Act of 2013 and Bill 20-313, the Comprehensive Planning and Utilization of School Facilities Act of 2013. The hearing for government witnesses will take place on Tuesday, July 2nd, 2013 at 9 a.m. in room 412 of the John A. Wilson Building, and the hearing for public witnesses will take place on Wednesday, July 3rd, 2013 at 9 a.m. in room 412 of the John A. Wilson Building.

The purpose of the hearing is to provide the public with an opportunity to testify on two separate bills. The Unified Public Education Lottery Act of 2013 would require the establishment of a unified lottery and common application for District of Columbia Public Schools and public charter schools. The Act directs the Office of the State Superintendent of Education to establish a process for the unified lottery and amends Title 5 of the District of Columbia Municipal Regulations to establish a process for the unified lottery.

The Comprehensive Planning and Utilization of School Facilities Act of 2013 would mandate an annual review of facilities utilization for the District of Columbia Public Schools and outlines a process for the designation and disposition of surplus DCPS properties. The Act would require the Department of General Services to make surplus school properties available to educational institutions for lease or purchase based on a three year right of first offer priority order. Additionally, the Act would allow the Public Charter School Board to challenge DCPS or the Department of General Services in Superior Court if it believes these agencies are not in compliance with the requirements of the Act.

Those who wish to testify are asked to contact Mr. Jamaal Jordan with the Committee on Education at (202) 724-8061 or via email at JJordan@dccouncil.us and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business on Monday, July 1st, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 119 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Wednesday, July 17th, 2013.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON EDUCATION
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Suite 119, Washington, DC 20004

**COUNCILMEMBER DAVID A. CATANIA
CHAIRMAN, COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC HEARING**

On

**Bill 20-314 “Parent and School Empowerment Act of 2013”
Bill 20-315 “Public Education Governance Improvement Act of 2013”**

on

**Tuesday, July 2, 2013 at 9:00 a.m. in Hearing Room 412 (for Government witnesses)
and
Monday, July 8, 2013 at 9:00 a.m. in Hearing Room 123 (for Public witnesses)**

**John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David A. Catania, Chairman of the Committee on Education, announces the scheduling of a Public Hearing by the Committee on Education on Bill 20-314, the Parent and School Empowerment Act of 2013 and Bill 20-315, the Public Education Governance Improvement Act of 2013. The hearing for public witnesses will take place on Monday, July 8, 2013 at 9 a.m. in room 123 of the John A. Wilson Building. The hearing for government witnesses will take place on Tuesday, July 2, 2013 at 9:00 a.m. in room 412.

The purpose of the hearing is to provide public witnesses an opportunity to testify on bill 20-314 which would amend the Ombudsman for Public Education Establishment Act of 2007 to clarify the duties and responsibilities of the Ombudsman for Public Education and provide for complaint resolution services within the Office of the Ombudsman for students and parents of District of Columbia public schools. Further, the bill would establish an Office of the Student Advocate to represent students and parents on issues regarding public education in the District of Columbia.

Additionally, public witnesses will have an opportunity to testify on bill 20-315 which would amend the State Education Office Establishment Act of 2000 to establish a 4-year term for the State Superintendent of Education. The Act would also authorize the State Superintendent to grant waivers of existing regulations for purposes of improving student achievement. The Act would also amend the District of Columbia School Reform Act of 1995 to allow for the payment of up to one percent in administrative fees to the Public Charter School Board and would set removal criteria for Public Charter School Board members. Further, the Act would amend the Public Education Reform Amendment Act of 2007 to direct the State Board of Education to issue an annual review of the performance of the Office of the State Superintendent of Education and to allow the State Board of Education to initiate policy recommendations. Finally, the bill would direct the Public Charter School Board and the State Board of Education to issue an annual report on the state of education in the District of Columbia.

Those who wish to testify are asked to contact Mr. Jamaal Jordan with the Committee on Education at (202) 724-8061 or via email at JJordan@dccouncil.us and furnish their name, address,

telephone number, and organizational affiliation, if any, by the close of business on Wednesday, July 3, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 119 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Wednesday, July 8, 2013.

**Council of the District of Columbia
Committee on Finance and Revenue
Notice of Public Hearing**

John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

REVISED

**COUNCILMEMBER JACK EVANS, CHAIR
COMMITTEE ON FINANCE AND REVENUE**

ANNOUNCES A PUBLIC HEARING ON:

CA 20-99, Proposed Contract with Scientific Games International, Inc.

Thursday, June 27, 2013

10:00 a.m.

Room 120 - John A. Wilson Building

1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public hearing on CA 20-99, proposed multiyear contract No. CFOPD-13-C-003 with Scientific Games International, Inc. to provide instant ticket products and services to the District of Columbia Lottery, to be held Thursday, June 27, 2013 at 10:00 a.m., in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

The Committee invites the public to testify at the oversight hearing. Those who wish to testify should contact Sarina Loy, Committee Aide at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 10:00 a.m. on Wednesday, June 26, 2013. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004. This hearing notice has been revised to reflect a room change, and reference the contract being discussed.

**Council of the District of Columbia
Committee on Small and Local Business Development
Notice of Public Oversight Roundtable**

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite G-6 Washington, DC 20004

REVISED

**Councilmember Vincent B. Orange, Sr., Chairperson
Committee on Business, Consumer, and Regulatory Affairs
Announces a Public Oversight Roundtable**

**Review of Activities and Events Commemorating the 151st Anniversary
Observance of Emancipation Day
April 16, 2013**

**TUESDAY, July 9, 2013, 10 A.M.
JOHN A. WILSON BUILDING, ROOM 412
1350 PENNSYLVANIA AVENUE, N.W.
Washington, DC 20004**

Councilmember Vincent B. Orange, Sr. announces the scheduling of a public oversight roundtable by the Committee on Business, Consumer, and Regulatory Affairs to review the District of Columbia's activities and events for commemorating the 151st Anniversary Observance of Emancipation Day held on April 16, 2013. **This notice has been revised to announce a change in the public roundtable date from July 10 to July 9 to accommodate the scheduling of a Council Legislative Meeting.**

The public oversight roundtable is scheduled for Tuesday, July 9, 2013, at 10:00 a.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. The purpose of the public oversight roundtable is to review the activities and events that were planned and organized to showcase the 151st anniversary observance of the signing of the D.C. Compensated Emancipation Act on April 16, 1862.

Individuals and representatives of organizations who wish to testify at the public oversight roundtable are asked to contact Ms. Faye Caldwell, Administrative Assistant to the Committee on Business, Consumer, and Regulatory Affairs, at (202) 727-6683, or via e-mail at fcaldwell@dccouncil.us and furnish their names, addresses, telephone numbers, and organizational affiliation, if any, by the close of business Tuesday, July 2, 2013. Each witness is requested to bring 20 copies of his/her written testimony. Representatives of organizations and government agencies will be limited to 5 minutes in order to permit each witness an opportunity to be heard. Individual witnesses will be limited to 3 minutes.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. The official record will remain open until close of business Monday, July 22, 2013. Copies of written statements should be submitted to the Committee on Small and Local Business Development, Council of the District of Columbia, Suite G-6 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

**Council of the District of Columbia
Committee on Health
Notice of Public Oversight Roundtable
1350 Pennsylvania Ave., N.W., Washington, D.C. 20004**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE**

on

The District of Columbia Health Benefit Exchange Authority

**Tuesday, June 25, 2013
11:00 a.m., Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health, announces a public oversight roundtable on the implementation of the District of Columbia Health Benefit Exchange. The roundtable will be held at 11:00 a.m. on Tuesday, June 25, 2013 in Room 123 of the John A. Wilson Building.

The purpose of this public oversight roundtable is to provide the public with an opportunity to comment on the District's Health Benefit Exchange Authority and its continuing efforts to implement the Affordable Care Act.

Those who wish to testify should contact Melanie Williamson, Legislative Counsel, at (202) 741-2112 or via e-mail at mwilliamson@dccouncil.us and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Friday, June 21, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Friday, June 21, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted either to Ms. Williamson, or to Ms. Nyasha Smith, Secretary to the Council, Room 5 of the Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004. The record will close at 5:00 p.m. on July 5, 2013.

**Council of the District of Columbia
Committee on Business, Consumer, and Regulatory Affairs
Notice of Public Roundtable**

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite G-6 Washington, DC 20004

**COUNCILMEMBER VINCENT B. ORANGE, SR., CHAIR
COMMITTEE ON BUSINESS, CONSUMER, AND REGULATORY
AFFAIRS
ANNOUNCES A PUBLIC ROUNDTABLE**

ON

- **PR20-300, the “Director of the Alcoholic Beverage Regulation Administration Frederick P. Moosally Confirmation Resolution of 2013”**
- **PR20-302, the Technical Amendment Approval Resolution of 2013**
- **PR20-305, the Full Service Grocery Store Definition Approval Resolution of 2013**

**THURSDAY, JUNE 27, 2013, 10:00 A.M
JOHN A. WILSON BUILDING, ROOM 123
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004**

Councilmember Vincent B. Orange, Sr. announces the scheduling of a public roundtable by the Committee on Business, Consumer, and Regulatory Affairs on the following measures:

- PR20-300, the “Director of the Alcoholic Beverage Regulation Administration Frederick P. Moosally Confirmation Resolution of 2013”
- PR20-302, the “Technical Amendment Approval Resolution of 2013”
- PR20-305, the “Full Service Grocery Store Definition Approval Resolution of 2013”

The public roundtable is scheduled for Thursday, June 27, 2013 at 10:00 a.m. in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Ave., NW, Washington, DC 20004.

PR20-300, the “Director of the Alcoholic Beverage Regulation Administration Frederick P. Moosally Confirmation Resolution of 2013” is a confirmation resolution reappointing Frederick P. Moosally as the Director of the Alcoholic Beverage Regulation Administration to serve a four-year term, ending July 14, 2017.

PR20-302, the “Technical Amendment Approval Resolution of 2013” is an approval resolution for a proposed rulemaking amending existing sections and establishing new sections in Title 23 of the District of Columbia Municipal Regulations (DCMR). The proposed rules make technical

amendments to conform to changes contained in the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012, and other changes not related to the Act.

PR20-305, the “Full Service Grocery Store Definition Approval Resolution of 2013” is an approval resolution for a proposed rulemaking to amend section 199 of Title 23 of the DCMR to add a definition of the term “full-service grocery store” as used in Title 25 of the DC Official Code and Title 23 of the DCMR.

Individuals and representatives of organizations who wish to testify at the public roundtable are asked to contact Faye Caldwell or Gene Fisher of the Committee on Business, Consumer, and Regulatory Affairs at (202) 727-6683 or by email at fcaldwell@dccouncil.us or gfisher@dccouncil.us and provide their name(s), address, telephone number, email address and organizational affiliation, if any, by close of business Thursday, June 20, 2013. Each witness is requested to bring 20 copies of his/her written testimony. Representatives of organizations and government agencies will be limited to 5 minutes in order to permit each witness an opportunity to be heard. Individual witnesses will be limited to 3 minutes.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. The official record will remain open until close of business Monday, July 1, 2013. Copies of written statements should be submitted to the Committee on Business, Consumer, and Regulatory Affairs, Council of the District of Columbia, Suite G-6 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Council of the District of Columbia
Committee on Economic Development
Notice of Public Roundtable
1350 Pennsylvania Avenue, N.W. Washington, DC 20004

**COUNCILMEMBER MURIEL BOWSER, CHAIRPERSON
COMMITTEE ON ECONOMIC DEVELOPMENT**

ANNOUNCES A PUBLIC ROUNDTABLE

ON

**Proposed Resolution 20-314, Webb School Lease Approval Emergency Declaration
Resolution of 2013**

And

Proposed Resolution 20-315, Webb School Lease Emergency Approval Resolution of 2013

JUNE 21, 2013

12:30 PM

ROOM 500

**JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.**

On June 21, 2013, Councilmember Muriel Bowser, Chairperson of the Committee on Economic Development will hold a public roundtable to consider Proposed Resolution 20-314, "Webb School Lease Approval Emergency Declaration Resolution of 2013" and "Proposed Resolution 20-315, Webb School Lease Emergency Approval Resolution of 2013." Together, the measures would authorize, on an emergency basis, the District to enter into a new ground lease with KIPP DC for real estate commonly known as the Webb School.

On June 22, 2012, DGS issued a solicitation to identify a charter school for the Property. KIPP DC was the only offeror and because it has a history of successful construction projects and academic success, the property was awarded to KIPP DC. KIPP DC will redevelop the Property for use as a multi-school campus serving Pre-K to eighth grade. If the emergency disposition is approved, KIPP DC will start three new schools at the Property.

The public roundtable will begin at 12:30 PM in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

Individuals and representatives of organizations wishing to testify should contact Rob Hawkins, Legislative Director for the Committee on Economic Development, at (202) 724-8052, or rhawkins@dccouncil.us and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business Thursday, June 20, 2013. Persons presenting testimony may be limited to 3 minutes in order to permit each witness an opportunity to be heard.

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If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Economic Development, Council of the District of Columbia, Suite 112 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

Pursuant to DC Official Code Sec 47-361 et seq. of the Reprogramming Policy Act of 1990, the Council of the District of Columbia gives notice that the Mayor has transmitted the following reprogramming request(s)

A reprogramming will become effective on the 15th day after official receipt unless a Member of the Council files a notice of disapproval of the request which extends the Council's review period to 30 days. If such notice is given, a reprogramming will become effective on the 31st day after its official receipt unless a resolution of approval or disapproval is adopted by the Council prior to that time.

Comments should be addressed to the Secretary to the Council, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 5, Washington, D.C. 20004. Copies of reprogramming requests are available in Legislative Services, Room 10. Telephone: 724-8050

Reprog. 20-61: Request to reprogram \$3,500,000 of Fiscal Year 2013 Local funds budget authority from the Child and Family Services Agency (CFSA) to the Children and Youth Investment Trust Collaborative (CYITC) was filed in the Office of the Secretary on June 5, 2013. This reprogramming ensures that the CYITC will be able to support the One City Summer Initiative Kickoff.

RECEIVED: 14 day review begins June 6, 2013

Reprog. 20-62: Request to reprogram \$350,000 of Fiscal Year 2013 Special Purpose Revenue Funds budget authority within the Office of the Chief Technology Officer (OCTO) was filed in the Office of the Secretary on June 5, 2013. This reprogramming supports a Memorandum of Understanding between the D.C. Retirement Board (DCRB) and OCTO to cover the acquisition of PeopleSoft-related services.

RECEIVED: 14 day review begins June 6, 2013

Reprog. 20-63: Request to reprogram \$89,624 of Fiscal Year 2013 Local funds budget authority from the Child and Family Services Agency (CFSA) to the Department of Parks and Recreation (DPR) was filed in the Office of the Secretary on June 6, 2013. This reprogramming ensures the DPR will be able to reimburse costs associated with travel expenditures for Pop Warner teams who represented the District of Columbia in the Florida National Championship.

RECEIVED: 14 day review begins June 7, 2013

Reprog. 20-64: Request to reprogram \$1,100,000 of Fiscal Year 2013 Special Purpose revenue funds budget authority within the Office of the Chief Financial Officer (OCFO) was filed in the Office of the Secretary on June 10, 2013. This reprogramming covers modifications to the PeopleSoft system so that it supports the processing of U.S. Secret Service and Park Police retirement payments.

RECEIVED: 14 day review begins June 11, 2013

Reprog. 20-65: Request to reprogram \$842,477 of Fiscal Year 2013 Local funds budget authority within the Department of Corrections (DOC) was filed in the Office of the Secretary on June 10, 2013. This reprogramming will support the procurement of supplies and equipment for the Inmate Processing Center.

RECEIVED: 14 day review begins June 11, 2013

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JUNE 19, 2013
2000 14TH STREET, N.W., SUITE 400S,
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson
Members:

Nick Alberti, Donald Brooks, Herman Jones, Mike Silverstein

Protest Hearing (Status) Case # 13-PRO-00034; Tas, LLC, t/a Libertine, 2435 18th Street NW, License #86298, Retailer CR, ANC 1C Renewal Application	9:30 AM
Protest Hearing (Status) Case # 13-PRO-00032; Tropicalia Project, LLC, t/a Bossa Brazilian Bistro, 2463 18th Street NW, License #84505, Retailer CR, ANC 1C Renewal Application	9:30 AM
Protest Hearing (Status) Case # 13-PRO-00028; Style Concept Studio, LLC, t/a Le Chat Noir, 4907 Wisconsin Ave NW, License #72038, Retailer CR, ANC 3E Renewal Application	9:30 AM
Show Cause Hearing (Status) Case # 12-CMP-00603; LMW, LLC, t/a Little Miss Whisky's Golden Dollar 1104 H Street NE, License #79090, Retailer CT, ANC 6A Participated in a Pub Crawl Without Board Approval, Violation of Settlement Agreement	9:30 AM
Show Cause Hearing (Status) Case # 13-CMP-00094; Taste International, Inc., t/a Taste, 1812 Hamlin Street NE, License #86011, Retailer CT, ANC 5C Operating After Hours	9:30 AM

Board's Calendar
Page -2- June 19, 2013

Show Cause Hearing **10:00 AM**

Case # 12-CC-00119; Towne Park, Inc., t/a Towne Liquors, 1326 Wisconsin Ave NW, License #60471, Retailer A, ANC 2E
Sale to Minor, Failed to Take Steps Necessary to Ascertain Legal Drinking Age

Show Cause Hearing **11:00 AM**

Case # 12-CMP-00509; Cucina Moderna, LLC, t/a Elisir, 427 11th Street NW License #87031, Retailer CR, ANC 2C
Failed to File Quarterly Statements (2nd Quarter 2012)

BOARD RECESS AT 12:00 PM
ADMINISTRATIVE AGENDA
1:00 PM

Show Cause Hearing **1:30 PM**

Case # 12-CMP-00639; Kissako, LLC, t/a Teatism, 800 Connecticut Ave NW License #70916, Retailer CR, ANC 2B
Failed to File Quarterly Statements (2nd Quarter 2012, Failed to Maintain Books and Records

Fact Finding Hearing **2:30 PM**

Sheldon Arpad t/a Come to Eat, 3222 O Street NW, License #85370, Retailer CR, ANC 2E
License in Safekeeping

Rescind

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: April 05, 2013
Petition Date: May 20, 2013
Hearing Date: June 03, 2013

License No.: ABRA-086254
Licensee: LGA, Inc.
Trade Name: Luna Grill
License Class: Retailer’s Class “C” Restaurant
Address: 1301 Connecticut Ave. NW
Contact: Alexandra Suh, President 202-835-2280

WARD 2 ANC 2B SMD 2B07

Notice is hereby given that this applicant has applied for a substantial change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Request to change the Hours of Operation, Hours of Alcoholic Beverage Sales/Service/Consumption for Premises and Sidewalk Café.

CURRENT HOURS OF OPERATION FOR PREMISES

Monday through Sunday 9:00am – 12:00am.

CURRENT HOURS OF SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday 10:00am – 12:00am; Monday through Saturday 9:00am – 12:00am.

CURRENT HOURS OF OPERATION AND SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFÉ

Sunday through Thursday 10:00am – 10:00pm; Friday and Saturday 10:00am – 11:00pm.

PROPOSED HOURS OF OPERATION AND SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday through Thursday 8:00am – 12:00am; Friday and Saturday 8:00am – 3:00am.

PROPOSED HOURS OF OPERATION AND SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFÉ

Monday through Sunday 8:00am – 11:00pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 14, 2013
Petition Date: July 29, 2013
Hearing Date: August 12, 2013

License No.: ABRA-086254
Licensee: LGA, Inc.
Trade Name: Luna Grill
License Class: Retailer's Class "C" Restaurant
Address: 1301 Connecticut Ave. NW
Contact: Alexandra Suh, President 202-835-2280

WARD 2 ANC 2B SMD 2B07

Notice is hereby given that this applicant has applied for a substantial change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Request to change the Hours of Operation and Hours of Alcoholic Beverage Sales/Service/Consumption for Premises and Sidewalk Café.

CURRENT HOURS OF OPERATION FOR PREMISES

Monday through Sunday 9:00am – 12:00am.

CURRENT HOURS OF SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday 10:00am – 12:00am; Monday through Saturday 9:00am – 12:00am.

CURRENT HOURS OF OPERATION AND SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFÉ

Sunday through Thursday 10:00am – 10:00pm; Friday and Saturday 10:00am – 11:00pm.

PROPOSED HOURS OF OPERATION AND SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday through Thursday 8:00am – 12:00am; Friday and Saturday 8:00am – 3:00am.

PROPOSED HOURS OF OPERATION AND SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFÉ

Monday through Sunday 8:00am – 10:30pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 14, 2013
Petition Date: July 29, 2013
Roll Call Hearing Date: August 12, 2013
Protest Hearing Date: October 2, 2013

License No.: ABRA-092357
Licensee: Right Proper, LLC.
Trade Name: TBD
License Class: Retailer's Class "C" Tavern
Address: 624 T. St., NW
Contact: John Snedden, Esquire 202-244-9106

WARD 1 ANC 1B SMD 1B01

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30 pm on October 2, 2013.

NATURE OF OPERATION

Full Service Tavern with a Brew Pub serving Pub Fair and house made beer with a full service food menu in a family friendly environment.

Seating Capacity : 115
Total Occupancy load: 155

PROPOSED HOURS OF OPERATION FOR PREMISES:

Monday through Sunday 11:30 am – 1:00 am.

PROPOSED HOURS OF SALES/SERVICE/CONSUMPTION FOR PREMISES:

Monday through Sunday 11:30 am – 12:00 am.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 14, 2013
Petition Date: July 29, 2013
Roll Call Hearing Date: August 12, 2013
Protest Hearing Date: July 31, 2013

License No.: ABRA-092250
Licensee: Skill Set, LLC
Trade Name: To Be Determined
License Class: Retailer's Class "C" Restaurant
Address: 2029 P STREET, NW.
Contact: Steven Davis: 310-245-2197

WARD 2 ANC 2B SMD 2B02

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Roll Call Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on July 31, 2013 at 1:30 PM.

NATURE OF OPERATION

Small, low key restaurant with casual American Food. Large bottled soda selection and large selection of beer, wine and spirits. No dancing or live entertainment. Total Load: 50, Seats Inside: 40.

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday: 11am-12am, Friday and Saturday: 11am-2am

HISTORIC PRESERVATION REVIEW BOARD**NOTICE OF PUBLIC HEARING**

The D.C. Historic Preservation Review Board will hold a public hearing to consider applications to designate the following properties as historic landmarks in the D.C. Inventory of Historic Sites. The Board will also consider the nomination of the properties to the National Register of Historic Places:

Case No. 13-06: The Round House
1001 Irving Street NE
Square 3876, Lot 9

Case No. 13-17: Park View Playground and Field House
693 Otis Place, NW
Square 3032, Lot 1

The hearing will take place at **9:00 a.m. on Thursday, July 25, 2013**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10A DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4th Street, SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

The Board's hearing is open to all interested parties or persons. Public and governmental agencies, Advisory Neighborhood Commissions, property owners, and interested organizations or individuals are invited to testify before the Board. Written testimony may also be submitted prior to the hearing. All submissions should be sent to the address above.

For each property, a copy of the historic landmark application is currently on file and available for inspection by the public at the Historic Preservation Office. A copy of the staff report and recommendation will be available at the office five days prior to the hearing. The office also provides information on the D.C. Inventory of Historic Sites, the National Register of Historic Places, and Federal tax provisions affecting historic property.

If the Historic Preservation Review Board designates the property, it will be included in the D.C. Inventory of Historic Sites, and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

Consideration in Planning for Federal, Federally Licensed, and Federally Assisted Projects: Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies allow the Advisory Council on Historic Preservation an opportunity to comment on all projects affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.

Eligibility for Federal Tax Provisions: If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 (which revised the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984) provides, as of January 1, 1987, for a 20% investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and rental residential buildings. The former 15% and 20% Investment Tax Credits (ITCs) for rehabilitation of older commercial buildings are combined into a single 10% ITC for commercial and industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner. Because the tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service office for assistance in determining the tax consequences of the above provisions. For further information on certification requirements, please refer to 36 CFR 67.

Qualification for Federal Grants for Historic Preservation When Funds Are Available: The National Historic Preservation Act of 1966, as amended, authorizes the Secretary of the Interior to grant matching funds to the States (and the District of Columbia) for, among other things, the preservation and protection of properties listed in the National Register.

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing must submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility for listing in the National Register. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If an owner chooses to object to the listing of the property, the notarized objection must be submitted to the above address by the date of the Review Board meeting.

For further information, contact Tim Dennee, Landmarks Coordinator, at 202-442-8847.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, SEPTEMBER 10, 2013
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

9:30 A.M. MORNING HEARING SESSION

A.M.

WARD ONE

18600 **Application of Wilfredo Bonilla**, pursuant to 11 DCMR § 3103.2, for a
ANC-1A variance from the lot occupancy requirements under section 403, a
 variance from the rear yard requirements under section 404, a variance
 from the nonconforming structure requirements under subsection 2001.3,
 and a variance from the alley setback requirements under subsection
 2300.2(b), to allow two car garage addition in the R-4 District at premises
 1023 Irving Street, N.W. (Square 2846, Lot 97).

WARD TWO

18603 **Application of Brandon Webster and Nancy Younan**, pursuant to 11
ANC-2B DCMR § 3103.2, for a variance from the floor area ratio requirements
 under section 402, a variance from the lot occupancy requirements under
 section 403, a variance from the rear yard requirements under section 404,
 and a variance from the nonconforming structure provisions under
 subsection 2001.3, to allow a rear addition to an existing flat in the
 D/DC/R-5-B District at premises 2112 R Street, N.W. (Square 66, Lot 56).

WARD SIX

THIS APPLICATION WAS POSTPONED FROM THE JUNE 4, 2013, PUBLIC HEARING SESSION:

18556 **Application of Derek S. Mattioli**, pursuant to 11 DCMR § 3103.2, for a
ANC-6B variance from the lot occupancy requirements under section 403, a
 variance from the rear yard requirements under section 404, a variance
 from the court requirements under section 406, and a variance from the
 nonconforming structure provisions under subsection 2001.3, to allow a
 rear addition to an existing row dwelling in the R-4 District at premises
 1375 Massachusetts Avenue, S.E. (Square 1037, Lot 102).

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WARD EIGHT

18602 **Application of Archdiocese of Washington**, pursuant to 11 DCMR §
ANC-8A 3104.1, for a special exception for a private school (150 Students and 20
Staff) under section 206, in the R-5-A District at premises 1600 Morris
Road, S.E. (Square 5817, Lot 803).

WARD FIVE

18601 **Application of Holy Name Church**, pursuant to 11 DCMR § 3103.2, for
ANC-5D a variance from the use provisions to establish a trade (vocational) school
(200 students, ages 18 and older) under section 330.5, in the R-4 District
at premises 1125 Neal Street, N.E. (Square 4065, Lot 819).

WARD TWO

18604 **Application of Halcyon Georgetown LLC**, pursuant to 11 DCMR §
ANC-2E 3104.1, for a special exception to establish a non-profit organization under
section 217, in the R-3 District at premises 3400 – 3410 Prospect Street,
N.W. (Square 1204, Lot 63).

WARD EIGHT

**THIS APPLICATION WAS POSTPONED FROM THE APRIL 23, 2013, AND
MAY 21, 2013, PUBLIC HEARING SESSIONS;**

18541 **Application of Lubertha Payne**, pursuant to 11 DCMR § 3104.1, for a
ANC-8B special exception for a child development center (11 children and 2 staff)
under section 205, in the R-3 District at premises 620 Southern Avenue,
S.E. (Square 6250, Lot 11).

PLEASE NOTE:

Failure of an applicant or appellant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Board.

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, and Zoning. Pursuant to Subsection 3117.4, of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

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Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

LLOYD J. JORDAN, CHAIRMAN, S. KATHRYN ALLEN, JEFFREY L. HINKLE AND A MEMBER OF THE ZONING COMMISSION ----- BOARD OF ZONING ADJUSTMENT, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance, pursuant to the authority set forth in Sections 6(6) and 8(2) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code §§ 7-771.05(6) and 7-771.07(2) (2008 Repl.)), hereby gives notice of the adoption of amendments to Sections 3304 and 3305 of Chapter 33 (Health Care Safety Net Administration) of Subtitle B (Public Health and Medicine) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The D.C. HealthCare Alliance Program (Alliance) was designed to be a safety net for District residents without health insurance. Since its inception, the Alliance enrollment has expanded rapidly. The program currently provides health benefits to more than twenty thousand (20,000) low-income residents through a managed-care delivery system.

On July 1, 2010, the District implemented the Patient Protection and Affordable Care Act, approved March 23, 2010 (124 Stat. 119; Pub. L. No. 111-148), and D.C. HealthCare Alliance recipients, who are U.S. citizens or who have qualified alien or refugee status, became eligible for Medicaid. U.S. citizens and/or qualified aliens must meet all financial and non-financial eligibility requirements, including verification of U.S. citizenship or qualified alien status, in order to qualify for Medicaid. Non-qualified aliens, who do not meet citizenship requirements for the Medicaid program, are eligible for the Alliance.

A notice of emergency and proposed rulemaking was published in the *D.C. Register* on September 30, 2011 (58 DCR 8388). A second notice of emergency and proposed rulemaking was published in the *D.C. Register* on March 2, 2012 (59 DCR 1791). A third notice of emergency and proposed rulemaking was published in the *D.C. Register* on July 6, 2012 (59 DCR 8208). No comments were received and no substantive changes have been made. These rules were submitted to the Council of the District of Columbia (Council) for approval pursuant to Section 7a of the Health Care Privatization Amendment Act of 2001, effective July 12, 2001 (D.C. Law 14-18; D.C. Official Code § 7-1405.01 (2008 Repl.)). The Council approved the rules through Resolution No. 20-0115 on May 7, 2013.

These rules will become final upon publication of this notice in the *DC Register*.

Chapter 33, HEALTH CARE SAFETY NET ADMINISTRATION, of Subtitle B, PUBLIC HEALTH AND MEDICINE, of Title 22, HEALTH, of the DCMR is amended as follows:

Section 3304, ELIGIBILITY CRITERIA EFFECTIVE JUNE 1, 2006, is amended by adding a new Subsection 3304.9, to read as follows:

3304.9 If the applicant declares that he or she is a U.S. citizen or a qualified alien, but the social security or alien number the applicant provides does not support that assertion, the applicant shall have a reasonable opportunity to present the

appropriate documentation as provided in Subsections 3304.4, 3304.5 and 3304.6 of Chapter 33.

Section 3305, ELIGIBILITY PROCEDURES EFFECTIVE JUNE 1, 2006, is amended to read as follows:

3305 ELIGIBILITY PROCEDURES EFFECTIVE JUNE 1, 2006

- 3305.1 Effective immediately, applicants shall complete, sign, and date an application form (as designated by the Mayor), present this form to the Department of Human Services (DHS), and complete a face-to-face interview to establish eligibility for enrollment in the D.C. HealthCare Alliance Program (Alliance).
- 3305.2 DHS shall determine eligibility and send a notice to applicants within the same timeframe as required under the Medicaid program at 42 C.F.R. § 435.911.
- 3305.3 Eligibility shall begin on the first day of the month of application, which is consistent with the Medicaid requirement at 42 C.F.R. § 435.914(b).
- 3305.4 Alliance program enrollees shall be required to recertify their enrollment in person every six (6) months and complete a face-to-face interview. Those enrollees that had previously received an annual recertification shall be required to comply with a reduced recertification period of no less than six (6) months upon receipt of a notice from DHS. Such notice shall contain the date by which the enrollee must complete all recertification requirements, including a face-to-face interview.
- 3305.5 A notice of the requirement to recertify shall be mailed to an enrollee no less than thirty (30) days in advance of the scheduled recertification date. The recertification date shall be set by DHS based upon the eligibility date.
- 3305.6 An Alliance program enrollee, or his or her authorized representative, who fails to complete and sign a recertification package and complete the required face-to-face interview shall be subject to termination in accordance with Section 555 of District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.55 (2008 Repl.)).
- 3305.7 A recertification package shall include:
- (a) A signed District of Columbia medical assistance recertification form;
 - (b) Acceptable proof of residence as provided in Subsection 3304.4;
 - (c) Acceptable proof of income as provided in Subsection 3304.5;

- (d) Acceptable proof of countable resources as provided in Subsection 3304.6; and
 - (e) A valid and verifiable social security number if the enrollee declares himself or herself to be a U.S. citizen or qualified alien and has not previously provided a valid and verifiable social security number.
- 3305.8 If an Alliance program enrollee fails to recertify within the prescribed time period, but completes the recertification package and face-to-face interview within the next calendar month after the termination date, the Alliance program enrollee shall not be required to complete a new application.
- 3305.9 An applicant or recipient who is hospitalized, disabled or aged may request an exemption from the in-person requirements set forth in Subsections 3305.1 and 3305.4, if they are hospitalized, disabled, or aged during the application or recertification period, and therefore unable to complete the required face-to-face interview. To qualify for this exemption, the Alliance beneficiary or their authorized representative shall submit the following:
- (a) Documentation from a hospital or medical professional attesting to the customer's unavailability due to medical incapacity or disability, if the customer is unavailable due to medical incapacity or disability during the period of recertification; or
 - (b) A request for an exemption detailing the reason why the customer cannot complete the required face-to-face interview, which DHS may approve on a case-by-case basis, if the customer is sixty-five (65) years or older.
- 3305.10 The Alliance program enrollee shall be required to submit a new application if he or she fails to recertify, as indicated in Subsection 3305.4.
- 3305.11 DHS shall take no action to terminate, discontinue, or suspend eligibility without giving the Alliance program enrollee adequate and timely notice consistent with the Medicaid requirement, as set forth in Section 555 of District of Columbia Public Assistance Act of 1982, effective April 6, 1982, (D.C. Law 4-101; D.C. Official Code § 4-205.55).
- 3305.12 To determine countable income, DHS shall aggregate earned income and disregard the first one hundred dollars (\$100) in income. Further, DHS shall apply the exclusions detailed in Supplement 8a to Attachment 2.6-A of the District of Columbia State Plan for Medical Assistance (Medicaid State Plan).
- 3305.13 To determine countable resources, DHS shall aggregate resources that are available to the applicant and apply the exclusions detailed in Supplement 8b to Attachment 2.6-A of the District's Medicaid State Plan.

3305.14 All of an applicant's resources shall be presumed available. An applicant may rebut this presumption by proving to the satisfaction of the District that a resource is not available to the applicant. An applicant shall be deemed to have rebutted the presumption if he or she establishes that there is a legal or other actual barrier to disposing of the asset that cannot be reasonably overcome. Resources that are not available are not included in the calculation of an applicant's countable resources.

UNIVERSITY OF THE DISTRICT OF COLUMBIA**NOTICE OF FINAL 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) and 38-1202.06 (13) (2001 ed. & 2012 Supp.)), hereby gives notice of its intent to adopt the amendments of Chapter 2 (Administration and Management) of Subtitle B (University of the District of Columbia), Title 8 (Higher Education), of the District of Columbia Municipal Regulations (DCMR). The purpose of the rule is to allow the Board of Trustees greater latitude in making an acting appointment.

The substance of the rules adopted herein was published in the *D.C. Register* on April 26, 2013 at 60 DCR 6221, for a period of public comment of not less than thirty (30) days, in accordance with D.C. Official Code § 2-205(a) (2012 Supp). No public comment was received by the Board within the public comment period. The Board of Trustees took final rulemaking action at a regular meeting on June 4, 2013. The rules shall become effective upon publication of this notice in the *D.C. Register*.

Chapter 2, THE PRESIDENT OF THE UNIVERSITY, of Subtitle B, UNIVERSITY OF THE DISTRICT OF COLUMBIA, of Title 8, HIGHER EDUCATION, is amended as follows:

Section 210, EXECUTIVE APPOINTMENTS GENERAL PROVISIONS, Subsection 210.4 is amended to read as follows:

210.4 The President may appoint a current employee to serve in an "acting" status in a position designated to be filled by executive appointment without requiring that employee to resign from his or her current position. Compensation of appointees with "acting" status shall be determined in accordance with the provisions of § 210.6 and other applicable subsections of this chapter. Service in an "acting" status in a position designated to be filled by executive appointment shall be limited to one (1) year. The President shall seek Board approval for an extension forty five (45) days prior to the year ending if he/she determines and can demonstrate that additional time is needed. Should an extension be approved by the Board, the President shall provide the Board immediately with a plan and time line for making the permanent appointment within ninety days (90) of the end of the one (1) year period should the appointment be necessary. The Board may approve an extension or renewal of an acting appointment for no more than one (1) additional year due to extenuating circumstances as determined by the Board.

WASHINGTON CONVENTION AND SPORTS AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Directors of the Washington Convention and Sports Authority (Authority), pursuant to Section 203 of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1202.03(3) and (6) (2008 Repl. & 2012 Supp.)), as amended by the Fiscal Year 2010 Budget Support Act of 2009, effective March 3, 2010 (D.C. Law 18-111; D.C. Official Code § 10-1201.01 *et seq.* (2008 Repl. & 2012 Supp.)) (the Act), hereby gives notice of its adoption of the following amendment to Chapter 1 (“Washington Convention Center: Bylaws”) of Title 19 of the District of Columbia Municipal Regulations.

The rulemaking amends the Authority’s bylaws to reflect the Authority’s correct name and to permit members of the Authority’s Board of Directors to vote by proxy. The proposed rulemaking was published in the *D.C. Register* on February 22, 2013 at 60 DCR 2174.

No comments were received in response to the rulemaking and no changes were made. The Authority took final action on this rulemaking on February 14, 2013. This rulemaking shall take effect immediately upon publication in the *D.C. Register*.

Chapter 1 (“Washington Convention Center Authority: Bylaws”) of Title 19 of the District of Columbia Municipal Regulations (DCMR) is amended as follows:

The title of Chapter 1 is amended to read as follows:

CHAPTER 1 WASHINGTON CONVENTION AND SPORTS AUTHORITY: BYLAWS

Sections 101-199 are amended to read as follows:

CHAPTER 1 WASHINGTON CONVENTION AND SPORTS AUTHORITY: BYLAWS

101 OFFICE AND REGISTERED AGENT

101.1 The Authority shall continuously maintain in the District of Columbia a registered office at such place as may be designated by the Board of Directors (the Board). The principal office of the Authority shall be in the District of Columbia, at such address as may from time to time be designated by the Board. The Authority may also have offices at such other places as the Board may from time to time designate.

101.2 The Authority shall continuously maintain within the District of Columbia a registered agent, which shall be designated by the Board.

102 BOARD OF DIRECTORS

- 102.1 The direction, control and management of the affairs and funds of the Authority shall be vested in the Board, which shall pursue such policies and activities as shall be in accordance with the provisions of the Act and the relevant statutes of the United States and the District of Columbia. The Board will employ staff and adopt appropriate procedures to carry out its duties.
- 102.2 After notice, the Mayor of the District of Columbia shall remove any Member for failure to establish or maintain residency in the District of Columbia as required by the Act, or for misconduct or neglect of duty as defined by Section 199 of these bylaws.
- 102.3 A Member may resign at any time by giving notice thereof in writing to the Mayor, with a copy to the Chairperson. The Chairperson may resign at any time by giving notice thereof in writing to the Mayor, with copies to the Vice Chairperson and the Secretary.

103 MEETINGS OF THE BOARD

- 103.1 The Chairperson of the Board shall preside at all meetings of the Board at which he or she is present, and shall perform such other duties as may be required of him or her by the Board.
- 103.2 The Vice Chairperson of the Board shall, in the absence of the Chairperson, preside at its meetings and shall perform such other duties as may be required of him or her by the Board.
- 103.3 Regular meetings of the Board shall be held no less than once every sixty (60) days at such time and place as the Chairperson shall determine. At least three (3) business days in advance of each regular meeting of the Board, notice shall be given to each Member and to the public. However, seven (7) business days' notice shall be given for regular meetings if, in the opinion of the Chairperson, the matters to be voted upon by the Board at such meeting could potentially have an adverse impact on the community.
- 103.4 Special meetings of the Board may be called at the discretion of the Chairperson or at the request of any six (6) Members. At least forty-eight (48) hours in advance of each special meeting of the Board, notice shall be given to each Member and to the public.
- 103.5 At least seven (7) calendar days before each meeting of the Board (special or regular) at which amendments to the bylaws are to be considered, notice shall be given to each Member and to the public.
- 103.6 Notice of a meeting of the Board shall specify the date, time and place of the meeting.
- 103.7 Notice must be either delivered personally to each Member, or mailed via the United States Postal Service (USPS), facsimile transmission or electronic mail to

his or her business address. If such notice is given by USPS, it shall be deemed delivered when deposited in the United States mail properly addressed and with postage prepaid thereon. If such notice is sent by telecopy, electronic mail or delivered personally, it shall be deemed delivered when received. However, a Member may waive notice of any regular or special meeting by written statement filed with the Board. Attendance at a meeting shall also constitute a waiver of notice.

103.8 Public notice shall be given by publication in the *D.C. Register* or in a newspaper of general circulation.

104 QUORUM

104.1 Six (6) Members shall constitute a quorum for the transaction of business at any meeting of the Board, except that if a quorum is not present at a meeting, a majority of the Members present may adjourn the meeting to another time, without further notice.

104.2 Except as otherwise provided by the Act or these bylaws, an affirmative vote of a majority of the Members present at a meeting at which a quorum exists shall be required for any valid Board action; provided, however, that no resolution authorizing the issuance of any bonds or adopting any budget or financial plan shall be deemed approved unless the Chief Financial Officer of the District of Columbia voted in favor of such action.

104.3 A Member may vote either in person or by proxy given to another Member. The proxy shall be executed in writing by the Member who is absent, shall name the Member to whom the proxy is given, and shall be delivered to the Secretary.

104.4 Each proxy shall specifically identify the meeting for which the proxy is valid.

104.5 A Member's proxy may be revoked by the Member at any time in writing.

104.6 No vacancy in membership, except a vacancy in the Office of Chief Financial Officer of the District of Columbia, shall impair the right of a quorum to exercise all rights and perform all duties of the Board.

104.7 Subject to the provisions of Section 105 below and at the discretion of the Chairperson, any or all Members may participate in a meeting of the Board, or a committee of the Board, by means of telephone conference or by any means of communication by which all persons participating in the meeting are able to hear one another, and such participation shall constitute presence in person at the meeting.

105 OPEN MEETINGS

- 105.1 All meetings of the Board at which action of any kind is taken shall be open to the public, and no official action shall be effective unless taken at such meeting.
- 105.2 A written transcript shall be kept for all such meetings and shall be made available to the public during normal business hours of the Authority. Copies of such written transcripts or copies of such transcriptions shall be available, upon request, to the public at a reasonable cost.

106 COMMITTEES

- 106.1 The Board may, by resolution passed by a majority of the Members of the Board, designate one or more committees including standing committees; each such committee shall consist only of Members of the Board, which Members shall be appointed by the Chairperson of the Board.
- 106.2 The Board may remove any member of any committee at any time, with or without cause, and may designate one or more Members of the Board as alternate members of any committee, who may replace any absent or disqualified member of such committee at any meeting of the committee.
- 106.3 In the event that the Chairperson has not designated a committee chairperson, the committee shall appoint one of its own members as chairperson, who shall preside at all meetings and may also appoint a secretary (who need not be a member of the committee) who shall keep its records and who shall hold office at the pleasure of the committee.
- 106.4 Any such committee, to the extent permitted by the Act, shall have and may exercise such powers and authority to conduct investigations or recommend actions to the Board as shall be specified by resolution of the Board; provided that the principal functions of any such committees shall be to function as a liaison between the Board and the Authority's staff, consultants or other third parties and to gather information for purposes of aiding the Board in its decision making.
- 106.5 No committee shall have power or authority to:
- (a) fill vacancies on any committee;
 - (b) adopt, amend, or repeal these bylaws;
 - (c) sell, exchange, assign, convey, lease, transfer or otherwise dispose of any of the Authority's assets; or
 - (d) take any action that is within the exclusive authority of the Board.

- 106.6 Regular meetings of such committees may be held without notice of the time, place or purposes thereof and shall be held at such times and places as the committee may from time to time determine.
- 106.7 Special meetings of such committees may be held upon notice of the time, place and purposes thereof. Until otherwise ordered by the committee, special meetings shall be held at any time and place at the call of the Chairperson of the Board or chairperson of such committee.
- 106.8 At any regular or special meeting any such committee may exercise any or all of its powers, and any business which shall come before any regular or special meeting may be transacted there, provided a majority of the committee is present; but in every case the affirmative vote of a majority of all of the members of the committee shall be necessary to take any action.
- 106.9 Each committee shall keep regular minutes of its proceedings and distribute a copy thereof to each of the Members of the Board and the Secretary of the Authority after each committee meeting.
- 106.10 Before the Board or any of its committees acts upon any request for the use of excess funds totaling more than two hundred fifty thousand dollars (\$250,000) from the Washington Convention Center Marketing Fund, the Board shall afford the Washington Convention and Tourism Corporation an opportunity to review and comment upon the request.

107 OFFICERS

- 107.1 The Officers of the Authority shall be a Chairperson, a Vice Chairperson, a Treasurer, a President and Chief Executive Officer, a Chief Financial Officer of the Authority, a Secretary, an Assistant Secretary, and such other officers as may from time to time be deemed advisable by the Board.
- 107.2 Unless otherwise provided in the Act or these bylaws, officers shall be chosen by a majority vote of the Board.
- 107.3 The Chairperson and Vice Chairperson shall be Members. The other Officers may, but need not, be Members. Any two or more offices may be held by the same person except the offices of Chairperson and Secretary.
- 107.4 Unless otherwise provided by the Act or these bylaws, the Officers of the Authority shall hold their offices for such terms as shall be determined from time to time by the Board.
- 107.5 Unless otherwise provided by the Act or these bylaws, the Officers of the Authority shall exercise such powers and perform such duties as shall be specified

by the Board and, if not inconsistent therewith, as are customarily exercised by corporate officers holding such offices.

107.6 The Officers of the Authority shall hold office until their successors are chosen and qualified. Unless otherwise provided in the Act or these bylaws, any Officer of the Authority may be removed at any time by a majority of the Members in office, with or without cause, and any vacancy occurring in any office of the Authority may be filled by the vote of a majority of the Members in office.

107.7 The Chairperson and such other Officers, employees and agents as may be authorized by the Board may enter into and execute, on behalf of the Authority, contracts, leases, debt obligations and all other forms of agreements or instruments, whether under seal or otherwise, permitted by law, the Act and these bylaws; except where such documents are required by law or the Act to be otherwise signed and executed, or where the signing and execution thereof shall be exclusively delegated to some other Officer or agent of the Authority.

107.8 All checks, drafts or other orders for the payment of money shall be signed by such Officer or Officers or such other person or persons as the Board may, from time to time, designate.

108 PRESIDENT AND CHIEF EXECUTIVE OFFICER

108.1 The President and Chief Executive Officer shall have the duties described in the Act and such other duties as may be authorized by the Board for the effective and efficient management of the Authority.

109 CHIEF FINANCIAL OFFICER OF THE AUTHORITY

109.1 The Chief Financial Officer of the Authority shall perform all duties customary to that office and, except as may be required in any instrument under which any bonds are issued by the Authority, shall be responsible for all corporate funds and securities, and shall keep full and accurate accounts of receipts and disbursements in the books of the Authority.

109.2 The Chief Financial Officer of the Authority shall be responsible for the deposit of all monies or other valuable effects in the name of the Authority in such depositories as shall be selected by the Board.

109.3 The Chief Financial Officer of the Authority or his or her delegate shall disburse the funds of the Authority in compliance with the provisions of the Act and as may be ordered by the Board or its delegate, taking proper vouchers for such disbursements, and shall periodically provide an account of the Authority's

transactions and the financial condition to the Chairperson and the Board at its regular meetings or when the Board so requires.

- 109.4 The Assistant Chief Financial Officer of the Authority, if any be appointed, shall in the absence or disability of the Chief Financial Officer perform the duties and exercise the powers of the Chief Financial Officer, and shall perform such other duties as the Board shall prescribe.

110 SECRETARY

- 110.1 The Secretary shall be responsible for keeping an accurate record of the proceedings of all meetings of the Board and such other actions of the Authority as the Board shall direct. He or she shall give or cause to be given all notices in accordance with these bylaws or as required by law or the Act and, in general, perform all duties customary to the Office of Secretary.
- 110.2 The Secretary shall have authority to affix the corporate seal of the Authority to any instrument requiring it and, when so affixed, it may be attested by his or her signature or by the signature of the Assistant Secretary.
- 110.3 The General Counsel of the Authority shall be the Assistant Secretary. In the absence or disability of the Secretary, the Assistant Secretary shall perform the duties and exercise the powers of the Secretary. At all other times, the Assistant Secretary shall perform such of the Secretary's functions as the Secretary shall prescribe in writing.

111 LIABILITY

- 111.1 Each Member, Officer, or employee of the Authority who receives notice of any claim or potential claim against him or her based upon any act or omission within the scope of his or her official duties or employment shall promptly notify the President and Chief Executive Officer of such claim or potential claim.
- 111.2 The Authority shall intervene as a party in any claim against any Member based upon any act or omission of the Authority, which claim does not allege fraudulent or criminally prosecutable acts by the Member, and assert on behalf of the Member the defense of personal immunity, pursuant to Section 206(i) of the Act.
- 111.3 The Authority shall maintain insurance against liability to third parties covering each person against whom a claim is made based upon any act or omission within the scope of the person's official duties as a Member, Officer or employee of the Authority.

111.4 Nothing in this section shall preclude the Authority from taking disciplinary action against any employee or from asserting its own claim for lost or damaged property against any employee.

112 AMENDMENTS

112.1 These bylaws may be amended from time to time, in any manner not inconsistent with the Act, by the affirmative vote of a majority of the entire membership of the Board at any meeting of the Board, if notice of the substance of the proposed Amendment be contained in the notice of the meeting, or if such notice be waived as herein provided.

113 SEAL AND FISCAL YEAR

113.1 The seal of the Authority shall be circular in form and shall have inscribed thereon the words "Washington Convention and Sports Authority," "District of Columbia," and "Corporate Seal."

113.2 The fiscal year of the Authority shall begin on the first day of October and end on the last day of September in each year.

114 APPROVAL OF CERTAIN CONTRACTS

114.1 Before the Authority awards any contract that requires the approval of the District of Columbia Council in accordance with D.C. Official Code § 2-352.02, as such may be amended from time to time, and prior to the submission of any such contract to the Council, the Board shall first approve the contract by a resolution passed by a majority of the Members.

199 DEFINITIONS

When used in this chapter, the following words shall have the meanings ascribed:

Act - the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188), as amended by the Fiscal Year 2010 Budget Support Act of 2009, effective March 3, 2010 (D.C. Law 18-111, D.C. Official Code §§ 10-1201.01 *et seq.*).

Authority - the Washington Convention and Sports Authority established by the Act.

Member - a Member of the Authority's Board of Directors.

Misconduct - any criminally prosecutable or fraudulent act by a Member in relation to the duties of his or her office that is willful in character.

Neglect of duty - the careless or intentional failure by a Member to exercise due diligence in the performance of his or her official duties.

WASHINGTON CONVENTION AND SPORTS AUTHORITY**NOTICE OF FINAL RULEMAKING**

The Board of Directors of the Washington Convention and Sports Authority (Authority), pursuant to Section 203 of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1202.03(3) and (6) (2008 Repl. & 2012 Supp.)), as amended by the Fiscal Year 2010 Budget Support Act of 2009, effective March 3, 2010 (D.C. Law 18-111; D.C. Official Code § 10-1201.01 *et seq.* (2008 Repl. & 2012 Supp.)) (the Act), hereby gives notice of its adoption of the following amendment to Chapter 4 (“Washington Convention Center: Bookings”) of Title 19 (“Amusements, Parks, and Recreation”) of the District of Columbia Municipal Regulations.

This amendment was originally adopted, on an emergency basis, on April 11, 2013, and a Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on April 26, 2013 at 60 DCR 6256. The amendment allows the Authority to book non-convention events (as defined in Chapter 4) at the Walter E. Washington Convention Center up to twenty-four months prior to the event date. The amendment also corrects various inaccuracies in the regulations.

No comments were received in response to the rulemakings and no changes were made. The Authority took final action on this rulemaking on April 11, 2013. This rulemaking shall take effect immediately upon publication in the *D.C. Register*.

Chapter 4 (“Washington Convention Center Authority: Bookings”) of Title 19 (“Amusements, Parks, and Recreation”) of the District of Columbia Municipal Regulations (DCMR) is amended as follows:

The title of Chapter 4 is amended to read as follows:

**CHAPTER 4 WASHINGTON CONVENTION AND SPORTS AUTHORITY:
BOOKINGS**

Sections 401-499 are amended to read as follows:

**CHAPTER 4 WASHINGTON CONVENTION AND SPORTS AUTHORITY:
BOOKINGS**

400 BOOKING POLICY

400.1 The key objective of the Washington Convention and Sports Authority (the Authority) is to serve as a generator of convention, meetings, sports and entertainment and special event dollars brought into the District of Columbia and to effectuate the purposes prescribed by D.C. Official Code § 10-1202.02 *et seq.*

400.2 First priority in booking events at the Walter E. Washington Convention Center shall be given to convention events.

400.3 Nothing in this chapter shall prohibit the Authority from booking events of any kind at any time at any other venue under the Authority's ownership, control or management.

401 PRIMARY CONTRACTOR FOR CONVENTION EVENTS AT THE CONVENTION CENTER

401.1 The Washington, DC Convention and Tourism Corporation t/a Destination DC ("Destination DC") shall be the Authority's primary contractor for booking convention events at the Convention Center.

401.2 As the Authority's primary contractor for convention events at the Convention Center, Destination DC shall negotiate tentative arrangements with customers, including the following:

- (a) Reservation of dates;
- (b) Committing of specific areas in the Convention Center; and
- (c) Quoting of current rental rates.

401.3 Destination DC shall not assign or reserve areas of the Convention Center designated for retail sales or areas designated as common spaces (other than registration areas specified by the Authority).

401.4 Destination DC shall include in each letter of intent, confirmation letter or agreement negotiated with a customer for space in the Convention Center, a clause in bold type in a prominent location stating the following:

All terms herein are contingent upon the written approval of the Washington Convention and Sports Authority.

402 BOOKING OF EVENTS BY THE AUTHORITY

402.1 The Authority may book a non-convention event on its own behalf up to twenty-four (24) months before the date of the event without prior notice to Destination DC. The Authority may not, however, book a non-convention event to be held at the Convention Center more than twenty-four months before the date of the event without first providing notice to, and consulting with, Destination DC.

402.2 To ensure that convention event reservations for events to be held in the Convention Center are given first priority, the Authority shall not assign a date to a non-convention event to be held in the Convention Center if, prior to the booking of that event, the Authority has received written notice from Destination DC that it is in active negotiations to reserve that date for a convention event.

403 CONTRACT APPROVAL

403.1 The President and Chief Executive Officer or designee shall be the final approving authority for all bookings, whether negotiated by Destination DC or by the Authority.

404 ESTABLISHMENT OF RATES

404.1 The Authority shall develop a rental rate schedule for all events booked at its venues.

404.2 The rate schedule, and any amendments to the schedule, shall be subject to approval by the President and Chief Executive Officer.

404.3 The President and Chief Executive Officer may in his discretion charge agencies of the District government a rate equal to one-half the published rental rate.

405 POLITICAL AND COMMUNITY EVENTS

405.1 The facilities and resources of the Authority shall not be used to provide any contribution, whether direct or indirect, cash or in-kind, to any political party, political committee, candidate, or constituent services program.

405.2 The facilities and resources of the Authority shall not be used for any event (other than a convention event) of which a political party, political committee, candidate or constituent services program is the host, organizer, or beneficiary, unless the rate to be paid for the event is at least equal to the rate paid by for-profit clients for comparable events, but in no event less than the cost to the Authority for holding the event.

405.3 The terms “political party”, “political committee”, “candidate”, and “constituent services program” as used in this section shall have the meanings ascribed to them by the election laws of the District of Columbia at D.C. Official Code §§ 1-1101 *et seq.* and 1-1104 *et seq.*

405.4 Except as prohibited by Sections 405.1 and 405.2 of this chapter, the facilities and resources of the Authority may be used to provide direct or indirect support for community-related non-profit events, whether charitable or governmental.

405.5 Before the Authority provides support for any community-related non-profit event pursuant to Section 405.4, the President and Chief Executive Officer or designee shall determine in writing that the amount and terms of such support further the mission of the Authority, for example, by enhancing its ability to attract

convention event, sports, entertainment and special event bookings or by promoting essential community relations.

- 405.6 Except as prohibited by Sections 405.1 and 405.2, the resources of the Authority may be used to purchase tickets to community-related events and other events at the Authority's venues for distribution at less than the Authority's purchase price to public officials or other persons who do business with the Authority.
- 405.7 Before the Authority purchases or distributes tickets pursuant to Section 405.6, the General Counsel shall determine in writing that such purchase or distribution does not violate the laws of the United States or the District of Columbia.

499 DEFINITIONS

When used in this chapter the following words shall have the following meanings:

Authority - the Washington Convention and Sports Authority.

Board of Directors – the Board of Directors of the Authority.

Convention Center - the Walter E. Washington Convention Center located at 801 Mount Vernon Place, NW, Washington, DC.

Convention event - an event for which a reservation of space at the Convention Center includes a commitment to purchase at least 2,500 peak room nights in hotels within the District of Columbia, as determined by Destination DC.

First priority - a “Convention event” as defined in this section.

Fourth priority - a Non-convention event for which a reservation of space at the Convention Center may or may not include a commitment to purchase room nights in hotels within the District of Columbia and which describes a one-day meeting or assembly.

Non-convention event - an event other than a Convention event for which a reservation of space at the Convention Center may or may not include a commitment to purchase room nights in hotels within the District of Columbia and which describes a second, third or fourth priority booking.

President and Chief Executive Officer – the President and Chief Executive Officer of the Authority.

Second priority - a Non-convention event for which a reservation of space at the Convention Center may or may not include a commitment to purchase

room nights in hotels within the District of Columbia and which describes a public consumer show, tradeshow or similar assembly.

Third priority - a Non-convention event for which a reservation of space at the Convention Center may or may not include a commitment to purchase room nights in hotels within the District of Columbia and which describes a local or regional multiple day meeting or assembly.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 12-11
Z.C. Case No. 12-11
(Text Amendment – 11 DCMR)
(Various Administrative Amendments)
February 25, 2013**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2008 Repl.)), hereby gives notice of its adoption of amendments to §§ 199, 400, 2403, 2407, 2408, 2409, 3024, 3029, 3100, 3103, 3106, 3112, 3113, 3121, 3125, 3126, 3129, 3130, and 3202 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (DCMR). The amendments pertain to the measurement of height, procedures and standards for planned unit developments (PUDs), the procedural rules of the Commission and the Board of Zoning Adjustment, and the review of building permits.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on January 18, 2013, 60 DCR 398. In response to comments received, the Commission voted to make several revisions to the proposed rules, which will be described in the portion of the notice entitled Final Action. These changes do not constitute a substantial alteration of the text and therefore republication is not required pursuant to 1 DCMR § 310.5. The amendments shall become effective upon the publication of this notice in the *D.C. Register*.

Procedures Leading to Adoption of Amendments

On July 20, 2012, the Office of Planning (OP) submitted a memorandum that served as a petition requesting amendments to the regulations. The Commission voted to set down the proposal for hearing at its July 30, 2012 public meeting.

Through a report dated October 15, 2012, the Chair of Advisory Neighborhood Commission (ANC) 6C indicated that at a duly noticed and regularly scheduled meeting and with a quorum present, the ANC voted to approve several recommendations. The ANC opposed the proposed amendment to § 2403.6 that would prohibit most monetary contributions in PUDs, believing that important public benefits would be lost. The ANC also opposed new § 2403.15 through 2403.20, which describe the process in which an applicant for a PUD or PUD modification is given a final opportunity to identify the public benefits of the PUD and to prove to the Commission that each such benefit will result from a grant of the application. The ANC expressed concern that the process: (1) would not afford ANCs sufficient time to respond; (2) should occur before proposed action; and (3) does not offer recourse should an ANC conclude that the benefits are insufficient. The ANC's final substantive comment concerned proposed new § 2409.12, which defines the term "applicant" for the purposes of PUD conditions as meaning "the person or entity then holding title to the Subject Property." The ANC noted that the real party in interest could be a contract purchaser and believed that the quoted phrase did not

cover that person or entity. The Commission's response to these concerns appears in the portion of this Notice and Order entitled ANC Great Weight.

A public hearing was scheduled for and held on November 8, 2012, at which the Commission heard the presentation of Ms. Jennifer Steingasser of OP and testimony from Stu Ross, Chair of ANC 3D, Ms. Alma Gates on behalf of the Committee of 100 on the Federal City, Ms. Barbara Kahlow on behalf of the West End Citizens Association, and Ms. Marilyn Simon. Mr. Ross, Ms. Gates, Ms. Kahlow, and Ms. Simon also provided written statements.

As the conclusion of the hearing, the Commission asked OP to provide clarifying language for certain of the proposed amendments to Chapter 24, and to review the comments regarding measuring height. In response OP filed a Supplemental Report dated November 25, 2012. The report also included recommendations suggested by the Office of the Attorney General based upon the Commission's comments made during the hearing.

At its regularly scheduled meeting held December 10, 2012, the Commission voted to accept most of the recommendations made in the OP report and to refer the revised proposal to the National Capital Planning Commission (NCPC) for the thirty (30)-day period of review required under § 492 of the District Charter. The Commission also voted to allow monetary contributions to non-governmental entities to be recognized as public benefits provided that the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.

The Commission received two comments in response to the notice of proposed rulemaking

The first comment came from the Chair of ANC 3D, who indicated that at a properly noticed public meeting with a quorum present, the ANC voted to make the following recommendation:

- Height. Building height should be measured from the natural grade at the midpoint of the building face closest to the nearest public right of way with natural grade to be determined as the ground elevation that existed immediately prior to the issuance of the first building permit, including a raze permit, needed to begin construction of the building. In addition, building heights should be measured to the highest point of the roof or parapet instead of only to the ceiling of the top floor.
- PUD Procedures.
 - § 2403.6. No monetary contributions should be recognized as public benefits.
 - § 2403.15. A PUD applicant should not be relieved of the obligation to prove that the PUD will offer public benefits.
 - § 2403.20. An ANC must be given more than 28 days to respond to the applicant's final proffer of PUD benefits.
 - §§ 3029.6 and 3100.6. New evidence should not be required in order to move for reconsideration.

- § 3125.3. Parties should be able to respond to proposed order received after a decision to grant or deny an application is made.

The Commission's response to these concerns appears in the portion of this Notice and Order entitled ANC Great Weight.

In addition, the Commission received comments from the law firm of Holland & Knight.

As to height issues, the comments expressed concern with the proposal to move two measurement rules for zones with height limits of 40 and 60 feet from the definition of building height to § 400 of the Residence Zone rules. The comments pointed out that doing so would have the unintentional affect of changing the measurement rules for other zone districts with similar height restrictions. The comments also noted that existing structures in Residence Zones may become nonconforming as a result of the changes in height measurement proposed and suggested amendments to § 2001.3. Finally, the comments discussed the phrase "Mid-Point of the Building Façade ... that is Closest to a Street Lot Line" and suggested that in certain unusual circumstances there may be uncertainty in interpreting the point that is closest to the street lot line.

The comments also addressed the proposed amendments to § 2409.8, which would have established an absolute forty-five (45)-day waiting period to issue a building permit that was the subject of a PUD modification approved by the Commission. The comments suggested that this was too long a period. Finally, the comments recommended either deleting the proposed definitions of "practical difficulty" and "undue hardship" from the proposed variance regulations or modifying the definitions to conform with what the law firm considered to be the current legal standard.

Final Action

At regularly scheduled public meeting held on February 25, 2013, the Commission took final action to adopt the text amendments. In doing so it considered the comments received from Holland & Knight and a confidential memorandum submitted by the Office of the Attorney General in response. The final rules adopted by the Commission retain the original final five (5) paragraphs in the definition of building height in order to avoid the adverse consequences identified by the comments. The rules contain a grandfathering provision specific to those zones, rather than the general amendment to § 2001.3 proposed, since the latter would treat the grandfathered structures as nonconforming and thus restrict their ability to expand or be reconstructed under certain circumstances. The adopted rules retain a forty-five (45)-day period to review PUD modifications approved by the Zoning Administrator, but now permit an earlier release of the affected permit should the Commission approve the modification prior thereto. The proposed definitions of "practical difficulty" and "undue hardship" are not included in the adopted text. Finally, in response to the concern of ANC 3D, the Commission modified § 2403.15 to clarify that it is the final proffer process, and not the requirement to prove PUD benefits, that the Commission may determine to be unnecessary.

ANC Great Weight

In accordance with Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) the Commission must give great weight to the written issues and concerns of the affected ANCs, which in this case are all ANCs.

In this instance, the Zoning Commission received reports from ANCs 3D and 6C.

Shared Concerns

The Final Proffer Process

Both ANCs expressed concern over the time that will be permitted to respond to an applicant's final submission of its proposed public benefits. However, the Court of Appeals has made it clear that an ANC must be treated like any other party in a contested case.

Finally, petitioners contend that the BZA was required by D.C. Code § 1-261(b) to give the ANC at least thirty days within which to respond to the revised traffic plan, and that the BZA erred in failing to do so. Since the Levine School did not submit its revised plan until March 15, petitioners assert that the BZA granted the special exception (on April 5) before the thirty days had expired. We hold that section 1-261(b) is not applicable here. This section of the Code requires the District of Columbia government, or any of its agencies, to give thirty days' notice to any affected ANC of any proposed action in a rulemaking proceeding. It cannot reasonably be read as imposing a requirement on the BZA to allow an ANC (or anyone else) thirty days to respond to a supplemental submission in a zoning appeal. By its terms, the statute simply does not address the situation presented here.

Neighbors on Upton Street v. District of Columbia Bd. of Zoning Adjustment, 697 A.2d 3, 10 -11 (D.C. 1997).

ANC 6C also believed that the process should occur before proposed action. However, it is the Commission's experience that an applicant's proffers frequently change between the close of a hearing and proposed action. The ANC's concern that the process does not offer recourse should an ANC conclude that the benefits are insufficient is not legally relevant, because the Commission has no authority to add to a proposed amenities package.

As noted, in response to the concern of ANC 3D, the Commission modified § 2403.15 to clarify that it is the final proffer process, and not the requirement to prove PUD benefits, that the Commission may determine to be unnecessary.

PUD Monetary Contributions

ANC 6C opposed the prohibition of monetary contributions to private entities as PUD benefits while ANC 3D favored an entire prohibition. The Commission believes it has found a middle

path by permitting such private contributions, but only if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided. This allows for private contributions, but puts the risk of a failure of the third party to deliver on the applicant rather than the Commission.

Individual Concerns

ANC 6C

The ANC 6C believed that proposed new § 2409, which defines the term “applicant” for the purposes of PUD conditions to “mean the person or entity then holding title to the Subject Property, would not encompass a contract purchaser. The phrase “then holding title” does not just refer to the person or entity holding title at the time of the application, but through the life of the PUD. Thus, once a contract purchaser became the owner, the responsibilities to fulfill any applicable PUD condition would be theirs.

ANC 3D

As to ANC 3D’s view favoring the use of natural grade, under the existing regulations natural grade is only used in the unusual circumstance when there is an artificial elevation, such as a bridge or viaduct. At this late stage in this proceeding, the Commission is not inclined to reopen the discussion to determine whether natural grade is the more appropriate measuring point in Residence Zones. Although the Commission understands why the ANC favors measurement to the top of the roof, it is convinced the more reasonable approach for a non-flat roof is averaging between the top of the peak of a roof and the bottom of the eave. Otherwise, the rules might inadvertently encourage shallow-pitched roofs.

The ANC is mistaken that the amendment to § 3029 will impose the “new evidence” standard upon motions for reconsideration. That standard applies only to a motion for a rehearing. This amendment only adds the existing BZA standard to the Commission’s rules.

Finally, the Commission cannot agree with ANC 3D that the amendment to § 3125.3 should permit parties to respond to proposed orders submitted by the prevailing party after a BZA decision to grant or deny an application is made. The only conceivable reason why a non-prevailing party would submit a response would be to convince the BZA to change its vote. Such arguments must await the issuance of the final written decision by the Board, at which point a motion for reconsideration may be filed.

Having addressed each issue and concern raised by ANCs 3D and 6C, and having explained why it did or did not find the advice persuasive, the Commission has afforded each ANC the great weight required by statute.

Title 11 DCMR (Zoning) is amended as follows:

Chapter 1, THE ZONING REGULATIONS, § 199, DEFINITIONS, § 199.1, definition of “Building, height of” is amended to: (1) to provide that in Residence Districts the term means the vertical distance measured at the existing grade at the mid-point of the building façade of the principal building that is closest to a street lot line to a point designated in the zone district; (2) to establish that berms or other forms of artificial elevation shall not be included in measuring building height; (3) to add qualifiers to the third, fifth, and sixth paragraphs; and (4) to amend the sixth paragraph to increase the height of excludable parapets from three to four feet, so that the definition will read as follows:

Building, height of – in other than Residence Districts (R), the vertical distance measured from the level of the curb, opposite the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district; in Residence Districts (R) the vertical distance measured at the existing grade at the mid-point of the building façade of the principal building that is closest to a street lot line to a point designated in the zone district. Berms or other forms of artificial landscaping shall not be included in measuring building height.

The term curb shall refer to a curb at grade. In the case of a property fronting a bridge or a viaduct, the height of the building shall be measured from the lower of the natural grade or the finished grade at the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district.

Unless otherwise restricted or permitted in this title, in those districts in which the height of the building is limited to forty feet (40 ft.), the height of the building may be measured from the finished grade level at the middle of the front of the building to the ceiling of the top story.

In those districts in which the height of the building is limited to sixty feet (60 ft.), in the case of a building located upon a terrace, the height of building may be measured from the top of the terrace to the highest point of the roof or parapet, but the allowance for terrace height shall not exceed five feet (5 ft.).

Except as provided in § 400.20, where a building is removed from all lot lines by a distance equal to its proposed height above grade, the height of building shall be measured from the natural grade at the middle of the front of the building to the highest point of the roof or parapet.

Except as provided in § 400.21, if a building fronts on more than one (1) street, any front may be used to determine the maximum height of the building; but the basis for the height of the building shall be determined by the width of the street selected as the front of the building.

Except as provided in § 400.19, in those districts in which the height of building is permitted to be ninety feet (90 ft.) or greater, the height of buildings shall be measured to the highest point of the roof excluding parapets not exceeding four feet (4 ft.) in height.

Chapter 4, RESIDENCE DISTRICT: HEIGHT, AREA, AND DENSITY REGULATIONS, § 400, HEIGHT OF BUILDINGS OR STRUCTURES (R), is amended by adding new § 400.15 through 400.22 to read as follows:

- 400.15 The height of buildings in R zones shall be measured in accordance with the rules provided in § 400.16 through 400.21. If more than one (1) of these subsections applies to a building, the rule permitting the greater height shall apply.
- 400.16 The building height measuring point (BHMP) shall be established at the existing grade at the mid-point of the building façade of the principal building that is closest to a street lot line.
- 400.17 The height of a building with a flat roof shall be measured from the BHMP to the highest point of the roof excluding parapets and balustrades not exceeding four feet (4 ft.) in height.
- 400.18 The height of a building with a roof that is not a flat roof shall be measured as follows:
- (a) From the BHMP to the average level between the highest eave, not including the eave of a dormer and the highest point of the roof; and
 - (b) Where there are no eaves, the average level shall be measured between the top of the highest wall plate and the highest point of the roof.
- 400.19 The height of a building permitted to be ninety feet (90 ft.) shall be measured from the BHMP to the highest point of the roof excluding parapets and balustrades not exceeding four feet (4 ft.) in height.
- 400.20 Where a building is removed from all lot lines by a distance equal to its proposed height above grade, the height of building shall be measured from the BHMP to the highest point of the roof or parapet.
- 400.21 If a building fronts on more than one (1) street, any front may be used to determine street frontage; but the basis for measuring the height of the building shall be established by the street selected as the front of the building
- 400.22 A conforming structure in existence on June 14, 2013 that would have been rendered nonconforming as a result of the adoption of amendments to this section made in Z.C. Order No. 12-11 shall be deemed conforming; provided that the height of the structure may neither be increased or extended.

Chapter 24, PLANNED UNIT DEVELOPMENT PROCEDURES, is amended by as follows:

Section 2403, PUD EVALUATION STANDARDS, is amended as follows:

Subsection 2403.6 is amended to add a new second and third sentence so that the provision reads as follows:

2403.6 Public benefits are superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title. All public benefits shall meet the following criteria:

- (a) Benefits shall be tangible and quantifiable items; and
- (b) Benefits shall be measurable and able to be completed or arranged prior to issuance of a Certificate of Occupancy.

Monetary contributions shall only be permitted if made to a District government program or if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.

Subsection 2403.9 (f) is amended to specify when mandatory affordable housing may be considered a public benefit, so that the entire subsection reads as follows:

2403.9 Public benefits and project amenities of the proposed PUD may be exhibited and documented in any of the following or additional categories:

- (a) Urban design, architecture, landscaping, or creation or preservation of open spaces;
- (b) Site planning, and efficient and economical land utilization;
- (c) Effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts;
- (d) Historic preservation of private or public structures, places, or parks;
- (e) Employment and training opportunities;
- (f) Housing and affordable housing; except that affordable housing provided in compliance with § 2603 shall not be considered a public benefit except to the extent it exceeds what would have been required through matter of right development under existing zoning. In determining whether this standard has been met, the Commission shall balance any net gain in gross floor area against any loss of gross floor area that would have been set-aside for “low-income households” as defined in § 2601.1.
- (h) Environmental benefits, such as:

- (1) Storm water runoff controls in excess of those required by Stormwater Management Regulations;
- (2) Use of natural design techniques that store, infiltrate, evaporate, treat, and detain runoff in close proximity to where the runoff is generated; and
- (3) Preservation of open space or trees;
- (i) Uses of special value to the neighborhood or the District of Columbia as a whole; and
- (j) Other public benefits and project amenities and other ways in which the proposed PUD substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan.

New § 2403.15 through 2403.21 are added to read as follows:

2403.15 Subsections 2403.15 through 2403.20 describe the process in which an applicant for a PUD or PUD modification is given a final opportunity to identify the public benefits of the PUD and to prove to the Commission that each such benefit will result from a grant of the application. The Commission may at the request of an applicant or in its own motion determine that the process is unnecessary, such as when it is considering a modification to an approved design or to a limited number of conditions.

2403.16 No later than seven (7) days after the Commission takes proposed action on any PUD application, the applicant shall file with the Office of Zoning (OZ) and serve the Office of Planning (OP), the Office of the Attorney General (OAG), and the affected ANC and any other parties, a final list of the public benefits proffered for the PUD (Proffer) and, for each proffered public benefit, provide a draft condition that is both specific and enforceable.

2403.17 The description of each public benefit shall be identical to the description contained in the applicant’s proposed order unless a revision is required for clarity or to reflect a revision.

2403.18 The information required by § 2403.16 shall be presented in the form of a chart in which each proffered public benefit is described in one column and a corresponding condition is described in a second. For example:

Proffer	Condition
42. The Applicant has agreed to contribute _____ to _____ for the purpose of _____ prior to applying for a certificate of occupancy for the PUD.	B.4. <u>Prior to applying for a certificate of occupancy for the PUD, the</u> Applicant shall contribute _____ to _____ for the purpose

_____ of _____.

- 2403.19 No later than fourteen (14) days after the Commission takes proposed action on any PUD application, OAG, OZ, and OP shall complete any dialogue they feel is needed with the applicant with respect to any deficiencies in the applicant’s proposed conditions.
- 2403.20 No later than twenty-one (21) days after the Commission takes proposed action on any PUD application, the applicant shall file with OZ and serve OP, OAG, and the affected ANC and any other parties any revisions to the Proffer and conditions, or a statement that none have been made.
- 2403.21 No later than twenty-eight (28) days after the Commission takes proposed action on any PUD application, OAG, OP, and the affected ANC and any other party may file any responses each has to the Applicant’s final Proffer and conditions. The responses shall be limited to whether the conditions in the final Proffer are specific and enforceable. The OAG response will be treated as a confidential attorney-client communication.
- 2403.22 The Commission will consider the PUD to contain only those public benefits described in the final Proffer.

Section 2407, PROCESSING OF FIRST-STAGE PUD APPLICATIONS, § 2407.11 is amended to expressly authorize the extension of a first-stage PUD approval, so that the provision reads as follows:

- 2407.11 The rights granted under such an approval are conditional, and shall be exercised within the specified time limit. Unexercised rights shall lapse at the end of the specified time periods, and the zoning shall revert to pre-existing conditions, unless a request to extend the validity of the approval is granted by the Commission in accordance with the standard and process for second-stage PUD extensions set forth in § 2408.10 through 2408.12.

Section 2408, PROCESSING OF SECOND-STAGE PUD APPLICATIONS, is amended as follows:

Subsection 2408.6 is amended to add a new second sentence, so that the entire provision reads as follows:

- 2408.6 If the Commission finds the application to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval, the Commission shall grant approval to the second-stage application, including any guidelines, conditions, and standards that are necessary to carry out the Commission's decision. No order approving a PUD shall be deemed to include relief from any zoning regulation, including but not limited to the requirements of Chapter 26, unless such relief was expressly requested by the applicant and expressly granted in the order.

A new § 2408.16 is added to read as follows:

- 2408.16 The grant of a PUD prohibits any construction on the PUD site that is not authorized in the order approving the PUD, including development under matter of right standards, until:
 - (a) The validity of the PUD order expires; or
 - (b) The Commission issues an order granting the applicant’s motion to extinguish the PUD.

Section 2409, IMPLEMENTATION, is amended as follows:

Subsection 2409.2 is amended by adding a new second sentence so that the entire provision will read as follows:

- 2409.2 The Zoning Administrator shall not approve a permit application unless the plans conform in all respects to the plans approved by the Commission, as those plans may have been modified by any guidelines, conditions, or standards that the Commission may have applied. Nor shall the Zoning Administrator accept the establishment of an escrow account in satisfaction of any condition in the Commission’s order approving the PUD unless the order expressly authorizes an escrow.

Subsection 2409.7 is amended by striking the word “request” and inserting the phrase “modification requested pursuant to § 2409.6” in its place, so that the entire provision reads as follows:

- 2409.7 In reviewing and approving any modification requested pursuant to § 2409.6, the Zoning Administrator shall determine that the proposed modification is consistent with the intent of Commission in approving the PUD.

Subsection 2409.8 is amended to provide a time period for the Commission to review PUD modifications approved by the Zoning Administrator, so that the entire provision reads as follows:

- 2409.8 Following approval of any modifications under § 2409.6, the Zoning Administrator shall report to the Commission the modification approved under this section and may issue a building permit predicated upon the modification if:
 - (a) Forty-five (45) days have passed since the submittal of the report and the Commission has not make a finding that the modification exceeds the scope of § 2406.9; or

- (b) Prior to the expiration of that time period the Commission acknowledges that the modification does not exceed the scope of § 2409.6, whichever is the first to occur.

If the Commission timely decides that the modification exceeded the scope of § 2409.6, the Zoning Administrator shall not approve the building permit, but shall instruct the applicant to seek a modification pursuant to § 2409.9.

A new § 2409.12 is added to read as follows:

2409.12 Unless specifically stated otherwise, the term "Applicant" in any condition of an order approving a PUD or PUD modification shall mean the person or entity then holding title to the Subject Property. If there is more than one owner, the obligations under the order shall be joint and several. If a person or entity no longer holds title to the PUD site, that party shall have no further obligations under the order; however, that party remains liable for any violation of any condition that occurred while an Owner.

Chapter 30, ZONING COMMISSION PROCEDURES RULES OF PRACTICE AND PROCEDURE, is amended as follows:

Section 3024, CLOSING THE RECORD, § 3024.1 is amended by adding three new sentences, as that the entire provision reads as follows:

3024.1 The record shall be closed at the end of the public hearing, except that the record may be kept open for a stated period for the receipt of specific exhibits, information, or legal briefs, as directed by the presiding officer. Any other materials received by the Commission after the close of the record shall be returned by the Director and not received into the files of the Commission. However, if the materials are accompanied by a request to re-open the record, the request shall be accepted and presented to the Chair for consideration. The request must demonstrate good cause and the lack of prejudice to any party. If granted, the materials shall be entered into the record.

Section 3029, RECONSIDERATION AND REILING, § 3029.6 is amended by adding a new second sentence so that the entire provision reads as follow:

3029.6 A motion for reconsideration, rehearing, or re-argument shall state specifically the respects in which the final order is claimed to be erroneous, the grounds of the motion, and the relief sought. No request for rehearing shall be considered by the Commission unless new evidence is submitted that could not reasonably have been presented at the original hearing. If a rehearing is granted, notice shall be given as in the case of an original hearing.

Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, is amended as follows:

Section 3100, JURISDICTION; AUTHORITY; POWERS, is amended as follows:

By adding a new § 3100.3 to read as follows:

3100.3 The rules prohibiting *ex parte* communication in Commission contested cases, as set forth in § 3023 of this title, apply to all applications and appeals before the Board and commence upon the filing of such proceedings.

By amending § 3100.6 to insert the phrase “except that the Board may dismiss an application or appeal if the applicant or appellant fails to appear at a hearing without explanation” at its end, so that the entire provision reads as follows:

3100.6 No appeal or application shall be dismissed on the grounds that the appellant or applicant failed to comply with the provisions of this chapter unless, after due notice of the deficiency and expiration of a reasonable time as fixed by the Board, the deficiency has not been corrected, except that the Board may dismiss an application or appeal if the applicant or appellant fails to appear at a hearing without explanation.

Section 3103, VARIANCES, is amended by adding new § 3103.3 through 3103.7 to read as follows:

3103.3 Variances are classified as area variances or use variances.

3103.4 An area variance is a request to deviate from an area requirement applicable to the zone district in which the property is located.

3103.5 Examples of area variances are requests to deviate from:

- (a) Requirements that affect the size, location, and placement of buildings and other structures such as height, floor area ratio, lot occupancy, yard width and depth, and minimum court size;
- (b) Minimum parking or loading requirements to an extent greater than what may be permitted by special exception;
- (c) Limitations on the extent to which the gross floor area of a building may be occupied by a matter of right non-residential use;
- (d) Limitations on the alteration or conversion of certain structures on alley lots as stated in § 2507.3;
- (e) The prohibition against certain enlargements and additions to nonconforming structures as stated at § 2001.3; and

- (f) Preconditions to the establishment of a matter of right use including, but not limited to, the minimum land area requirement of § 401.3 applicable to the conversion of a building an apartment house as permitted by § 330.5(e); provided that the waiver would not cause the proposed use to meet the definition of a more intense use.

3103.6 A use variance is a request to permit:

- (a) A use that is not permitted by right or special exception in the zone district where the property is located;
- (b) A use that is expressly prohibited in the zone district where the property is located; or
- (c) An expansion of a nonconforming use prohibited by § 2002.3.

3103.7 The standard for granting a variance, as stated in § 3103.1 differs with respect to use and area variances as follows:

- (a) An applicant for an area variance must prove that as a result of the attributes of a specific piece of property described in § 3103.1, the strict application of a zoning regulation would result in peculiar and exceptional practical difficulties to the owner of property; and
- (b) An applicant for a use variance must prove that as a result of the attributes of a specific piece of property described in § 3103.1, the strict application of a zoning regulation would result in exceptional and undue hardship upon the owner of the property.

Section 3106, APPEARANCE AND REPRESENTATION, is amended by repealing § 3106.3.¹

Section 3112, PRE-HEARING PROCEDURES FOR APPEALS, is amended as follows:

Subsection 3112.15 is amended to read as follows:

3112.15 At the time of the hearing on the appeal, the Board shall consider any request to intervene made pursuant to § 3106.2. The Board shall grant intervener status only

¹ Subsection 3106.3 reads:

3106.3 In considering any request for party status pursuant to § 3106.2, the Board shall grant party status only if the person requesting party status has clearly demonstrated that the person's interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning relief than those of other persons in the general public.

The provision is being moved to § 3113 and restated as proposed new § 3113.21.

if the person requesting intervenor status has clearly demonstrated that they have a specific right or interest that will be affected by action on the appeal.

A new § 3112.16 is added to separately state the last phrase in existing § 3112.15, so that new provision will read as follows:

3112.16 In granting intervenor status, the Board may specify whether the person will be permitted to intervene in the appeal for general or limited purposes.

Section 3113, PRE-HEARING PROCEDURES FOR APPLICATIONS, is amended to add a new § 3113.21 to read as follows:

3113.21 At the time of the hearing on the application, the Board shall consider any request for party status made pursuant to § 3106.2. The Board shall grant party status only if the person requesting party status has clearly demonstrated that the person's interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning relief than those of other persons in the general public.

Section 3121, PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW; CLOSING THE RECORD, § 3121.9 is amended by adding three new sentences, so that the provision reads as follows:

3121.9 Any material received by the Board after the close of the record except that permitted by § 3121.5, that bears upon the substance of the appeal or application shall be returned by the Director and not received into the files of the Board. However, if the materials are accompanied by a request to re-open the record, the request shall be accepted and presented to the Chair for consideration. The request must demonstrate good cause and the lack of prejudice to any party. If granted, the materials shall be entered into the record.

Section 3125, FINAL DECISION AND EFFECTIVE DATE OF DECISIONS, § 3125.3 is amended by adding a new second and third sentence, so that the entire provision reads as follows:

3125.3 The concurring vote of at least a full majority of the members of the Board is necessary for any decision. After a vote to grant or deny an application or appeal, the prevailing party may file a proposed order or a revision to a previously filed proposed order. No response to the proposed order may be submitted by any other party.

Section 3126, RECONSIDERATION OR REHEARING, § 3126.2 is amended by adding a new second sentence, so that the entire provision reads as follows:

3126.2 Any party may file a motion for reconsideration or rehearing of any decision of the Board, provided that the motion is filed with the Director within ten (10) days

from the date of issuance of a final written order by the Board. The Board shall not receive or consider any motion for reconsideration, rehearing, or re-argument of a final order in a contested case proceeding that is filed prior to the order being issued nor waive this prohibition.

Section 3129, MODIFICATION OF APPROVED PLANS, is amended by adding a new § 3129.9 to read as follows:

3129.9 The filing of any modification request under this section shall not act to toll the expiration of the underlying order and the grant of any such modification shall not extend the validity of any such order.

Section 3130, TIME LIMITS ON THE VALIDITY OF BOARD ORDERS, is amended as follows:

Subsection 3130.6 is amended by striking the phrase “grant one extension of”, so that the provision reads as follows:

3130.6 The Board may extend the time periods in § 3130.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval; provided, that the Board determines that the following requirements are met:

- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;
- (b) There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the Board’s justification for approving the original application; and
- (c) The applicant demonstrates that there is good cause for such extension, with substantial evidence of one or more of the following criteria:
 - (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant’s reasonable control;
 - (2) An inability to secure all required governmental agency approvals by the expiration date of the Board’s order because of delays that are beyond the applicant’s reasonable control; or
 - (3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant’s reasonable control.

Subsection 3130.9 is amended by striking the phrase “filed at least thirty (30) days prior to the date upon which an order is due to expire”, so that the provision reads as follows:

3130.9 A request for a time extension shall toll the expiration date for the sole purpose of allowing the Board to consider the request.

Chapter 32, ADMINISTRATION AND ENFORCEMENT, § 3202, BUILDING PERMITS, § 3202.1 is amended to clarify that the Zoning Administrator's review of an application to alter an existing structure is limited to whether the plans for the alteration comply with the Zoning Regulations, so that the provision reads as follows:

3202.1 Except as provided in § 3202.5, 3202.7, or 3202.8, a building permit shall not be issued for the proposed erection, construction, conversion, or alteration of any structure unless the plans of and for the erection, construction, conversion, or alteration fully conform to the provisions of this title.

On December 10, 2012, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **PROPOSED** the amendments at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to propose; Marcie I. Cohen to propose by absentee ballot).

On February 25, 2013, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** the amendments as proposed at its public meeting by a vote of **4-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is on June 14, 2013.

**DISTRICT OF COLUMBIA BOARD OF ELECTIONS
NOTICE OF PROPOSED RULEMAKING**

The District of Columbia Board of Elections, pursuant to the authority set forth in D.C. Official Code § 1-1001.05(a)(14), hereby gives notice of proposed rulemaking action to adopt amendments to the following chapters of Title 3, "Elections and Ethics", of the District of Columbia Municipal Regulations (DCMR): Chapter 30, "Campaign Finance Operations"; Chapter 31, "Lobbying"; Chapter 32, "Financial Disclosure"; Chapter 33, "Conflict of Interest and Use of Government Resources for Campaign-Related Purposes"; Chapter 36, "D.C. Senator and Representative"; Chapter 37, "Investigations and Hearings"; Chapter 38, "Legal Defense Committees"; Chapter 39, "Campaign Finance Operations: Inaugural Committees"; Chapter 40, "Campaign Finance Operations: Transition Committees"; Chapter 41, "Campaign Finance Operations: Exploratory Committees"; and Chapter 99, "Definitions."

The proposed amendments would place the Board's regulations into conformity with the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, enacted February 27, 2012 (D.C. Act 19-318; D.C. Official Code § 1-1161.01 et seq.).

The Board gives notice of its intent to take final rulemaking action to adopt these amendments in not less than 30 days from the date of publication of this notice in the *D.C. Register*.

Chapter 30 of Title 3 of the District of Columbia Municipal Regulations (DCMR) is amended in its entirety to read as follows:

- CHAPTER 30 CAMPAIGN FINANCE OPERATIONS: POLITICAL
 COMMITTEES, CANDIDATES, CONSTITUENT SERVICE
 PROGRAMS, STATEHOOD FUNDS**

- 3000 ORGANIZATION OF POLITICAL COMMITTEES**
- 3001 RESERVED**
- 3002 CANDIDATE STATUS**
- 3003 EXEMPTION FROM FILING AND REPORTING REQUIREMENTS**
- 3004 CANDIDATE WAIVER FROM FILING AND REPORTING
 REQUIREMENTS**
- 3005 PRINCIPAL CAMPAIGN COMMITTEE**
- 3006 DESIGNATION OF EXISTING POLITICAL COMMITTEE**
- 3007 RESERVED**
- 3008 FINANCIAL REPORTS AND STATEMENTS**
- 3009 REPORTS OF INITIATIVE, REFERENDUM, RECALL, AND
 PROPOSED CHARTER AMENDMENT COMMITTEES**
- 3010 PETTY CASH FUNDS**
- 3011 LIMITATIONS ON CONTRIBUTIONS**
- 3012 JOINT FUNDRAISING**
- 3013 LIMITATIONS ON THE USE OF CAMPAIGN FUNDS**
- 3014 CONSTITUENT-SERVICE PROGRAM**

- 3015** **USE OF SURPLUS FUNDS**
- 3016** **TERMINATION OF POLITICAL COMMITTEES, CONSTITUENT-SERVICE PROGRAMS, AND STATEHOOD FUNDS**
- 3017** **FILINGS AND DEADLINES**
-
- 3000** **ORGANIZATION OF POLITICAL COMMITTEES**
- 3000.1 Each political committee shall file a Statement of Organization form, prescribed by the Director of the Office of Campaign Finance (the Director) (OCF), within ten (10) days of organization.
- 3000.2 Each political committee shall be deemed "organized" when any proposer, individual, committee (including a principal campaign committee), club, association, organization, or other group of individuals formally agree, orally or in writing, or decide to promote or oppose a political party, the nomination or election of an individual to office, or any initiative, referendum, or recall.
- 3000.3 In the absence of a decision to organize as a political committee opposing an initiative or referendum measure under § 3000.2, a person who addresses a Board determination regarding the propriety of a proposed measure filed under Chapter 10 of this title shall not be required to file a Statement of Organization, under § 3000.1, or a Report of Receipts and Expenditures (R&E Report), under § 3008.
- 3000.4 Agreement to form a political committee by an individual shall also occur upon designation by a candidate on the Statement of Candidacy form filed under § 3002.2.
- 3000.5 Each political committee shall be either an authorized committee or an unauthorized committee.
- 3000.6 An authorized committee shall be any political committee designated by a candidate on the Statement of Candidacy form filed under § 3002.2 to receive contributions or make expenditures on behalf of the candidate, and it shall include the name of the candidate for elective office in the District of Columbia in its name.
- 3000.7 An unauthorized committee shall be any political committee which has not been designated by a candidate on the Statement of Candidacy form filed under § 3002.2 to solicit or receive contributions or make expenditures on behalf of a candidate seeking office, and it shall not include the name of any candidate for elective office in the District of Columbia in its name.
- 3000.8 For purposes of the reporting and recordkeeping requirements, political committees shall include the following:

- (a) Affiliated Committee - all authorized committees of the same candidate for the same election, or all committees established, financed, maintained, or controlled by the same corporation, labor or membership organization, cooperative or trade association, or any similar organization;
- (b) Delegate Committee - established to support a presidential candidate, which shall include the word "delegate(s)" in its name and may include the name of the presidential candidate whom it supports;
- (c) Independent or Political Action Committee (PAC) - any unauthorized committee;
- (d) Initiative, Referendum, Recall or Proposed Charter Amendment Committee - organized for the purpose of, or engaged in promoting or opposing initiative, referendum or recall measures or proposed Charter amendments, respectively;
- (e) Party Committee - represents a political party of the official party structure at the city-wide or ward level; and
- (f) Principal Campaign Committee - designated and authorized by a candidate or slate of candidates for election as officials of a political party, as the principal campaign committee, in accordance with § 3005; provided, that it shall include the name(s) of the candidate(s) who authorized the committee.

3000.9 Political committees shall not include the following:

- (a) Connected Organization - a corporation, labor or membership organization, cooperative or trade association, or any similar organization that directly or indirectly establishes, administers or financially supports a political committee.

3000.10 Each political committee shall indicate its intent not to support a candidate by:

- (a) Declaring its intention on a Notification of Non-Support form; and
- (b) Filing the Notification of Non-Support form within ten (10) days of the declaration by the political committee of its intention to not support a candidate.

3000.11 Each political committee shall notify the Director in writing within ten (10) days of its decision to support a candidate, where it has previously filed a Notification of Non-Support, under § 3000.10.

- 3000.12 A political committee shall have a chairperson and a treasurer, and may elect to list a designated agent, in the Statement of Organization filed pursuant to § 3000.1.
- 3000.13 When either the office of chairperson or treasurer of a political committee is vacant, the political committee shall:
- (a) Designate a successor chairperson or treasurer within five (5) days of the vacancy; and
 - (b) Amend its Statement of Organization within ten (10) days of the designation of the successor; provided, that the successor officer agrees to accept the position.
- 3000.14 A political committee shall not accept a contribution or make an expenditure while the office of treasurer is vacant, and no other person has been designated and agreed to perform the functions of treasurer.
- 3000.15 Each expenditure made for, or on behalf of, a political committee shall be authorized by either:
- (a) The chairperson;
 - (b) The treasurer; or
 - (c) Their designated agent, as listed on the Statement of Organization filed under § 3000.1.
- 3000.16 A chairperson shall be required to file:
- (a) A Statement of Acceptance of Position of Chairperson form, and a copy of written notification sent to the address of record of the treasurer and candidate, if an authorized committee, within five (5) days of assuming the office; and
 - (b) A Statement of Withdrawal of Position of Chairperson form, and a copy of written notification sent to the address of record of the treasurer and candidate, if an authorized committee, within five (5) days of vacating the office.
- 3000.17 A treasurer shall be required to file:
- (a) A Statement of Acceptance of Position of Treasurer form, and a copy of written notification sent to the address of record of the chairperson and candidate, if an authorized committee, within forty-eight (48) hours of assuming the office:

- (b) Periodic Reports of Receipts and Expenditures (R&E Reports), pursuant to § 3008, signed by the treasurer or, if unavailable, the designated agent as listed on the Statement of Organization filed under § 3000.1; provided, that the treasurer shall be responsible for all R&E Reports and statements due to the Director during the treasurer’s tenure; and
- (c) A Statement of Withdrawal of Position of Treasurer form, prescribed by the Director, and a copy of written notification sent to the address of record of the chairperson and candidate, if an authorized committee, within forty-eight (48) hours of vacating the office.

3000.18 A person shall not simultaneously serve as the chairperson and treasurer of a political committee, except the following:

- (a) A candidate; or
- (b) A proposer or opponent of an initiative, referendum, or recall measure or charter amendment.

3000.19 Each political committee shall amend its Statement of Organization within ten (10) days of any change in the information previously reported on its Statement of Organization.

3000.20 All funds of a committee shall be segregated from, and may not be commingled with, anyone’s personal funds.

3001 RESERVED

3002 CANDIDATE STATUS

3002.1 An individual shall be considered a candidate when he or she:

- (a) Receives a campaign contribution;
- (b) Makes a campaign expenditure;
- (c) Obtains nominating petitions;
- (d) Authorizes any person to perform any of the above acts; or
- (e) Fails to disavow in writing to the Director any of the above acts by any other person within ten (10) days after written notification by the Director.

- 3002.2 With the exception of candidates for Advisory Neighborhood Commission (ANC) member, each candidate shall, within five (5) days after becoming a candidate under § 3002.1, file a Statement of Candidacy form that indicates:
- (a) Whether spending is anticipated at less than five hundred dollars (\$500); and
 - (b) Whether a principal campaign committee will be designated.
- 3002.3 Each candidate who indicates on the Statement of Candidacy that a principal campaign committee will be designated on his or her behalf shall provide the following information on the Statement of Candidacy form:
- (a) The name of the principal campaign committee;
 - (b) The names of any other authorized committees; and
 - (c) The names of the national bank(s) located in the District of Columbia that has been designated as the candidate's campaign depository.
- 3002.4 The candidate shall commence filing personal R&E Reports in accordance with this chapter unless reporting is otherwise exempted or waived pursuant to § 3004.
- 3002.5 The Summary Financial Statement of Candidate for the Office of Advisory Neighborhood Commission form shall be filed no later than sixty (60) days after the certification by the Board of Elections of the election results by the following individuals:
- (a) ANC candidates who qualified for the ballot through the write-in process;
 - (b) ANC candidates who qualified for the ballot through the nominating petition process;
 - (c) ANC candidates who accepted contributions or made expenditures and did not qualify for the ballot; and
 - (d) ANC candidates who qualified as candidates for selection in the ANC vacancy filling process.
- 3002.6 With the exception of candidates for the Office of Member of an Advisory Neighborhood Commission, each individual who ceases to become a candidate shall immediately file a Statement of Candidate Withdrawal form upon termination of the candidacy.

3003 EXEMPTION FROM FILING AND REPORTING REQUIREMENTS

3003.1 To invoke the exemption from filing and reporting requirements, a candidate must anticipate spending less than five hundred dollars (\$500) in any one election.

3003.2 A candidate shall be exempt from the filing and reporting requirements of the Act if, on the Statement of Candidacy form, he or she:

(a) Certifies that he or she anticipates spending less than five hundred dollars (\$500) in any one election; and

(b) Excludes the designation of a principal campaign committee.

3003.3 Each exempt candidate shall notify the Director in writing within forty-eight (48) hours from the time he or she spends, or anticipates spending, five hundred dollars (\$500) or more.

3003.4 Each exempt candidate shall certify in writing to the Director, on a Report of Exemption for a Candidate Spending Less than Five Hundred Dollars (\$500), that he or she has not spent more than five hundred dollars (\$500). Such certification shall be filed with the Director by no later than:

(a) The fifteenth (15th) day before the date of the election in which the candidate seeks office; and

(b) The thirtieth (30th) day following the election.

3004 CANDIDATE WAIVER FROM FILING AND REPORTING REQUIREMENTS

3004.1 A candidate who has designated a principal campaign committee may apply, on a Request for Candidate Waiver form, for a waiver from filing reports separate from the candidate's committee.

3004.2 The Director may grant a waiver of the filing and reporting requirements upon certification by a candidate that, within five (5) days after personally receiving any contribution, the candidate shall surrender possession of the contribution to the principal campaign committee without expending any of the proceeds from the contribution.

3004.3 A candidate who is granted a waiver shall not make any non-reimbursed expenditures for the campaign except in accordance with § 3004.4.

3004.4 A candidate may make an expenditure from personal funds to the candidate's designated principal campaign committee. Such expenditure shall be reported by

the principal campaign committee as a contribution received and, if accompanied by a written instrument attesting thereto, as a loan pursuant to § 3011.7.

3004.5 The waiver from filing and reporting shall continue in effect as long as the candidate complies with the conditions under which it was granted.

3005 PRINCIPAL CAMPAIGN COMMITTEE

3005.1 With the exception of persons who make independent expenditures under the Act, only a candidate's designated principal campaign committee and its authorized committees shall accept contributions or make expenditures on behalf of that candidate.

3005.2 An individual who is a candidate for more than one (1) office shall designate a separate principal campaign committee for each office sought.

3005.3 Notwithstanding § 3005.2, a principal campaign committee supporting the nomination or election of a candidate as an official of a political party may support the nomination or election of more than one (1) candidate as an official of a political party.

3005.4 The principal campaign committee shall process contributions in the following manner:

- (a) Contributions received by check, money order, or other written instrument shall be consigned directly to the principal campaign committee; and
- (b) The proceeds of any monetary instruments listed in Subsection (a) that have been cashed or redeemed by the candidate pursuant to § 3004.2 shall be disallowed by the principal campaign committee and returned by the candidate to the donor.

3005.5 No contributions shall be commingled with the candidate's personal funds or accounts.

3006 DESIGNATION OF EXISTING POLITICAL COMMITTEE

3006.1 Except as provided in § 3006.2, an existing political committee may be designated as the principal campaign committee of a candidate if such existing political committee meets the following conditions:

- (a) The Statement of Organization of the existing political committee indicates that the existing political committee is an unauthorized committee, pursuant to § 3000.7, including any independent or political action committee and;

(b) R&E Reports of the existing political committee are current.

3006.2 An existing political committee that has been previously designated as the principal campaign committee of a candidate, or of a slate of candidates for election as officials of a political party, shall not be designated as the principal campaign committee of a candidate in any future election.

3006.3 Upon designation of an existing political committee as a principal campaign committee of a candidate, the committee shall:

(a) Amend its Statement of Organization, pursuant to § 3000.19, to report the designation;

(b) Determine whether persons making contributions previously received by or on behalf of the candidate or by the political committee before designation may have exceeded the relevant limits, pursuant to § 3011; and

(c) Refund any contributions to donors who may have exceeded the contribution limitations by no later than 30 days after such determination is made.

3006.4 To ascertain individual donor compliance with the contribution limitations, contributions to a candidate and to a committee, prior to designation, shall be attributed in aggregate by donor name.

3007 RESERVED

3008 FINANCIAL REPORTS AND STATEMENTS

3008.1 Candidates, political committees, constituent-service programs and Statehood Funds and their treasurers shall make best efforts to obtain, report, and maintain information required under Chapter 34 of this title.

3008.2 With the exception of candidates for the office of ANC member, all contributions, expenditures, debts, contracts, and agreements shall be reported on separate schedules in the following manner:

(a) On the R&E Report form prescribed by the Director; or

(b) In a format consistent with the R&E Report form.

3008.3 The R&E Report may be filed electronically at the OCF website (<http://ocf.dc.gov/>) as long as the original R&E Report, verified by the treasurer, is also filed. The filing of the paper copy may be eliminated where the treasurer

electronically certifies the contents of the report through the use of a confidential PIN Number assigned by the Office of Campaign Finance.

- 3008.4 Each contribution, rebate, refund, or any other receipt of fifteen dollars (\$15) or more shall be reported.
- 3008.5 Each contribution, receipt, transfer from other authorized committees, dividend or interest receipt, offset to operating expenditures, including rebates and refunds, and in the case of the constituent-service programs, personal property, shall be itemized and reported on the appropriate sub-schedule of Schedule A in accordance with the instructions for preparing the R&E Report.
- 3008.6 Each receipt for a loan made or guaranteed by the candidate or the committee, or owed by the candidate or the committee, and each loan repayment made by the candidate or the committee, shall be itemized and reported on the appropriate sub-schedule of Schedule E.
- 3008.7 Partnership contributions, under § 3011.15, shall be itemized and reported on Schedule A, in accordance with the instructions for preparing the R&E Report, in the following manner:
- (a) In the name of the partnership; and
 - (b) In the name of each contributing partner.
- 3008.8 Each operating expenditure, transfer to other authorized committees, refund of a contribution, independent expenditure, offset to receipts, and in the case of a constituent-service program, personal property, shall be itemized and reported on the appropriate sub-schedule of Schedule B in accordance with the instructions for preparing the R&E Report.
- 3008.9 Each in-kind contribution, under §§ 3008.5 and 3008.8, shall be assessed at the current local fair market value at the time of the contribution, and shall be itemized and reported on the appropriate sub-schedules of Schedules A and B.
- 3008.10 The net proceeds of each mass sale and collection shall be itemized and reported on Schedule C in accordance with the instructions for preparing the R&E Report, and the supporting documentation for each itemization maintained under § 3401.3 (b).
- 3008.11 Each debt and obligation, excluding loans, shall be itemized and reported on Schedule D in accordance with the instructions for preparing the R&E Report.
- 3008.12 Each loan shall be itemized and reported on the appropriate sub-schedule of Schedule E in accordance with the instructions for preparing the R&E Report.

- 3008.13 The R&E Report shall be complete, under § 3017, as of five (5) days prior to the date of any filing; provided, that any contribution of two hundred dollars (\$200) or more received after any deadline for the filing of the last R&E Report required to be filed prior to an election shall be reported within twenty-four (24) hours after its receipt.
- 3008.14 Financial transactions undertaken by credit card shall be reported on the R&E Report in the following manner:
- (a) Contributions shall be reported for the date upon which the authorized transaction is received;
 - (b) The full amount authorized by the contributor as a contribution shall be reported by the candidate or committee;
 - (c) Each service charge deducted by the credit card issuer shall be reported as an expenditure made by the candidate or the committee on the date when notified of the deduction; and
 - (d) Each discount from the normal service charge authorized by the credit card issuer shall constitute an in-kind contribution, under § 3008.5, from the issuer, and shall be reported as an in-kind contribution.
- 3008.15 Each person, other than an independent expenditure committee, political committee, or candidate, who makes contributions or expenditures exceeding fifty dollars (\$50) during a calendar year, other than by contribution to a political committee or candidate, shall file a listing of each expenditure on Schedule B-5 of the R&E Report, at the times specified under § 3017, for the period when the expenditure occurred.
- 3008.16 The Summary Financial Statement of Candidate for the Office of Member of an Advisory Neighborhood Commission (ANC), filed under § 3002.5, shall include:
- (a) Total receipts collected and expenditures made by the candidate for the campaign;
 - (b) Certification that the candidate did not receive contributions from any person, other than the candidate, in excess of twenty-five dollars (\$25);
 - (c) Certification that the candidate did not receive any contributions from any person or make any expenditures, including from or by the candidate, to support the candidate's election to office; and
 - (d) The disposal of surplus contributions, if any.

3008.17 The Summary Financial Statement of an ANC candidate may be filed in an electronic format at the OCF Website; provided that the candidate shall submit the original paper statement within five (5) days of the filing deadline. The filing of the paper copy may be eliminated where the candidate electronically certifies the contents of the statement through the use of a PIN number assigned by the Office of Campaign Finance.

3009 REPORTS OF INITIATIVE, REFERENDUM, RECALL, AND PROPOSED CHARTER AMENDMENT COMMITTEES

3009.1 Each committee supporting or opposing an initiative, referendum, recall, or proposed charter amendment shall file R&E Reports during the consideration of the placement of the measure on an election ballot.

3009.2 OCF shall prepare the following:

- (a) A schedule of dates, based upon the complete period allowed for qualification of a measure for ballot placement, by which R&E Reports are due; and
- (b) A revised schedule of dates based upon actual completion of tasks by which R&E Reports are due, if necessary.

3009.3 R&E Reports shall be filed in accordance with the following schedule:

- (a) On or before the commencement of the process for initiative, referendum, recall, or proposed charter amendment, or
- (b) In the case of an opponent, ten (10) days after making an expenditure or accepting a contribution in opposition to the measure;
- (c) On the tenth (10th) day of the fourth (4th) month preceding the election;
- (d) On the tenth (10th) day of the second (2nd) month preceding the election; and
- (e) Eight (8) days prior to the election.

3009.4 For any period prior to the year in which an election is scheduled to be conducted on an initiative, referendum, recall, or proposed charter amendment, each committee organized in support or opposition to the measure shall file reports of receipts and expenditures on January 31 and July 31 of each year until the measure is presented to the electorate.

3009.5 With the exception of contributions to retire debt and expenditures made to wind down a campaign pursuant to § 3016, no committee organized in support of or

opposition to the measure shall receive contributions or make expenditures to support or oppose an initiative, referendum, recall, or proposed charter amendment under the following circumstances:

- (a) After the election at which the measure is presented to the electorate; or
- (b) Upon rejection of the petition with signatures as numerically insufficient by the Board of Elections; and
- (c) Subsequent to the exhaustion of any administrative and judicial remedies.

3009.6 Following either the election on an initiative, referendum, recall, or proposed charter amendment, or the failure of such a measure to qualify for ballot access, and the exhaustion of all administrative and judicial remedies, a committee shall continue to file R&E Reports on January 31st and July 31st of each year until all debts and obligations are satisfied.

3009.7 Upon the satisfaction of all debts and obligations, each committee shall immediately file a final R&E Report.

3009.8 In the absence of any debts and obligations, each committee shall, within sixty (60) days following the election:

- (a) Disburse any remaining funds in accordance with § 3016; and
- (b) File a Termination Report of Receipts and Expenditures.

3009.9 A copy of each R&E Report or statement filed with the Director shall be preserved by the person filing the report or statement for a period of not less than three (3) years from the date of filing.

3010 PETTY CASH FUNDS

3010.1 A candidate, political committee, or Statehood Fund may maintain a Petty Cash Fund, which shall not exceed three hundred dollars (\$300) at any time.

3010.2 All records and transactions shall be recorded in a petty cash journal maintained and authorized by either:

- (a) The chairperson;
- (b) The treasurer; or
- (c) Their designated agents, as listed on the Statement of Organization filed pursuant to § 3000.1.

- 3010.3 Petty cash funds shall be administered in the following manner:
- (a) Cash shall only be received by check drawn on the account of the candidate, political committee, or Statehood Fund;
 - (b) Cash expenditures shall not exceed fifty dollars (\$50) to any person in connection with a single purchase or transaction; and
 - (c) All transactions shall be recorded in the petty cash journal.
- 3010.4 For each deposit to the petty cash fund, the amount and date shall be recorded in the petty cash journal.
- 3010.5 For each disbursement, the petty cash journal shall include:
- (a) The name and address of each recipient of the disbursement;
 - (b) The date of the disbursement;
 - (c) The amount of the disbursement;
 - (d) The purpose of the disbursement; and
 - (e) The candidate's name and the office sought, or the name of the political committee or Statehood Fund for which the disbursement is made.
- 3010.6 All receipts, vouchers, petty cash journals, and other documentation shall be retained by the candidate, political committee, or Statehood Fund for a period of three (3) years from the date of the filing of the final R&E Report by the candidate, political committee, or Statehood Fund.

3011 LIMITATIONS ON CONTRIBUTIONS

- 3011.1 No person shall make any contribution, and no person shall receive any contribution, which, when totaled with all other contributions from the same person, pertaining to an individual's campaign for nomination as a candidate or election to public office, including both the primary and general elections, or special elections, exceeds the limitations enumerated for each office, under § 3011.2.
- 3011.2 Contributions in support of either individual candidates or their authorized committees, or for the recall of an incumbent, shall be limited to the following:
- (a) Mayor, U. S. Senator, and U.S. Representative to Congress – two thousand dollars (\$2,000);

- (b) Chairman of the Council – one thousand five hundred dollars (\$1,500);
- (c) Member of the Council at-large – one thousand dollars (\$1,000);
- (d) Member of the Council elected from a ward and Member of the State Board of Education at-large – five hundred dollars (\$500);
- (e) Member of the State Board of Education elected from a ward – two hundred dollars (\$ 200);
- (f) Official of a Political party – two hundred dollars (\$200); and
- (g) Member of an Advisory Neighborhood Commission – twenty-five dollars (\$25).

3011.3 With the exception of special elections, no person shall make any contribution in any one primary or general election that, when totaled, exceeds five thousand dollars (\$5,000), to any one (1) unauthorized committee, under § 3000.10.

3011.4 With the exception of special elections, no person shall make any contribution in any one (1) primary or general election per elective office for Mayor, U.S. Senator, U.S. Representative to Congress, Chairman of the Council, and each member of the Council and Board of Education which, when totaled with all other contributions made by that person in any one (1) election (primary and general) to candidates and political committees per elective office, exceeds eight thousand five hundred dollars (\$8,500); provided, that contributions to individual candidates and political committees shall not exceed those listed under §§ 3011.2 and 3011.3.

3011.5 No person shall receive or make any cash contribution of twenty-five dollars (\$25) or more in legal tender.

3011.6 For the purposes of this section, expenditures for candidates for office shall not be considered contributions or expenditures by or on behalf of a candidate when derived from:

- (a) Personal funds belonging to candidates; and
- (b) Funds from any person or independent expenditure committee advocating the election or defeat of any candidate for office; provided, that the person was not requested or suggested to do so by the candidate, any agent of the candidate, or any authorized committee of the candidate.

3011.7 Each loan or advance from a candidate or member of the immediate family of a candidate shall be evidenced by a written instruction that fully discloses:

- (a) The terms of the loan or advance;
 - (b) The conditions of the loan or advance;
 - (c) The parties to the loan or advance; and
 - (d) Documentation regarding the source of the funds when the loan or advance is from the candidate.
- 3011.8 The amount of each loan or advance from a member of the candidate's immediate family shall be included in computing and applying the limitations on contributions under § 3011, upon receipt by the authorized committee of the loan or advance from an immediate family members; provided, that the standards for repayment are consistent with repayment policies of lending institutions in the District of Columbia.
- 3011.9 Contributions to a candidate or political committee shall be attributed to the person actually making the contribution.
- 3011.10 Contributions from minor children (under eighteen (18) years old) shall be attributed to their parents or legal guardians except under the following circumstances:
- (a) The decision to contribute is made knowingly and voluntarily by the minor child; and
 - (b) The funds, goods, or services contributed are owned or controlled exclusively by the minor child.
- 3011.11 A connected organization, under § 3000.9(a), and each political committee established, financed, maintained, or controlled by the connected organization share a single contribution limitation.
- 3011.12 Corporations may make contributions in the District of Columbia.
- 3011.13 A corporation, its subsidiaries, and each political committee established, financed, maintained, or controlled by the corporation and its subsidiaries share a single contribution limitation.
- 3011.14 A corporation is deemed to be a separate entity; provided, that a corporation (corporation B) which is established, financed, maintained, or controlled (51% or more) by another corporation (corporation A) is considered, for the purposes of the contribution limitations, a subsidiary of the other corporation (corporation A).

- 3011.15 Partnerships may make contributions in the District of Columbia; provided, that all contributions by a partnership shall be subject to each contributing partner's individual contribution limitations, under § 3011.
- 3011.16 Contributions by a partnership shall be attributed to each partner, only by one (1) of the following methods:
- (a) Instructions from the partnership to the political committee or the candidate; or
 - (b) Agreement of the partners; provided, that the profits of non-contributing partners are not affected.
- 3011.17 No portion of any contribution under § 3011.15 shall derive from the profits of a corporation that is a partner.
- 3011.18 Limitations on contributions under § 3011 apply to a limited liability company depending on whether it is established as a corporation or partnership.
- 3011.19 Limitations on contributions under § 3011 shall not apply to initiative or referendum measures, or to fundraising engaged in by independent expenditure committees.
- 3011.20 With the exception of contributions received to retire debt, a political committee or a candidate shall not receive or accept contributions after the election or defeat of the candidate for office, or after the candidate notifies the Office of Campaign Finance of the intent to terminate the candidacy.
- 3011.21 Limitations on contributions under § 3011 shall not apply to unauthorized political committees during any calendar year in which the committee is not supporting candidates in either a primary or general election.

3012 JOINT FUNDRAISING

- 3012.1 Prior to conducting any joint fundraising activities, the participant political committees shall:
- (a) Create a political committee to act as their fundraising representative;
 - (b) Agree in writing to a formula for allocating proceeds and expenses among themselves; and
 - (c) Amend their Statements of Organization.
- 3012.2 The amended Statements of Organization shall include:

- (a) The writing as agreed upon pursuant to § 3012.1(b); and
- (b) The fundraising representative's (political committee's) account as an additional depository; provided, that the fundraising representative shall be an affiliated committee.

3012.3 The fundraising representative (political committee) shall be responsible for:

- (a) Establishing a depository account for joint fundraising receipts and expenditures; and
- (b) Filing a Statement of Organization with the Director.

3012.4 In accordance with this title, the duties of the fundraising representative (political committee) shall include:

- (a) Screening all contributions to assure that none are in excess of the limitations under § 3011;
- (b) Collecting and depositing joint fundraising contributions;
- (c) Paying expenses;
- (d) Allocating proceeds and expenses to the participants; and
- (e) Reporting all joint fundraising receipts and expenditures in the reporting period made or received.

3012.5 Upon allocation of proceeds, the participant political committees shall report their shares on the R&E Report in accordance with the financial guidelines and procedures.

3013 LIMITATIONS ON THE USE OF CAMPAIGN FUNDS

3013.1 Campaign funds shall be used solely for the purpose of financing, directly or indirectly, the election campaign of a candidate.

3013.2 Limitations on the use of campaign funds shall include the following:

- (a) Payment or reimbursement for a candidate or staff of a campaign committee for travel expenses and necessary accommodations, except when directly related to a campaign purpose;
- (b) Payment or reimbursement for the cost of professional services unless those services are directly related to a campaign purpose;

- (c) Payment for medical expenses of a candidate; provided, that campaign funds may be used to pay employer costs of health care benefits for employees of a principal campaign committee;
- (d) Payment or reimbursement for fines and penalties, unless litigation arises directly out of a candidate's or principal campaign committee's campaign activities;
- (e) Payment or reimbursement for judgments or settlements, unless litigation or agency administrative action arises directly out of the campaign activities of a candidate or principal campaign committee;
- (f) Attorneys fees, unless legal expenses arise directly out of a candidate's or a principal campaign committee's campaign activities;
- (g) Payment or reimbursement for the purchase or lease of personal property, unless the legal title resides in, or the lessee is, the principal campaign committee, and the use of the property is directly related to a campaign purpose;
- (h) Clothing, except for specialty clothing which is not suitable for everyday use, including, but not limited to, formal wear, if the attire is used in the campaign and is directly related to a campaign purpose;
- (i) The purchase or lease of a vehicle, unless the title or lease to the vehicle is held by the campaign committee and not the candidate, and the use of the vehicle is directly related to a campaign purpose; and
- (j) Compensation to a candidate for the performance of campaign activities, except for reimbursement of out-of-pocket expenses incurred for campaign purposes.

3013.3 With the exception of expenditures made to retire debt or wind down the campaign operation, campaign funds shall not be expended following the election or defeat of a candidate for office, or after a candidate notifies the Office of Campaign Finance of the intent to withdraw the candidacy for the purpose of financing, directly or indirectly, the election campaign of a candidate.

3014 CONSTITUENT-SERVICE PROGRAMS

3014.1 A constituent-service program shall encompass any activity or program that provides emergency, informational, charitable, scientific, educational, medical, recreational, or other services to the residents of the District of Columbia, and promotes their general welfare.

- 3014.2 Funds raised by constituent-service programs may be expended only for services, activities, or programs which inure to the primary benefit of the residents of the District of Columbia, in accordance with § 3014.1.
- 3014.3 Allowable expenditures from constituent-service programs shall include the following:
- (a) Funeral arrangements;
 - (b) Emergency housing and other necessities of life;
 - (c) Past due utility payments;
 - (d) Food and refreshments or an in-kind equivalent on infrequent occasions;
 - (e) Community events sponsored by the constituent-service program or an entity other than the District of Columbia government; and
 - (f) Community-wide events.
- 3014.4 Constituent-service programs shall be prohibited from engaging in any of the following activities:
- (a) Promoting or opposing, as a primary purpose, a political party or committee;
 - (b) Promoting or opposing, as a primary purpose, the nomination or election of an individual to public office;
 - (c) Promoting or opposing, as a primary purpose, any initiative, referendum, or recall measure;
 - (d) Distributing campaign literature or paraphernalia;
 - (e) Using any funds for personal purposes of the elected official;
 - (f) Using any funds to pay fines or penalties inuring to the District of Columbia government;
 - (g) Making any expenditure of cash;
 - (h) Making any expenditure for the sponsorship of a political organization; or
 - (i) Making any mass mailing within the ninety (90) day period immediately preceding a primary, special, or general election by a member of the Council, or the Mayor, who is a candidate for office.

- 3014.5 A constituent-service program may be maintained only by the following elected public officials:
- (a) The Mayor of the District of Columbia; and
 - (b) The Chairman and Members of the Council of the District of Columbia.
- 3014.6 A constituent-service program may be operated in the following locations:
- (a) In the ward represented by the Member of the Council elected by ward; and
 - (b) In the ward of the at-large member's choice.
- 3014.7 An elected official shall fund the constituent-service program only by:
- (a) Transferring any surplus, residue, or unexpended campaign funds to the constituent-service program;
 - (b) Receiving contributions that do not exceed, in the aggregate, forty thousand dollars (\$40,000) in any one (1) calendar year;
 - (c) Receiving cash contributions from any person which, when aggregated with all other contributions received from the same person, do not exceed five hundred dollars (\$500) in any one (1) calendar year; and
 - (d) Receiving personalty from any person which, when aggregated with all other contributions received from the same person, do not exceed one thousand dollars (\$1,000) in any one (1) calendar year.
- 3014.8 The amount of any transfer of surplus, residue, or unexpended campaign funds by the elected official shall not be subject to the forty thousand dollars (\$40,000) contribution limitation under § 3014.7(b).
- 3014.9 The amount of any funds contributed by the elected official to the official's constituent-service program shall not be subject to the five hundred dollars (\$500) contribution limitation under § 3014.7(c).
- 3014.10 No person shall receive or make any cash contribution of twenty-five dollars (\$25) or more in legal tender to a constituent-service program.
- 3014.11 A connected organization, under § 3000.9(a), and each affiliated committee established, financed, maintained, or controlled by the connected organization share a single contribution limitation with respect separately to cash and personalty.

- 3014.12 Corporations may make contributions to constituent-service programs.
- 3014.13 A corporation and its subsidiaries, and each political committee established, financed, maintained, or controlled by the corporation and its subsidiaries share a single contribution limitation with respect separately to cash and personalty.
- 3014.14 A corporation is deemed to be a separate entity; provided, that a corporation (corporation B) which is established, financed, maintained, or controlled (51% or more) by another corporation (corporation A) is considered, for the purposes of the contribution limitations, a subsidiary of the other corporation (corporation A).
- 3014.15 Partnerships may make contributions in the District of Columbia; provided, that each contribution by a partnership shall be subject to each contributing partner's individual contribution limitation, under § 3014.5.
- 3014.16 Contributions by a partnership shall be attributed to each partner, only by one (1) of the following methods:
- (a) Instructions from the partnership to the constituent-service program or the elected official; or
 - (b) Agreement of the partners; provided, that the profits of non-contributing partners are not affected.
- 3014.17 No portion of any contribution under § 3014.15 shall derive from the profits of a corporation that is a partner.
- 3014.18 Limited liability companies may make contributions in the District of Columbia, under the contribution limitations of § 3014.15, dependent on whether the limited liability company is established as a corporation or partnership.
- 3014.19 The contribution limitations set forth in this section shall apply only to the elected official's constituent-service program.
- 3014.20 An elected official shall:
- (a) Spend no more than forty thousand (\$40,000) in any one (1) calendar year for the constituent-service program;
 - (b) File a Statement of Organization for a Constituent-Service Program form, prescribed by the Director, within ten (10) days of organization;
 - (c) Amend the Statement of Organization within ten (10) days of any change in the information previously reported on the Statement of Organization; and

- (d) Sign and file all R&E Reports, in accordance with §§ 3008 and 3017.
- 3014.21 Each constituent-service program shall have a chairperson and a treasurer, and may elect to list a designated agent, in the Statement of Organization filed pursuant to § 3014.20(b).
- 3014.22 When either the office of chairperson or treasurer of a constituent-service program is vacant, the constituent-service program shall:
- (a) Designate a successor chairperson or treasurer, within five (5) days of the vacancy; and
- (b) Amend its Statement of Organization within ten (10) days of the designation of the successor; provided, that the successor officer agrees to accept the position.
- 3014.23 A constituent-service program shall neither accept a contribution nor make an expenditure while the office of treasurer is vacant, and no other person has been designated and has agreed to perform the functions of a treasurer.
- 3014.24 Each expenditure made for, or on behalf of, a constituent-service program shall be authorized by either:
- (a) The chairperson;
- (b) The treasurer; or
- (c) Their designated agent, as listed on the Statement of Organization filed under § 3014.20(b) or (c).
- 3014.25 A chairperson shall be required to file:
- (a) A Statement of Acceptance of Position of Chairperson form, prescribed by the Director, and a copy of written notification sent to the address of record of the treasurer, within five (5) days of assuming the office; and
- (b) A Statement of Withdrawal of Position of Chairperson form, prescribed by the Director, and a copy of written notification sent to the address of record of the treasurer, within five (5) days of vacating the office.
- 3014.26 A treasurer shall be required to file:
- (a) A Statement of Acceptance of Position of Treasurer form, prescribed by the Director, and a copy of written notification sent to the address of

record of the chairperson, within forty-eight (48) hours of assuming the office:

- (b) Periodic R&E Reports, under § 3008, signed by the treasurer or, if unavailable, the designated agent as listed on the Statement of Organization filed under § 3014.20; provided, that the treasurer shall be responsible for all R&E Reports and statements due to the Director during the treasurer's tenure; and
- (c) A Statement of Withdrawal of Position of Treasurer form, prescribed by the Director, and a copy of written notification sent to the address of record of the chairperson, within forty-eight (48) hours of vacating the office.

3014.27 A person shall not simultaneously serve as the chairperson and treasurer of a constituent-services program.

3014.28 All funds of a constituent-services program shall be segregated from, and may not be commingled with, anyone's personal funds.

3014.29 A constituent-service program shall neither establish nor maintain a petty cash fund.

3015 USE OF SURPLUS FUNDS

3015.1 Surplus funds of a constituent-service program or a Statehood Fund shall be disbursed within one hundred twenty (120) days of the date that the elected official:

- (a) Vacates the public office held; or
- (b) Notifies the Director in writing of any determination that the constituent-service program or Statehood Fund shall no longer receive contributions or make expenditures.

3015.2 Surplus funds of a constituent-service program shall be disbursed only for the following purposes:

- (a) To retire the debts of the program; and/or
- (b) To donate to a not-for-profit organization, within the meaning of the federal tax laws, that is in good standing in the District of Columbia for a minimum of one (1) calendar year prior to the date of donation.

3015.3 Surplus funds of a Statehood Fund shall be disbursed by a U.S. Senator or Representative to retire debts and obligations for the following:

- (a) Salaries;
 - (b) Office expenses; and
 - (c) Other expenses necessary to support the purposes and operations of the public office.
- 3015.4 Upon retirement of debts and obligations, a U.S. Senator or Representative shall donate any remaining funds to a not-for-profit organization within the meaning of the federal tax laws.
- 3015.5 Surplus funds of a candidate or candidate-elect shall be:
- (a) Used to retire the debts of the political committee that received the funds;
 - (b) Returned to donors;
 - (c) Contributed to a political party for political purposes; and/or
 - (d) Transferred to a political committee, a charitable organization that meets the requirements of the tax laws of the District of Columbia, or an established constituent-services fund.
- 3015.6 Surplus funds of a candidate or candidate-elect shall be disbursed under § 3015.5 within six (6) months of one (1) of the following events:
- (a) Defeat in an election;
 - (b) Election to office; or
 - (c) Withdrawal as a candidate.
- 3015.7 Surplus funds of a political committee formed to collect signatures or advocate the ratification or defeat of any initiative, referendum, or recall measure may be transferred to any charitable, scientific, literary, or educational organization or any other organization that meets the requirements of the tax laws of the District of Columbia.
- 3015.8 A campaign committee shall continue to function after the election for which the committee was organized, as an authorized committee, until all debts and obligations are extinguished.
- 3015.9 A campaign committee, pursuant to § 3015.8, shall:
- (a) Dispose of all surplus funds in accordance with § 3015;

- (b) Refrain from collecting or spending money to support a candidate in a future election;
- (c) Adhere to contributions limitations in accordance with § 3011; and
- (d) File R&E Reports in accordance with § 3008.

3015.10 A constituent-service program or a Statehood Fund shall continue to file R&E Reports, pursuant to §§ 3008 and 3017, until all debts are satisfied.

3016 TERMINATION OF POLITICAL COMMITTEES, CONSTITUENT-SERVICE PROGRAMS, AND STATEHOOD FUNDS

3016.1 A final R&E Report and a verified statement of termination, on a form prescribed by the Director, shall be filed upon termination of any political committee (committee), constituent-service program (program), or Statehood Fund (fund).

3016.2 An elected official shall terminate a program or fund if the elected official:

- (a) Fails to win re-election;
- (b) Resigns; or
- (c) Becomes ineligible to serve, by operation of law.

3016.3 An authorized committee shall terminate, upon satisfaction of all debts and obligations, when the purpose for which the committee was organized ceases.

3016.4 Any committee, program, or fund may terminate its reporting requirements by filing a final R&E Report; provided, that the committee, program, or fund:

- (a) Has ceased to receive contributions or make expenditures;
- (b) Has extinguished all debts and obligations;
- (c) Is not involved in any enforcement, audit, or litigation action with the Office of Campaign Finance; and
- (d) Has disbursed all surplus funds in accordance with § 3015.

3016.5 A committee, program, or fund that cannot extinguish its outstanding debts and obligations may qualify to terminate its reporting requirements by:

- (a) Settling its debts for less than the full amount owed to its creditors; or

(b) Demonstrating that a debt is unpayable.

3016.6 The types of debts that are subject to debt settlement include:

- (a) Amounts owed to commercial vendors;
- (b) Debts arising from advances by individuals;
- (c) Salary owed to committee or program employees; and
- (d) Loans owed to political committees.

3016.7 The types of debts that are not subject to debt settlement include:

- (a) Disputed debts; and
- (b) Bank loans.

3016.8 A qualifying committee, program, or fund shall be settled if:

- (a) Credit was initially extended in the ordinary course of business;
- (b) Reasonable efforts, including, for example, fundraising, reducing overhead costs, and liquidating assets, were undertaken to satisfy the outstanding debt; and
- (c) The creditor made the same efforts to collect the debt as those made to collect debts from a non-political debtor in similar circumstances.

3016.9 Once a committee, program, or fund has reached an agreement with a creditor, the treasurer shall file a debt settlement proposal with the Director on a form prescribed by the Director.

3016.10 Following receipt of the debt settlement proposal, the Director shall:

- (a) Review each debt settlement proposal for substantial compliance with the Act; and
- (b) Notify the committee or program within thirty (30) days of its approval or disapproval.

3016.11 A debt may be considered unpayable, under § 3016.5(b), if:

- (a) The debt has been outstanding for at least twenty-four (24) months;

- (b) The creditor is out of business, and no other entity has the right to collect the amount owed; and
- (c) The creditor cannot be located after best efforts to do so.

3016.12 A committee, program, or fund may apply to the Director to determine whether a specific debt may be unpayable upon a showing that best efforts to locate the creditor have been made.

3016.13 For purposes of this section, the term "Best efforts" shall include the following:

- (a) Ascertaining of the creditor's current address and telephone number; and
- (b) Contacting the creditor by registered or certified mail, in person, or by telephone.

3016.14 The reporting obligation of a committee, program, or fund ends when the Director notifies the committee, program, or fund that the final Report has been approved, and the official record closed.

3017 FILINGS AND DEADLINES

3017.1 Reports of Receipts and Expenditures (R&E Reports) shall be filed with the Office of Campaign Finance by:

- (a) The treasurer of each political committee supporting a candidate;
- (b) Each candidate required to register pursuant to §3002.2, unless reporting is otherwise exempted or waived under § 3004; and
- (c) The treasurer of each political committee engaged in obtaining signatures on any initiative, referendum, or recall petition, or promoting or opposing the ratification of any initiative, referendum, or recall measure placed before the District of Columbia electorate.

3017.2 All candidates and political committees, except as otherwise noted in this chapter, shall file R&E Reports on the following dates:

- (a) March 10, June 10, August 10, October 10, and December 10 in the seven (7) months preceding the date on which an election is held for which the candidate seeks office and the political committee supports a candidate for office;
- (b) January 31, March 10, June 10, August 10, October 10, December 10, and the eighth (8th) day next preceding the date of any election, in any year in

which there is held an election for which the candidate seeks office and the political committee supports a candidate for office;

- (c) January 31 and July 31; provided, that a political committee no later than January 31 declares its intention to not support a candidate during an election year under § 3000.10; and
- (d) January 31 and July 31, in a non-election year; provided, that a political committee no later than July 31 of the non-election year, (January 31) declares its intention to not support a candidate during an election year under § 3000.10.

3017.3 Constituent-service program R&E Reports shall be filed quarterly each year on the first (1st) day of the following months:

- (a) January;
- (b) April;
- (c) July; and
- (d) October.

3017.4 Statehood Fund R&E Reports shall be filed quarterly each year on the first (1st) day of the following months:

- (a) January;
- (b) April;
- (c) July; and
- (d) October.

3017.5 Except as otherwise provided in this chapter, R&E Reports shall be filed on January 31 and July 31 of each year until all debts and obligations are satisfied by the following:

- (a) Authorized committees pursuant to § 3015.8;
- (b) A Statehood Fund when the U.S. Senator or Representative vacates office; and
- (c) A constituent-service program when the elected official vacates office.

- 3017.6 All R&E Reports shall contain all financial transactions through and including the fifth (5th) day preceding the filing deadline for each R&E Report; provided, that the reporting period for the next R&E Report shall commence on the day following the closing date of the prior R&E Report.
- 3017.7 All contributions of two hundred dollars (\$200) or more, received after the filing deadline for the eighth (8th) day preceding the election Report, shall be reported in writing within twenty-four (24) hours of receipt.
- 3017.8 All reports and statements filed in person or by first class mail shall be deemed timely filed when received by 5:30 p.m. of the prescribed filing date.
- 3017.9 All reports and statements electronically filed shall be deemed timely filed if received by midnight of the prescribed filing deadline; provided, that the original paper report, verified by the treasurer, is also filed within five (5) days of the filing deadline. The filing of the paper copy may be eliminated where the treasurer electronically certifies the contents of the report through the use of a PIN Number assigned by the Office of Campaign Finance.
- 3017.10 Upon written request submitted by the candidate or committee, on or before the filing deadline, the Director may allow an extension for filing a Report or statement for a reasonable period of time, for good cause shown.
- 3017.11 Any reference to days in this chapter is to calendar days, unless otherwise indicated.

Chapter 31 of Title 3 of the DCMR is repealed in its entirety.

Chapter 32 of Title 3 of the DCMR is repealed in its entirety.

Chapter 33 of Title 3 of the DCMR is amended in its entirety to read as follows:

CHAPTER 33 PROHIBITION ON USE OF GOVERNMENT RESOURCES FOR CAMPAIGN-RELATED PURPOSES AND INTERPRETIVE OPINIONS

- 3300 RESERVED**
- 3301 PROHIBITION ON USE OF GOVERNMENT RESOURCES FOR CAMPAIGN-RELATED PURPOSES**
- 3302 RESERVED**
- 3303 RESERVED**
- 3304 RESERVED**
- 3305 INTERPRETATIVE OPINIONS**
- 3306 PENALTIES**

- 3300 RESERVED**

3301 PROHIBITION ON USE OF GOVERNMENT RESOURCES FOR CAMPAIGN-RELATED PURPOSES

- 3301.1 No District of Columbia government resources shall be used to support or oppose any of the following:
- (a) A candidate for elected office, whether partisan or nonpartisan; or
 - (b) An initiative, referendum, or recall measure, or a charter amendment referendum.
- 3301.2 Resources of the District of Columbia government shall include, but not be limited to, the following:
- (a) The personal services of employees during their hours of work; and
 - (b) Nonpersonal services.
- 3301.3 Nonpersonal services shall include, but not be limited to, the following:
- (a) Supplies;
 - (b) Materials;
 - (c) Equipment;
 - (d) Office space;
 - (e) Facilities; and
 - (f) Utilities, for example, telephone, gas, and electric services.
- 3301.4 Notwithstanding the prohibition set forth in § 3301.3, the following public officials may, as part of their official duties, express their views on a District of Columbia election:
- (a) The Mayor;
 - (b) The Chairman of the Council;
 - (c) Each Member of the Council;
 - (d) The President of the State Board of Education; and
 - (e) Each Member of the State Board of Education.

3302 RESERVED

3303 RESERVED

3304 RESERVED

3305 INTERPRETATIVE OPINIONS

3305.1 Any person subject to this chapter may request a written interpretative opinion concerning the application of the Act, and Chapters 30-41 of this title.

3305.2 The request shall be addressed to the Director in writing.

3305.3 Each request shall contain the following:

- (a) The full name and address of the requestor;
- (b) A query as to an application of the Act, and Chapters 30-41 of this title, solely with respect to an actual or potential event concerning a specific or general transaction or activity of the person;
- (c) Any related documentation.

3305.4 The Director shall notify the requestor in writing of the acceptance of each request.

3305.5 The Director shall respond in writing to each request within thirty (30) days after it has been accepted for review by the Office of Campaign Finance.

3305.6 If the requestor disagrees with the interpretative opinion issued by the Director, the requestor may request an advisory opinion from the Board of Elections, pursuant to Chapter 3 of this title.

3306 PENALTIES

3306.1 Penalties for any violations of this chapter shall be imposed pursuant to § 3711 of Chapter 37 of this title.

Chapter 36 of Title 3 of the DCMR is amended in its entirety to read as follows:

**CHAPTER 36 DISTRICT OF COLUMBIA SENATOR AND
 REPRESENTATIVE**

3600 DISTRICT OF COLUMBIA STATEHOOD FUNDS

3601 STATEHOOD FUND PETTY CASH

3602 APPLICABILITY
3603 DISSOLUTION OF STATEHOOD FUND
3604 PENALTIES

3600 DISTRICT OF COLUMBIA STATEHOOD FUNDS

3600.1 The D.C. Senator or Representative (Senator or Representative) may establish a District of Columbia Statehood Fund (Statehood Fund) to support the purposes and operations of the public office of a Senator or Representative, which may include:

- (a) Office expenses; and
- (b) Staff salaries; provided, that the Senator and Representative shall receive compensation no greater than that of the Chairman of the Council.

3600.2 The Senator and Representative shall be prohibited from expending monies from the Statehood fund for:

- (a) Promoting or opposing any political party or committee; or
- (b) Promoting or opposing the nomination, election, or recall of any individual to or from public office.

3600.3 To finance the Statehood Fund, each Senator and Representative may solicit and receive the following contributions:

- (a) Services;
- (b) Monies;
- (c) Gifts;
- (d) Endowments;
- (e) Donations; and
- (f) Bequests.

3600.4 Except for any monies included in annual Congressional appropriations, all contributions shall be deposited in the respective District of Columbia Statehood Fund for each Senator and Representative.

- 3600.5 Each Senator and Representative shall designate one or more District of Columbia federally chartered depository institutions, including a national bank, which is insured by either:
- (a) The Federal Deposit Insurance Corporation;
 - (b) The Federal Savings and Loan Insurance Corporation; or
 - (c) The National Credit Union Administration.
- 3600.6 Each Senator or Representative may establish more than one (1) account at any depository; provided, that at least one (1) checking account shall be maintained at one (1) depository.
- 3600.7 Each Senator and Representative may designate a financial officer to manage the Statehood fund; provided, that the Senator and Representative shall remain solely responsible for the lawful administration of the Statehood Fund.
- 3600.8 Within ten (10) days of assuming office, each Senator and Representative shall file a Statement of Information (Statement), on a form prescribed by the Director, regarding the Statehood Fund.
- 3600.9 The statement shall include:
- (a) The name, home, and office address of the respective Senator or Representative;
 - (b) The names and addresses of all Statehood Fund depositories;
 - (c) The names and account numbers of all Statehood Fund depository accounts;
 - (d) The names, titles, addresses, and phone numbers of each person authorized to make withdrawals or payments out of Statehood fund accounts;
 - (e) The name, address, and phone number of the Statehood Fund financial officer, or any designated agent; and
 - (f) The name, address, and phone number of the custodian of books and records.

3601 STATEHOOD FUND PETTY CASH

- 3601.1 A Senator or Representative may establish a petty cash fund; provided, that the monies for the petty cash shall derive from the Statehood Fund.

3601.2 A Senator or Representative shall maintain the petty cash fund and records in accordance with § 3010 of Chapter 30 of this title.

3602 APPLICABILITY

3602.1 Each Senator and Representative shall submit and file a Report of Receipts and Expenditures (R&E Report) for each Statehood Fund in accordance with § 3008 of Chapter 30 of this title.

3602.2 Each Senator and Representative shall maintain their records in accordance with Chapter 34 of this title.

3602.3 Within this title, each Senator and Representative shall be subject to the following provisions:

- (a) Limitations on contributions, pursuant to § 3011 of Chapter 30 of this title;
- (b) Limitations on constituent-service programs, pursuant to § 3014 of Chapter 30 of this title; and
- (c) Prohibition on use of government resources for campaign-related activities, pursuant to § 3301 of Chapter 33 of this title.

3603 DISSOLUTION OF STATEHOOD FUND

3603.1 A Senator or Representative shall dissolve the respective Statehood Fund in accordance with § 3016 of Chapter 30 of this title.

3603.2 A Senator or Representative shall disburse any surplus funds remaining in the respective Statehood Fund in accordance with § 3015 of Chapter 30 of this title.

3604 PENALTIES

3604.1 Penalties for any violations of this chapter shall be imposed pursuant to § 3711 of Chapter 37 of this title.

Chapter 37 of Title 3 of the DCMR is amended in its entirety to read as follows:

CHAPTER 37 INVESTIGATIONS AND HEARINGS

- 3700 INVESTIGATIONS IN GENERAL**
- 3701 INITIATION OF INVESTIGATION**
- 3702 INTERNAL INQUIRY**
- 3703 PRELIMINARY INVESTIGATIONS**

- 3704 FULL INVESTIGATIONS**
- 3705 ADMINISTRATIVE DISPOSITION OF INVESTIGATIONS**
- 3706 INSTITUTION OF A CHARGE AND FORMAL HEARING**
- 3707 SUBPOENAS AND DEPOSITIONS**
- 3708 SERVICE OF SUBPOENAS AND NOTICE OF DEPOSITION**
- 3709 INFORMAL HEARING FOR ALLEGED VIOLATIONS OF REPORTING REQUIREMENTS**
- 3710 CEASE AND DESIST ORDERS BASED ON VIOLATIONS**
- 3711 SCHEDULE OF FINES**
- 3712 PROCEDURES REGARDING EXCESSIVE CONTRIBUTIONS**
- 3713 PUBLIC ACCESS TO DOCUMENTS**
- 3714 REPORTS AND STATEMENTS UNDER OATH**

3700 INVESTIGATIONS IN GENERAL

3700.1 The provisions of this chapter shall establish the procedures for the conduct of all investigations by the Director of Campaign Finance (Director), and/or his or her designee, of alleged violations of Title III of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (D.C. Act 19-318; D.C. Official Code § 1-1161.01 *et seq.*), and Chapters 30 - 41 of this title.

3700.2 Investigations shall be conducted fairly and professionally, and in a manner that protects the rights and reputations of public employees and officials.

3700.3 Investigations shall be identified as one (1) of the following:

- (a) Internal Inquiry;
- (b) Preliminary Investigation; or
- (c) Full Investigation.

3700.4 All proceedings and records of the Office of Campaign Finance (OCF) relating to the initiation or conduct of any investigation shall be confidential and closed to the public, except all orders of the Director issued during investigative proceedings shall be made available to the public at OCF’s website (<http://ocf.dc.gov/>).

3700.5 The disposition of each investigation shall be made part of the public record.

3701 INITIATION OF INVESTIGATION

3701.1 An investigation may commence upon referral by the Board of Elections (Board) or the filing of a complaint in writing with the Director.

- 3701.2 Each complaint shall include:
- (a) The full name and address of the complainant and the respondent;
 - (b) A clear and concise statement of facts that alleged to constitute a violation of the Act, or of Chapters 30-41 of this title;
 - (c) The complainant's signature;
 - (d) A verification of the complaint under oath; and
 - (e) Supporting documentation, if any.

3702 INTERNAL INQUIRY

- 3702.1 An internal inquiry shall involve an examination by the Director of a possible violation of the Act, when the possible violation comes to the attention of the Director.
- 3702.2 The Director may initiate an internal inquiry through the following sources:
- (a) Information obtained through the media; or
 - (b) Documents filed with the OCF.
- 3702.3 Within a reasonable time after examination of an internal inquiry, the Director shall determine whether to initiate a preliminary investigation.

3703 PRELIMINARY INVESTIGATIONS

- 3703.1 A preliminary investigation shall entail an inquiry by the Director to determine whether there is reasonable cause to believe that a violation has occurred.
- 3703.2 Preliminary investigations may be initiated by any one (1) of the following means:
- (a) Referral by the Board of Elections;
 - (b) Complaint by any employee or resident of the District of Columbia; or
 - (c) Complaint generated by the OCF.
- 3703.3 A preliminary investigation conducted by OCF shall be strictly investigatory, non-adversarial, and non-adjudicatory.

- 3703.4 Within thirty (30) days of initiation of a preliminary investigation, the Director shall determine whether a full investigation is necessary.
- 3703.5 Within ten (10) days after initiation of a preliminary investigation, the Director shall notify, in writing, the person (respondent) who is the subject of the preliminary investigation.
- 3703.6 Notification to the respondent shall consist of the following:
- (a) A copy of the complaint;
 - (b) Explanation of the existence of the investigation and the general nature of the alleged violation; and
 - (c) An offer to the subject affording the opportunity to respond to the allegation(s).

3704 FULL INVESTIGATIONS

- 3704.1 A full investigation regarding any alleged violation of the Act or Chapters 30-41 of this title shall commence upon a finding of reasonable cause by the Director, and notice to the respondent that a full investigation has commenced.
- 3704.2 The full investigation shall be conducted by evidence gathered and explored by the following:
- (a) Subpoena;
 - (b) Depositions;
 - (c) Interrogatories;
 - (d) Interviews;
 - (e) Audits;
 - (f) Affidavits;
 - (g) Documents; and
 - (h) Other means deemed appropriate.
- 3704.3 The Director may require any person to submit in writing certain reports and answers to questions, as prescribed by the Director, relating to the administration and enforcement of the Act, and Chapters 30-41 of this title.

- 3704.4 Any person required by the Director to submit in writing certain reports or to answer questions under oath shall submit such reports and/or answers within seven (7) calendar days after receipt of the request.
- 3704.5 If any person required by the Director to submit in writing certain reports or to answer questions fails to submit such reports or answers within seven (7) calendar days after receipt of the request, the Director shall issue a subpoena in accordance with § 3707.
- 3704.6 All submissions of reports or answers shall be made under oath; provided, that the person is not represented by counsel.
- 3704.7 Within ninety (90) days of receipt of any complaint, the Director shall:
- (a) Cause evidence to be presented to the Board, if sufficient evidence exists constituting an apparent violation, pursuant to § 3706;
 - (b) Dismiss the complaint, if insufficient evidence exists to present the matter, pursuant to § 3705; or
 - (c) Impose civil penalties, pursuant to § 3711, upon a determination that a violation of the reporting and disclosure requirements prescribed by the Act and/or Chapters 30-41 of this title has occurred.
- 3704.8 The Director may seek, upon a showing of good cause, an extension of time as reasonably necessary to complete an investigation.

3705 ADMINISTRATIVE DISPOSITION OF INVESTIGATIONS

- 3705.1 The Director may dismiss any case administratively for any of the following reasons:
- (a) Insufficient evidence exists to support a violation;
 - (b) Stipulation of the parties;
 - (c) Inability to serve process on respondent;
 - (d) Lack of jurisdiction over respondent; or
 - (e) Lack of subject matter jurisdiction.
- 3705.2 The Director shall report to the Board any dismissal issued under § 3705.1 by order with written findings of facts and conclusions of law.

3705.3 The order issued under § 3705.2 shall be served upon all parties or their representatives.

3705.4 Any party adversely affected by any order of the Director issued under § 3705.2 may obtain review of the order by filing a request with the Board of Elections pursuant to § 3709.12.

3706 INSTITUTION OF A CHARGE AND FORMAL HEARING

3706.1 Upon belief that sufficient evidence exists constituting an apparent violation of the Act and/or of Chapters 30-41 of this title, the Director shall institute a formal charge or complaint against the alleged violator pursuant to Chapter 4 of this title.

3706.2 The complaint shall include:

- (a) The basis for the Director’s jurisdiction over the alleged violation(s);
- (b) A recitation of the facts alleged to be violations of the Act and/or regulations;
- (c) Proposed sanctions; and
- (d) A prayer for relief.

3706.3 The Director shall present evidence of the violation to the Board in an adversarial and open hearing.

3707 SUBPOENAS AND DEPOSITIONS

3707.1 The Director shall have the power to require, by subpoena, the attendance and testimony of witnesses and the production of documentary evidence.

3707.2 Except as provided in § 3704.7, each subpoena issued by the Director shall be approved by the Board, and shall include:

- (a) The name of the respondent;
- (b) The title of the action;
- (c) A specification of the time allowed for compliance with the subpoena; and
- (d) A command to the person to whom it is directed to:
 - (1) Attend and give testimony at a time and place specified in the subpoena; and/or

- (2) Produce and permit inspection and copying of the books, papers, documents, or tangible things designated in the subpoena.

- 3707.3 A complainant may request the Director to subpoena particular persons or evidence; provided, that the subpoena shall not be obtained as a matter of right to the complainant.
- 3707.4 Any person to whom a subpoena is directed may, prior to the time specified in the subpoena for compliance, file a motion to request that the Board quash or modify the subpoena.
- 3707.5 Any application to quash a subpoena shall be accompanied by a brief statement of the reasons supporting the motion to quash.
- 3707.6 The Board may quash or modify the subpoena upon a showing of good cause.
- 3707.7 Upon written notice, the Director may, in any proceeding or investigation, order testimony to be taken by deposition, under oath, before any person who is designated by the Director.
- 3707.8 A deposition may be scheduled at a time and place convenient to the parties.
- 3707.9 A respondent or witness may be represented by counsel at a deposition.
- 3707.10 A transcript of a deposition may be requested and furnished at reasonable cost to the requestor.

3708 SERVICE OF SUBPOENAS AND NOTICE OF DEPOSITION

- 3708.1 A subpoena or a notice of a deposition shall be served upon a person by delivering a copy of the subpoena or notice to the named person, pursuant to this section.
- 3708.2 If a person is represented by counsel in a proceeding, a subpoena or a notice may be served upon counsel.
- 3708.3 Service of a subpoena or a notice of deposition and fees to an individual may be made by any of the following means:
- (a) Handing the subpoena or notice to the person;
 - (b) Leaving the subpoena or notice at the person's office with the person in charge of the office;

- (c) Leaving the subpoena or notice at the person's dwelling place or usual place of abode with some person of suitable age and discretion residing in that dwelling place or abode;
- (d) Mailing the subpoena or notice by registered or certified mail to the person at the person's last known address with return receipt requested; or
- (e) Any other method whereby actual notice is given to the person.

3708.4 When the person to be served is not an individual, a copy of the subpoena or notice of the deposition and fees shall be delivered by one (1) of the following means:

- (a) Handing the subpoena or notice to a bona fide registered agent;
- (b) Handing the subpoena or notice to any office, director, or agent in charge of any office of that entity;
- (c) Mailing the subpoena or notice by registered or certified mail to a representative or agent of the entity at his or her last known address with return receipt requested; or
- (d) Any method whereby actual notice is given to an agent or representative of the entity.

3709 INFORMAL HEARING FOR ALLEGED VIOLATIONS OF REPORTING REQUIREMENTS

3709.1 The Director may institute or conduct an informal hearing on alleged violations of the reporting and disclosure requirements, prescribed by the Act and Chapters 30-41 of this title.

3709.2 The reporting and disclosure requirements shall apply to the following documents:

- (a) Statement of Acceptance of Position of Chairperson;
- (b) Statement of Acceptance of Position of Treasurer;
- (c) Identification of Campaign Literature;
- (d) Notice of Not Receiving Contributions or Expenditures;
- (e) Notification of Non-Support;
- (f) Report of Exemption for a Candidate Expending Less Than \$500;

- (g) Report of Receipts and Expenditures;
- (h) Request for Candidate Waiver;
- (i) Request for Additional Information;
- (j) Statement of Candidacy;
- (k) Statement of Candidate Withdrawal;
- (l) Statement of Committee Termination;
- (m) Statement of Information;
- (n) Statement of Organization;
- (o) Summary Financial Statement for Advisory Neighborhood Commission (ANC);
- (p) Verified Statement of Contribution Report;
- (q) Withdrawal of Chairperson;
- (r) Withdrawal of Treasurer; and
- (s) 24-Hour Report of Receipts for Candidates and Political Committees

3709.3 Notice of an informal hearing shall be issued in writing at least ten (10) days prior to the hearing; provided that the ten (10) day period may be waived for good cause shown as long as the party is given a sufficient opportunity to prepare for the hearing.

3709.4 In the notice, an alleged violator of the reporting requirements shall be informed of:

- (a) The nature of the alleged violation;
- (b) The authority on which the hearing is based;
- (c) The time and place of the hearing;
- (d) The right to be represented by legal counsel;
- (e) The fact that the alleged violator's failure to appear may be considered an admission of the allegation; and
- (f) The fact that service of process shall be by regular mail.

- 3709.5 The Director shall regulate the course of the informal hearing and the conduct of the parties and their counsel.
- 3709.6 The respondent, or his or her counsel, may present the respondent's case and evidence to the Director.
- 3709.7 The Director may wait a reasonable period of time for the respondent to appear before beginning the informal hearing.
- 3709.8 If the respondent fails to appear after a reasonable period of time, the Director shall:
- (a) Reschedule the informal hearing;
 - (b) Issue notice of the rescheduled informal hearing; and
 - (c) Serve the respondent both by certified and regular mail.
- 3709.9 If the respondent fails to appear after an informal hearing has been rescheduled under § 3709.8, the Director may proceed with the informal hearing by making a record of the proceeding.
- 3709.10 Following the conduct of each informal hearing, the Director shall:
- (a) Determine whether a violation has occurred; and
 - (b) Issue a written order with findings of facts and conclusions of law.
- 3709.11 Any party adversely affected by any order of the Director may obtain review of the order by filing, with the Board of Elections, a request for a hearing *de novo*.
- 3709.12 The request for a hearing *de novo* pursuant to § 3709.12 shall be filed:
- (a) Within fifteen (15) days from the issuance by the Director of an order; and
 - (b) In accordance with Chapter 4 of this title.
- 3709.13 Within five (5) days after receipt of an order of the Director where a fine has been imposed, a respondent may file a Motion for Reconsideration to address issues considered mitigating that were not presented during the hearing.
- 3709.14 The Motion shall not address issues that were not the subject of the alleged violation for which the penalty was assessed.
- 3709.15 The Director shall respond to the Motion within five (5) days after its receipt by issuing a new order which either:

- (a) Modifies or vacates the original order, providing clearly articulated reasons; or
- (b) Denies the Motion and affirms the original order, providing clearly articulated reasons.

3709.16 The filing of the Motion shall toll the appeal period for requesting a hearing *de novo* before the Board of Elections, or the payment of the fine.

3709.17 The appeal period shall be recalculated from the date of issuance of the subsequent order of the Director in the matter, if appropriate.

3710 CEASE AND DESIST ORDERS BASED ON VIOLATIONS

3710.1 Upon a determination that a violation has occurred, the Director may issue an order to the offending party to cease and desist the violation within the five (5) day period immediately following the issuance of the order.

3710.2 A cease and desist order shall contain the specific violation which occurred, and shall be delivered to the offending party personally or by certified mail.

3710.3 Should the offending party or parties fail to comply with the order, the Director shall present evidence of such noncompliance to the Board in an adversarial and open hearing, pursuant to Chapter 4 of this title.

3710.4 After the hearing under § 3710.3, the Board may either dismiss the action, or refer the matter to the United States Attorney for the District of Columbia pursuant to Section 302(c) of the Act.

3711 SCHEDULE OF FINES

3711.1 Upon a determination, pursuant to §§ 3704 or 3709, that a violation has occurred, the Director may ministerially impose fines upon the offending party in the following manner:

- (a) Each allegation shall constitute a separate violation; and
- (b) A fine shall attach for each day of non-compliance for each violation.

3711.2 Except for fines imposed under § 3711.3 for violations of the regulations and statutory provisions governing Constituent Services Programs, fines shall be imposed as follows:

- (a) Accepting a contribution or making an expenditure while office of treasurer is vacant: fifty dollars (\$50) per day;

- (b) Failure to designate a principal campaign committee: thirty dollars (\$30) per day;
- (c) Failure to designate a campaign depository: thirty dollars (\$30) per day;
- (d) Failure to file a Statement of Organization for a political, exploratory, inaugural, or transition committee: thirty dollars (\$30) per day;
- (e) Failure to file a Statement of Candidacy: thirty dollars (\$30) per day;
- (f) Failure to file a Report of Receipts & Expenditures: fifty dollars (\$50) per day;
- (g) Failure to file an Exemption for a Candidate spending less than \$500: fifty dollars (\$50) per day;
- (h) Accepting legal tender of twenty-five dollars (\$25) or more: five hundred dollars (\$500);
- (i) Using Statehood Funds for political activities: two thousand dollars (\$2,000);
- (j) Making a contribution deposit into an account not designated as a campaign depository: five hundred dollars (\$500);
- (k) Failure to place Identification Notice on campaign literature: five hundred dollars (\$500);
- (l) Accepting a contribution in excess of contribution limitations: two thousand dollars (\$2,000);
- (m) Making a contribution in excess of contribution limitations: one thousand dollars (\$1,000);
- (n) Accepting a contribution made by one person in the name of another person: two thousand dollars (\$2,000);
- (o) Making a contribution in the name of another person: two thousand dollars (\$2,000);
- (p) Failure to timely dispose of surplus campaign funds: fifty dollars (\$50) per day;
- (q) Failure to file additional information requested by the Director: fifty dollars (\$50) per day;
- (r) Failure to disclose required information on reports and statements: fifty dollars (\$50) per day;
- (s) Failure to file ANC Summary Financial Report: thirty dollars (\$30) per day;
- (t) Failure to file a Statement of Acceptance of Position of Chairperson: thirty dollars (\$30) per day;
- (u) Failure to file a Statement of Acceptance of Position of Treasurer: thirty dollars (\$30) per day;

- (v) Making an expenditure in excess of expenditure limitations: one thousand dollars (\$1,000);
- (w) Using District of Columbia government resources for campaign-related activities: two thousand dollars (\$2,000);
- (x) Failure to designate an exploratory committee: thirty dollars (\$30) per day;
- (y) Accepting a contribution in excess of aggregate limitations: two thousand dollars (\$2,000);
- (z) Failure to maintain records required under § 3400.2: two thousand dollars (\$2,000);
- (aa) Failure to file a Statement of Information: thirty dollars (\$30) per day; and
- (bb) Failure to designate a Statehood Fund depository: thirty dollars (\$30) per day.

3711.3 Fines for violations of the regulations and statutory provisions governing Constituent Services Programs shall be imposed, as follows:

- (a) Failure to designate a constituent-service program depository: thirty dollars (\$30) per day;
- (b) Failure to file a Statement of Acceptance of Position of Chairperson: thirty dollars (\$30) per day;
- (c) Failure to file a Statement of Acceptance of Position of Treasurer: thirty dollars (\$30) per day;
- (d) Accepting a contribution or making an expenditure while office of treasurer is vacant: fifty dollars (\$50) per day;
- (e) Failure to file additional information requested by the Director: fifty dollars (\$50) per day;
- (f) Failure to disclose required information on reports and statements: fifty dollars (\$50) per day;
- (g) Accepting a contribution made by one person in the name of another person: five thousand dollars (\$5,000);
- (h) Making a contribution in the name of another person: five thousand dollars (\$5,000);
- (i) Accepting a contribution in excess of the constituent-services program contribution limitation: five thousand dollars (\$5,000);
- (j) Making a contribution in excess of the constituent-services program contribution limitation: five thousand dollars (\$5,000);
- (k) Conducting campaign activities in the constituent-services program: five thousand dollars (\$5,000);

- (l) Making an expenditure in excess of expenditure limitations: five thousand dollars (\$5,000);
- (m) Accepting a contribution in excess of aggregate limitations: five thousand dollars (\$5,000);
- (n) Failure to maintain records required under § 3400.2: five thousand dollars (\$5,000);
- (o) Promoting or opposing, as a primary purpose, a political party, committee, candidate, or issue: five thousand dollars (\$5,000);
- (p) Making any expenditure for the payment of penalties and fines inured to the District of Columbia: five thousand dollars (\$5,000);
- (q) Making any expenditures of cash from constituent service program funds: five thousand dollars (\$5,000);
- (r) Making expenditures for sponsorships for political organizations: five thousand dollars (\$5,000); and
- (s) Conducting mass mailings within the ninety (90)-day period immediately preceding a primary, special, or general election by a member of the Council, or the Mayor, who is a candidate for office: five thousand dollars (\$5,000).

3711.4 The aggregate of the penalties imposed under the Director's authority, pursuant to §§ 3711.2 and 3711.3, may not exceed two thousand dollars (\$2,000) for each violation, except or unless otherwise authorized.

3711.5 In calculating the time period for delinquencies, Saturdays, Sundays, and holidays shall not be included.

3711.6 Any fine imposed by the Director, pursuant to §§ 3711.2 and 3711.3, shall become effective on the sixteenth (16th) day following the issuance of a decision and order; provided, that, the respondent does not request a hearing pursuant to § 3709.11.

3711.7 The Director may modify, rescind, dismiss, or suspend any fine imposed, pursuant to §§ 3711.2 and 3711.3, for good cause shown; provided, that fines imposed for failure to file an eight (8) day pre-election report shall be mandatory, unless a written extension for filing the report, pursuant to Chapter 30 of this title, is granted by the Director.

3711.8 Fines imposed pursuant to this chapter shall be paid within ten (10) days of the effective date of the issuance of an Order of the Director. Payment by check or money order shall be payable to the D.C. Treasurer, and directed to the Office of Campaign Finance, Frank D. Reeves Municipal Building, 2000 14th Street, N.W., Washington, D.C., 20009.

3711.9 If a party fails to pay the ordered fine, the Director may petition for enforcement of its order before the Board in an adversarial and open hearing, pursuant to Chapter 4 of this title, within sixty (60) days of the expiration of the period provided for payment of the fine.

3712 PROCEDURES REGARDING EXCESSIVE CONTRIBUTIONS

3712.1 The Director shall determine whether a contribution made to a person was in excess of the aggregate maximum to which the person was entitled.

3712.2 Upon a determination that an excessive contribution has been made, the Director shall, in writing, notify the recipient of the excessive contribution of:

- (a) The amount of the excessive contribution;
- (b) The requirement that an amount equal to the excess contribution shall be repaid to the contributor; and
- (c) The requirement that such repayment shall be accomplished within fifteen (15) days of the notice.

3712.3 Any person required by the Director to repay an excess contribution may apply in writing to the Director for an extension of time in which to repay the excess contribution.

3712.4 The Director may grant an extension for a reasonable amount of additional time for good cause to any person who files an application in accordance with § 3712.3.

3712.5 If the person who has been determined to have received an excessive contribution disputes the Director's determination, the person shall so advise the Director in writing within seven (7) days upon receipt of the notice issued under § 3712.2.

3712.6 Within ten (10) days after receiving notice of the existence of the dispute pursuant to § 3712.5, the Director shall schedule and conduct an informal hearing in accordance with § 3709.

3713 PUBLIC ACCESS TO DOCUMENTS

3713.1 All reports and statements required to be filed with the Director under § 3709.2 shall be public documents.

3713.2 Public documents shall be available for inspection and copying at OCF within forty-eight (48) hours after receipt.

3713.3 Public documents may be received in the OCF without charge.

3713.4 Any person may request copies of documents by making written application to the Director.

3713.5 Copies of documents may be produced at a cost of fifteen cents (15¢) per page in order to recover the direct cost of reproduction.

3713.6 Documents may be copied and inspected each business day, excluding District of Columbia legal holidays, between the hours of 9:00 a.m. and 4:00 p.m.

3714 REPORTS AND STATEMENTS UNDER OATH

3714.1 All reports and statements filed pursuant to the Act shall be verified by the oath or affirmation of the person filing such reports or statements in accordance with Chapter 30 of this title.

3714.2 During regular business days and hours, the Director shall maintain a notary public to administer the oaths; provided, that in the absence of the notary public, an Affirmation Statement, on a form prescribed by the Director, shall suffice.

Chapter 38 of Title 3 of the DCMR is amended in its entirety to read as follows:

CHAPTER 38 LEGAL DEFENSE COMMITTEES

- 3800 LEGAL DEFENSE COMMITTEES, GENERALLY**
- 3801 ORGANIZATION OF LEGAL DEFENSE COMMITTEES**
- 3802 FILING AND RECORDKEEPING REQUIREMENTS**
- 3803 LEGAL DEFENSE COMMITTEE CONTRIBUTION LIMITATIONS**
- 3804 LIMITATIONS ON THE USE OF LEGAL DEFENSE COMMITTEE FUNDS**
- 3805 USE OF SURPLUS FUNDS**
- 3806 PENALTIES**

3800 LEGAL DEFENSE COMMITTEES, GENERALLY

3800.1 A legal defense committee is a person, or group of persons, organized for the purpose of soliciting, accepting, or expending funds to defray the professional fees and costs for a public official’s legal defense to one or more civil, criminal, or administrative proceedings.

3800.2 One legal defense committee and one legal defense checking account may be established and maintained for the purpose set forth in § 3800.1.

3800.3 No committee, fund, entity, or trust may be established to defray professional fees and costs except pursuant to this chapter.

3801 ORGANIZATION OF LEGAL DEFENSE COMMITTEES

- 3801.1 A legal defense committee shall be deemed "organized" when any person, or group of persons, formally agree, orally or in writing, to solicit, accept, or expend funds to defray the professional fees and costs for a public official's legal defense to one or more civil, criminal, or administrative proceedings.
- 3801.2 Each legal defense committee shall file a Statement of Organization form, prescribed by the Director of the Office of Campaign Finance (the Director) (OCF), within ten (10) days of organization.
- 3801.3 A legal defense committee shall amend its Statement of Organization within ten (10) days of any change in the information previously reported on its Statement of Organization.
- 3801.4 If a legal defense committee that has filed at least one (1) Statement of Organization disbands or determines that it will no longer receive contributions or make expenditures during a calendar year, it must so notify the Director immediately and file a final Report of Receipts & Expenditures (R&E Report).
- 3801.5 A legal defense committee shall have a chairperson and a treasurer, and may elect to list a designated agent, in the Statement of Organization filed pursuant to § 3801.2.
- 3801.6 No person may simultaneously serve as the chairperson and treasurer of a legal defense committee.
- 3801.7 A chairperson shall be required to file a Statement of Acceptance of Position of Chairperson form with the Director within five (5) days of assuming the office.
- 3801.8 A chairperson shall be required to file a Statement of Withdrawal of Position of Chairperson form with the Director within five (5) days of vacating the office.
- 3801.9 A treasurer shall be required to file a Statement of Acceptance of Position of Treasurer form with the Director within forty-eight (48) hours of assuming the office.
- 3801.10 A treasurer shall be required to file a Statement of Withdrawal of Position of Treasurer form with the Director within forty-eight (48) hours of vacating the office.
- 3801.11 When either the office of chairperson or treasurer is vacant, the legal defense committee shall:

- (a) Designate a successor chairperson or treasurer within five (5) days of the vacancy; and
 - (b) Amend its Statement of Organization within ten (10) days of the designation of the successor; provided, that the successor officer agrees to accept the position.
- 3801.12 The treasurer of a legal defense committee shall obtain and preserve receipted bills and records in accordance with Chapter 34 of this title.
- 3801.13 A legal defense committee shall neither accept a contribution nor make an expenditure while the office of treasurer is vacant and no other person has been designated and agreed to perform the functions of treasurer.
- 3801.14 Each expenditure made for, or on behalf of, a legal defense committee shall be authorized by either:
 - (a) The chairperson;
 - (b) The treasurer; or
 - (c) Their designated agent, as listed on the Statement of Organization filed under § 3801.3.
- 3801.15 No expenditures may be made by a legal defense committee except by check drawn payable to the person to whom the expenditure is being made on the account at a bank designated by the legal defense committee as its depository in its Statement of Organization.
- 3801.16 A detailed account of each contribution of fifty dollars (\$50) or more for or on behalf of a legal defense committee shall be submitted to the treasurer of such committee within five (5) days of the receipt of the contribution upon the treasurer's demand.
- 3801.17 The detailed account submitted pursuant to § 3801.16 shall include:
 - (a) The amount of the contribution or expenditure;
 - (b) The name and address (including the occupation and principal place of business, if any) of the contributor or the person (including corporations) to whom the expenditure was made;
 - (c) The date of the contribution; and
 - (d) In the case of an expenditure, the office sought by the candidate on whose behalf the expenditure was made, if applicable.

3801.18 All funds of a legal defense committee shall be segregated from, and may not be commingled with, any campaign funds, or anyone's personal funds.

3802 FILING AND RECORDKEEPING REQUIREMENTS

3802.1 The treasurer of each legal defense committee must file R&E Reports, on forms prescribed by the Director, within thirty (30) days after the committee's organization and every thirty (30) days thereafter until dissolution.

3802.2 R&E Reports must disclose:

- (a) The amount of cash on hand at the beginning of the reporting period;
- (b) The full name and mailing address, including occupation and principal place of business, if any, of each person who has made one or more contributions to or for the committee within the calendar year in an aggregate amount or value in excess of fifty dollars (\$50) or more, together with the amount and date of the contributions;
- (c) The total sum of individual contributions made to or for the committee during the reporting period that is not reported under § 3802.2(b);
- (d) Each loan to or from any person within the calendar year in an aggregate amount or value of fifty (\$50) or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of the loans;
- (e) The total sum of all receipts by or for the committee during the reporting period;
- (f) The full name and mailing address, including the occupation and the principal place of business, if any, of each person to whom expenditures have been made by or on behalf of the committee within the calendar year in an aggregate amount or value of ten dollars (\$10) or more;
- (g) The total sum of expenditures made by the committee during the calendar year;
- (h) The amount and nature of debts and obligations owed by or to the committee, in a form as the Director of Campaign Finance may prescribe; and
- (i) Other information as may be required by the Director of Campaign Finance.

- 3802.3 R&E Reports must be complete no later than five (5) days before the prescribed filing deadline.
- 3802.4 The treasurer of a legal defense fund, and each beneficiary of such a fund, shall keep a detailed and exact account of:
- (a) Each contribution made to or for the legal defense committee;
 - (b) The full name and address (including the occupation and principal place of business, if any) of each person that made a contribution of at least fifty dollars (\$50) or more, and the date and amount of such contribution;
 - (c) Each expenditure made by or on behalf of the legal defense committee; and
 - (d) The full name and address (including the occupation and principal place of business, if any) of each person to whom an expenditure was made, and the name, address, and the office held or sought, or the position held, by the public official, whichever is applicable.

3803 LEGAL DEFENSE COMMITTEE CONTRIBUTION LIMITATIONS

- 3803.1 Contributions in support of a legal defense committee shall be received or made in accordance with § 3009 of Chapter 30 of this title, except that no person shall make any contribution to or for a legal defense committee which, when aggregated with all other contributions received from such person, exceeds ten thousand dollars (\$10,000) in an aggregate amount.
- 3803.2 Notwithstanding § 3803.1, the legal defense committee contribution limitations shall not apply to contributions made by the public official for the purpose of funding his or her own legal defense committee within the District of Columbia.
- 3803.3 A legal defense committee shall not accept a contribution from a lobbyist or a person acting on behalf of a lobbyist or registrant.
- 3803.4 A lobbyist or registrant or a person acting on behalf of a lobbyist or registrant shall be prohibited from making a contribution to a legal defense committee.

3804 LIMITATIONS ON THE USE OF LEGAL DEFENSE COMMITTEE FUNDS

- 3804.1 The legal defense committee shall be prohibited from expending monies from the Legal Defense Fund for the following purposes:

- (a) Expenses for fundraising, media, political consulting fees, mass mailing, or other advertising;
- (b) Payment or reimbursement for a fine, penalty, judgment, or settlement; or
- (c) A payment to return or disgorge contributions made to any other committee controlled by the candidate or officer.

3804.2 Legal defense funds shall be used solely for the purpose of defraying attorney fees and other related legal costs associated with a public official’s legal defense to one or more civil, criminal, or administrative proceedings.

3805 USE OF SURPLUS FUNDS

3805.1 Any remaining funds of a legal defense committee shall be transferred only to either:

- (a) A non-profit organization within the meaning of Section 501(c) of the Internal Revenue Code operating in good standing in the District of Columbia for a minimum of one calendar year prior to the date of any transfer; or
- (b) A Constituent Service Program.

3806 PENALTIES

3806.1 Penalties for any violation of this chapter shall be imposed pursuant to § 3711.2 of Chapter 37 of this title.

Chapter 39 of Title 3 of the DCMR is amended in its entirety to read as follows:

CHAPTER 39 CAMPAIGN FINANCE OPERATIONS: INAUGURAL COMMITTEES

- 3900 INAUGURAL COMMITTEES, GENERALLY**
- 3901 ORGANIZATION OF INAUGURAL COMMITTEES**
- 3902 FILING AND RECORDKEEPING REQUIREMENTS**
- 3903 PETTY CASH FUNDS**
- 3904 INAUGURAL COMMITTEE CONTRIBUTION LIMITATIONS**
- 3905 LIMITATIONS ON THE USE OF INAUGURAL COMMITTEE FUNDS**
- 3906 DURATION OF INAUGURAL COMMITTEES**
- 3907 USE OF SURPLUS FUNDS**
- 3908 PENALTIES**

3900 INAUGURAL COMMITTEES, GENERALLY

3900.1 An inaugural committee is a person, or group of persons, organized for the purpose of soliciting, accepting, and spending funds and coordinating activities to celebrate the election of a new Mayor.

3901 ORGANIZATION OF INAUGURAL COMMITTEES

3901.1 An inaugural committee shall be deemed "organized" when any person, or group of persons, formally agree, orally or in writing, to solicit, accept, and spend funds and coordinate activities to celebrate the election of a new Mayor.

3901.2 Each inaugural committee shall file a Statement of Organization form, prescribed by the Director of the Office of Campaign Finance (the Director) (OCF), within ten (10) days of organization.

3901.3 An inaugural committee shall amend its Statement of Organization within ten (10) days of any change in the information previously reported on its Statement of Organization.

3901.4 If an inaugural committee that has filed at least one (1) Statement of Organization disbands or determines that it will no longer receive contributions or make expenditures during a calendar year, it must so notify the Director immediately and file a final Report of Receipts & Expenditures (R&E Report).

3901.5 An inaugural committee shall have a chairperson and a treasurer, and may elect to list a designated agent, in the Statement of Organization filed pursuant to § 3901.2.

3901.6 No person may simultaneously serve as the chairperson and treasurer of an inaugural committee.

3901.7 A chairperson shall be required to file a Statement of Acceptance of Position of Chairperson form with the Director within five (5) days of assuming the office.

3901.8 A chairperson shall be required to file a Statement of Withdrawal of Position of Chairperson form with the Director within five (5) days of vacating the office.

3901.9 A treasurer shall be required to file a Statement of Acceptance of Position of Treasurer form with the Director within forty-eight (48) hours of assuming the office.

3901.10 A treasurer shall be required to file a Statement of Withdrawal of Position of Treasurer form with the Director within forty-eight (48) hours of vacating the office.

- 3901.11 When either the office of chairperson or treasurer is vacant, the inaugural committee shall:
- (a) Designate a successor chairperson or treasurer within five (5) days of the vacancy; and
 - (b) Amend its Statement of Organization within ten (10) days of the designation of the successor; provided, that the successor officer agrees to accept the position.
- 3901.12 The treasurer of an inaugural committee shall obtain and preserve receipted bills and records in accordance with § 3400.2 of Chapter 34 of this title.
- 3901.13 An inaugural committee shall neither accept a contribution nor make an expenditure while the office of treasurer is vacant, and no other person has been designated and agreed to perform the functions of treasurer.
- 3901.14 Each expenditure made for, or on behalf of, a inaugural committee shall be authorized by either:
- (a) The chairperson;
 - (b) The treasurer; or
 - (c) Their designated agent, as listed on the Statement of Organization filed under § 3901.2.
- 3901.15 No expenditures may be made by an inaugural committee except by check drawn payable to the person to whom the expenditure is being made on the account at a bank designated by the inaugural committee as its depository in its Statement of Organization.
- 3901.16 A detailed account of each contribution or expenditure of fifty dollars (\$50) or more for or on behalf of an inaugural committee shall be submitted to the treasurer of such committee within five (5) days of the receipt of the contribution or the making of the expenditure upon the treasurer's demand.
- 3901.17 The detailed account submitted pursuant to § 3901.16 shall include:
- (a) The amount of the contribution or expenditure;
 - (b) The name and address (including the occupation and principal place of business, if any) of the contributor or the person (including corporations) to whom the expenditure was made;

- (c) The date of the contribution; and
- (d) In the case of an expenditure, the office sought by the candidate on whose behalf the expenditure was made, if applicable.

3901.18 All funds of an inaugural committee shall be segregated from, and may not be commingled with, any campaign funds, or anyone's personal funds.

3902 FILING AND RECORDKEEPING REQUIREMENTS

3902.1 The treasurer of each inaugural committee must file Reports of Receipts and Expenditures (R&E Reports) on forms prescribed by the Director on the following dates:

- (a) The 10th day of March, June, August, October, and December in the 7 months preceding the date on which an election is held for the office sought, and on the 8th day next preceding the date on which said election is held, and also by the 31st day of January of each year thereafter. In addition, the reports shall be filed on the 31st day of July of each year in which there is no election.
- (b) The reports shall be complete as of the date prescribed by the Director, which shall not be more than 5 days before the date of filing, except that any contribution of \$200 or more received after the closing date prescribed by the Director for the last report required to be filed before the election shall be reported within 24 hours after its receipt.

3902.2 R&E reports required by this section must be filed in accordance with § 3017 of Chapter 30 of this title.

3902.3 R&E Reports must disclose:

- (a) The amount of cash on hand at the beginning of the reporting period;
- (b) The full name and mailing address, including occupation and principal place of business, if any, of each person who has made one or more contributions to or for the inaugural committee, including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, within the calendar year in an aggregate amount or value in excess of fifty dollars (\$50) or more, together with the amount and date of the contributions;
- (c) The total sum of individual contributions made to or for the inaugural committee during the reporting period;
- (d) Each loan to or from any person within the calendar year in an aggregate amount or value of fifty dollars (\$50) or more, together with the full

names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of the loans;

- (e) The net amount of proceeds from:
 - (1) The sale of tickets to each dinner, luncheon, rally, and other fundraising events organized by the inaugural committee;
 - (2) Collections made at events; and
 - (3) Sales by the inaugural committee of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;
- (f) Each contribution, rebate, refund, or other receipt of fifty dollars (\$50) or more not otherwise listed under paragraphs (b) through (e) of this subsection;
- (g) The total sum of all receipts by or for the inaugural committee during the reporting period;
- (h) The full name and mailing address, including the occupation and the principal place of business, if any, of each person to whom expenditures have been made by or on behalf of the committee within the calendar year in an aggregate amount or value of ten dollars (\$10) or more;
- (i) The amount, date, and purpose of each expenditure;
- (j) The total sum of expenditures made by the inaugural committee during the calendar year;
- (k) The amount and nature of debts and obligations owed by or to the inaugural committee, listed in such form as the Director of Campaign Finance may prescribe; and
- (l) Other information as may be required by the Director of Campaign Finance.

3902.4 R&E Reports must be complete within five (5) days before the prescribed filing deadline.

3903 PETTY CASH FUNDS

- 3903.1 An inaugural committee may maintain a Petty Cash Fund that shall not exceed three hundred dollars (\$300) at any time.
- 3903.2 All records and transactions shall be recorded in a petty cash journal maintained and authorized by either:
- (a) The chairperson;
 - (b) The treasurer; or
 - (c) Their designated agents, as listed on the Statement of Organization filed under § 3901.2.
- 3903.3 Petty cash funds shall be administered in the following manner:
- (a) Cash shall only be received by check drawn on the account of the inaugural committee;
 - (b) Cash expenditures shall not exceed fifty dollars (\$50) to any person in connection with a single purchase or transaction; and
 - (c) All transactions shall be recorded in the petty cash journal.
- 3903.4 For each deposit to the petty cash fund, the amount and date shall be recorded in the petty cash journal.
- 3903.5 For each disbursement, the petty cash journal shall include:
- (a) The name and address of each recipient;
 - (b) The date of the disbursement;
 - (c) The amount of the disbursement;
 - (d) The purpose of the disbursement; and
 - (e) The candidate's name and the office sought, or the name of the inaugural committee for which the disbursement is made.
- 3903.6 All receipts, vouchers, petty cash journals, and other documentation shall be retained by the inaugural committee for a period of three (3) years from the date of the filing of the final R&E Report by the inaugural committee.

3904 INAUGURAL COMMITTEE CONTRIBUTION LIMITATIONS

3904.1 Contributions in support of an inaugural committee shall be received or made in accordance with § 3009 of Chapter 30 of this title, except that no person shall make any contribution to an inaugural committee, and the Mayor shall not receive any contribution from any person which, when aggregated with all other contributions received from such person, exceeds ten thousand dollars (\$10,000) in an aggregate amount.

3904.2 Notwithstanding § 3904.1, the ten thousand dollar (\$10,000) inaugural committee contribution limitation shall not apply to contributions made by the Mayor-elect for the purpose of funding his or her own inaugural committee.

3905 LIMITATIONS ON THE USE OF INAUGURAL COMMITTEE FUNDS

3905.1 Inaugural committee funds shall be used solely for the purpose of financing activities to celebrate the election of a new Mayor.

3905.2 The provisions of § 3013 of Chapter 30 of this title, concerning impermissible uses of campaign funds, shall apply to inaugural committees unless the expenditures stated therein are solely related to activities to celebrate the election of a new Mayor.

3906 DURATION OF INAUGURAL COMMITTEES

3906.1 An inaugural committee shall terminate no later than forty-five (45) days from the beginning of the term of the new Mayor, except that the inaugural committee may continue to accept contributions necessary to retire the debts of the committee.

3906.2 When terminating, inaugural committees shall adhere to the applicable provisions of § 3016 of Chapter 30 of this title.

3907 USE OF SURPLUS FUNDS

3907.1 Any remaining funds of an inaugural committee shall be transferred only to either:

(a) A non-profit organization within the meaning of Section 501(c) of the Internal Revenue Code operating in good standing in the District of Columbia for a minimum of one calendar year prior to the date of any transfer; or

(b) A constituent-service program.

3908 PENALTIES

3908.1 Penalties for any violation of this chapter shall be imposed pursuant to § 3711.2 of Chapter 37 of this title.

Chapter 40 of Title 3 of the DCMR is amended in its entirety to read as follows:

CHAPTER 40 CAMPAIGN FINANCE OPERATIONS: TRANSITION COMMITTEES

- 4000 TRANSITION COMMITTEES, GENERALLY**
- 4001 ORGANIZATION OF TRANSITION COMMITTEES**
- 4002 FILING AND RECORDKEEPING REQUIREMENTS**
- 4003 PETTY CASH FUNDS**
- 4004 TRANSITION COMMITTEE CONTRIBUTION LIMITATIONS**
- 4005 LIMITATIONS ON THE USE OF TRANSITION COMMITTEE FUNDS**
- 4006 DURATION OF TRANSITION COMMITTEES**
- 4007 USE OF SURPLUS FUNDS**
- 4008 PENALTIES**

4000 TRANSITION COMMITTEES, GENERALLY

4000.1 A transition committee is a person, or group of persons, organized for the purpose of soliciting, accepting, or expending funds for office and personnel transition on behalf of the Chairman of the Council or the Mayor.

4001 ORGANIZATION OF TRANSITION COMMITTEES

4001.1 A transition committee shall be deemed "organized" when any person, or group of persons, formally agree, orally or in writing, to solicit, accept, or expend funds for office and personnel transition on behalf of the Chairman of the Council or the Mayor.

4001.2 No transition committee may be organized if an appropriation pursuant to Section 446 of the Home Rule Act has been made for transition purposes.

4001.3 Each transition committee shall file a Statement of Organization form, prescribed by the Director of the Office of Campaign Finance (the Director) (OCF), within ten (10) days of organization.

4001.4 A transition committee shall amend its Statement of Organization within ten (10) days of any change in the information previously reported on its Statement of Organization.

- 4001.5 If a transition committee that has filed at least one (1) Statement of Organization disbands or determines that it will no longer receive contributions or make expenditures during a calendar year, it must so notify the Director immediately and file a final Report of Receipts & Expenditures (R&E Report).
- 4001.6 A transition committee shall have a chairperson and a treasurer, and may elect to list a designated agent, in the Statement of Organization filed pursuant to § 4001.3.
- 4001.7 No person may simultaneously serve as the chairperson and treasurer of a transition committee.
- 4001.8 A chairperson shall be required to file a Statement of Acceptance of Position of Chairperson form with the Director within five (5) days of assuming the office.
- 4001.9 A chairperson shall be required to file a Statement of Withdrawal of Position of Chairperson form with the Director within five (5) days of vacating the office.
- 4001.10 A treasurer shall be required to file a Statement of Acceptance of Position of Treasurer form with the Director within forty-eight (48) hours of assuming the office.
- 4001.11 A treasurer shall be required to file a Statement of Withdrawal of Position of Treasurer form with the Director within forty-eight (48) hours of vacating the office.
- 4001.12 When either the office of chairperson or treasurer is vacant, the transition committee shall:
- (a) Designate a successor chairperson or treasurer within five (5) days of the vacancy; and
 - (b) Amend its Statement of Organization within ten (10) days of the designation of the successor; provided, that the successor officer agrees to accept the position.
- 4001.13 The treasurer of a transition committee shall obtain and preserve receipted bills and records in accordance with § 3400.2 of Chapter 34 of this title.
- 4001.14 A transition committee shall neither accept a contribution nor make an expenditure while the office of treasurer is vacant, and no other person has been designated and agreed to perform the functions of treasurer.
- 4001.15 Each expenditure made for, or on behalf of, a transition committee shall be authorized by either:

- (a) The chairperson;
- (b) The treasurer; or
- (c) Their designated agent, as listed on the Statement of Organization filed under § 4001.3.

4001.16 No expenditures may be made by a transition committee except by check drawn payable to the person to whom the expenditure is being made on the account at a bank designated by the transition committee as its depository in its Statement of Organization.

4001.17 A detailed account of each contribution or expenditure of fifty dollars (\$50) or more for or on behalf of a transition committee shall be submitted to the treasurer of such committee within five (5) days of the receipt of the contribution or the making of the expenditure upon the treasurer's demand.

4001.18 The detailed account submitted pursuant to § 4001.17 shall include:

- (a) The amount of the contribution or expenditure;
- (b) The name and address (including the occupation and principal place of business, if any) of the contributor or the person (including corporations) to whom the expenditure was made;
- (c) The date of the contribution; and
- (d) In the case of an expenditure, the office sought by the candidate on whose behalf the expenditure was made, if applicable.

4001.19 All funds of a transition committee shall be segregated from, and may not be commingled with, any campaign funds, or anyone's personal funds.

4002 FILING AND RECORDKEEPING REQUIREMENTS

4002.1 The treasurer of each transition committee must file Reports of Receipts and Expenditures (R&E Reports) on forms prescribed by the Director on the following dates:

- (a) The 10th day of March, June, August, October, and December in the 7 months preceding the date on which an election is held for the office sought, and on the 8th day next preceding the date on which said election is held, and also by the 31st day of January of each year thereafter. In addition, the reports shall be filed on the 31st day of July of each year in which there is no election.

- (b) The reports shall be complete as of the date prescribed by the Director, which shall not be more than 5 days before the date of filing, except that any contribution of \$200 or more received after the closing date prescribed by the Director for the last report required to be filed before the election shall be reported within 24 hours after its receipt.

4002.2 R&E reports required by this section must be filed in accordance with § 3017.

4002.3 R&E Reports must disclose:

- (a) The amount of cash on hand at the beginning of the reporting period;
- (b) The full name and mailing address, including occupation and principal place of business, if any, of each person who has made one or more contributions to or for the transition committee, including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, within the calendar year in an aggregate amount or value in excess of fifty dollars (\$50) or more, together with the amount and date of the contributions;
- (c) The total sum of individual contributions made to or for the transition committee during the reporting period;
- (d) Each loan to or from any person within the calendar year in an aggregate amount or value of fifty dollars (\$50) or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of the loans;
- (e) The net amount of proceeds from:
 - (1) The sale of tickets to each dinner, luncheon, rally, and other fundraising events organized by the transition committee;
 - (2) Collections made at events; and
 - (3) Sales by a transition committee of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;
- (f) Each contribution, rebate, refund, or other receipt of fifty dollars (\$50) or more not otherwise listed under paragraphs (b) through (e) of this subsection;
- (g) The total sum of all receipts by or for the transition committee during the reporting period;

- (h) The full name and mailing address, including the occupation and the principal place of business, if any, of each person to whom expenditures have been made by or on behalf of the transition committee within the calendar year in an aggregate amount or value of ten dollars (\$10) or more;
- (i) The amount, date, and purpose of each expenditure;
- (j) The total sum of expenditures made by the transition committee during the calendar year;
- (k) The amount and nature of debts and obligations owed by or to the committee, listed in such form as the Director of Campaign Finance may prescribe; and
- (l) Other information as may be required by the Director of Campaign Finance.

4002.4 R&E Reports must be complete within five (5) days before the prescribed filing deadline.

4003 PETTY CASH FUNDS

4003.1 A transition committee may maintain a Petty Cash Fund that shall not exceed three hundred dollars (\$300) at any time.

4003.2 All records and transactions shall be recorded in a petty cash journal maintained and authorized by either:

- (a) The chairperson;
- (b) The treasurer; or
- (c) Their designated agents, as listed on the Statement of Organization filed under § 4001.3.

4003.3 Petty cash funds shall be administered in the following manner:

- (a) Cash shall only be received by check drawn on the account of the transition committee;
- (b) Cash expenditures shall not exceed fifty dollars (\$50) to any person in connection with a single purchase or transaction; and
- (c) All transactions shall be recorded in the petty cash journal.

4003.4 For each deposit to the petty cash fund, the amount and date shall be recorded in the petty cash journal.

4003.5 For each disbursement, the petty cash journal shall include:

- (a) The name and address of each recipient;
- (b) The date of the disbursement;
- (c) The amount of the disbursement;
- (d) The purpose of the disbursement; and
- (e) The candidate’s name and the office sought, or the name of the transition committee for which the disbursement is made.

4003.6 All receipts, vouchers, petty cash journals, and other documentation shall be retained by the transition committee for a period of three (3) years from the date of the filing of the final R&E Report by the transition committee.

4004 TRANSITION COMMITTEE CONTRIBUTION LIMITATIONS

4004.1 Contributions in support of a transition committee shall be received or made in accordance with § 3009 of Chapter 30 of this title, except that:

- (a) No person shall make any contribution to a Mayoral transition committee, and the Mayor shall not receive any contribution from any person which, when aggregated with all other contributions received from such person, exceeds two thousand dollars (\$2,000) in an aggregate amount; and
- (b) No person shall make any contribution to a Council Chairman transition committee, and the Council Chairman shall not receive any contribution from any person which, when aggregated with all other contributions received from such person, exceeds one thousand dollars (\$1,000) in an aggregate amount.

4004.2 Notwithstanding § 4004.1, the transition committee contribution limitations shall not apply to contributions made by the Mayor or the Chairman of the Council for the purpose of funding their respective transition committees within the District of Columbia.

4005 LIMITATIONS ON THE USE OF TRANSITION COMMITTEE FUNDS

4005.1 Transition committee funds shall be used solely for the purpose of facilitating the office and personnel transition on behalf of either the Chairman of the Council or the Mayor.

4005.2 The provisions of § 3013 of Chapter 30 of this title, concerning impermissible uses of campaign funds, shall apply to transition committees, unless the expenditures stated therein are solely related to activities necessary to facilitate the office and personnel transition on behalf of the newly elected official.

4006 DURATION OF TRANSITION COMMITTEES

4006.1 A transition committee shall terminate no later than forty-five (45) days from the beginning of the term of the new Mayor or Council Chairman, except that the transition committee may continue to accept contributions necessary to retire the debts of the committee.

4006.2 When terminating, transition committees shall adhere to the applicable provisions of § 3016 of Chapter 30 of this title.

4007 USE OF SURPLUS FUNDS

4007.1 Any remaining funds of a transition committee shall be transferred only to either:

(a) A non-profit organization within the meaning of Section 501(c) of the Internal Revenue Code operating in good standing in the District of Columbia for a minimum of one (1) calendar year prior to the date of any transfer; or

(b) A Constituent Service Program.

4008 PENALTIES

4008.1 Penalties for any violation of this chapter shall be imposed pursuant to § 3711.2 of Chapter 37 of this title.

Chapter 41 of Title 3 of the DCMR is amended in its entirety to read as follows:

CHAPTER 41 CAMPAIGN FINANCE OPERATIONS: EXPLORATORY COMMITTEES

4100 EXPLORATORY COMMITTEES, GENERALLY

4101 DESIGNATION OF AN EXPLORATORY COMMITTEE AS A PRINCIPAL CAMPAIGN COMMITTEE

4102 ORGANIZATION OF EXPLORATORY COMMITTEES

4103 FILING AND RECORDKEEPING REQUIREMENTS

4104 PETTY CASH FUNDS

4105 EXPLORATORY COMMITTEE CONTRIBUTION LIMITATIONS

4106 LIMITATIONS ON THE USE OF EXPLORATORY COMMITTEE FUNDS

4107 DURATION OF EXPLORATORY COMMITTEES
4108 USE OF SURPLUS FUNDS
4109 PENALTIES

4100 EXPLORATORY COMMITTEES, GENERALLY

4100.1 An exploratory committee is a person, or group of persons, organized for the purpose of examining or exploring, with the consent of the prospective candidate, the feasibility of a qualified individual becoming a candidate for an elective office in the District of Columbia.

4100.2 An exploratory committee may include, but not be limited to, the following:

- (a) Draft Committees; and
- (b) “Testing the Waters” Committees.

4100.3 Each exploratory committee shall include in its name the name of the prospective candidate and the office sought.

4100.4 Exploratory committee activity to determine whether an individual should become a candidate may include, but not be limited to, the following:

- (a) Public opinion polling;
- (b) Travel;
- (c) Telephone calls;
- (d) Media expenses;
- (e) Office space; and
- (f) Administrative costs.

4101 DESIGNATION OF AN EXPLORATORY COMMITTEE AS A PRINCIPAL CAMPAIGN COMMITTEE

4101.1 In the event that an individual on whose behalf an exploratory committee was organized becomes a candidate, that exploratory committee may be designated as that candidate’s principal campaign committee, pursuant to § 3005 of Chapter 30 of this title.

4101.2 If an exploratory committee is designated as a principal campaign committee:

- (a) All funds previously raised and spent by the exploratory committee shall be reported as contributions and expenditures, pursuant to § 3008 of Chapter 30 of this title;
- (b) The exploratory committee shall account for all financial transactions including, but not limited to, contributions, expenditures, and loans, retroactive to the formation of the exploratory committee as defined in Chapter 99 of this title; and
- (c) The exploratory committee shall:
 - (1) Determine whether persons making contributions previously received by or on behalf of the candidate or by the principal campaign committee before designation may have exceeded the relevant limits, pursuant to § 3011 of Chapter 30 of this title; and
 - (2) Refund any contributions to donors who may have exceeded the contribution limitations by no later than 30 days after such determination is made.

4101.3 To ascertain individual donor compliance with the contribution limitations, contributions to an exploratory committee, or to a pre-designated principal campaign committee, shall be attributed in aggregate by donor name.

4102 ORGANIZATION OF EXPLORATORY COMMITTEES

4102.1 An exploratory committee shall be deemed "organized" when any person, or group of persons, formally agree, orally or in writing, and with the consent of the prospective candidate, to examine or explore the feasibility of becoming a candidate for an elective office in the District of Columbia.

4102.2 Each exploratory committee shall file a Statement of Organization form, prescribed by the Director of the Office of Campaign Finance (the Director) (OCF), within ten (10) days of organization.

4102.3 An exploratory committee shall amend its Statement of Organization within ten (10) days of any change in the information previously reported on its Statement of Organization.

4102.4 If an exploratory committee that has filed at least one (1) Statement of Organization disbands or determines that it will no longer receive contributions or make expenditures during a calendar year, it must so notify the Director immediately and file a final Report of Receipts & Expenditures (R&E Report).

- 4102.5 An exploratory committee shall have a chairperson and a treasurer, and may elect to list a designated agent, in the Statement of Organization filed pursuant to § 4102.2.
- 4102.6 No person may simultaneously serve as the chairperson and treasurer of an exploratory committee.
- 4102.7 A chairperson shall be required to file a Statement of Acceptance of Position of Chairperson form with the Director within five (5) days of assuming the office.
- 4102.8 A chairperson shall be required to file a Statement of Withdrawal of Position of Chairperson form with the Director within five (5) days of vacating the office.
- 4102.9 A treasurer shall be required to file a Statement of Acceptance of Position of Treasurer form with the Director within forty-eight (48) hours of assuming the office.
- 4102.10 A treasurer shall be required to file a Statement of Withdrawal of Position of Treasurer form with the Director within forty-eight (48) hours of vacating the office.
- 4102.11 When either the office of chairperson or treasurer is vacant, the exploratory committee shall:
- (a) Designate a successor chairperson or treasurer within five (5) days of the vacancy; and
 - (b) Amend its Statement of Organization within ten (10) days of the designation of the successor; provided, that the successor officer agrees to accept the position.
- 4102.12 The treasurer of an exploratory committee shall obtain and preserve receipted bills and records in accordance with § 3400.2 of Chapter 34 of this title.
- 4102.13 An exploratory committee shall neither accept a contribution nor make an expenditure while the office of treasurer is vacant, and no other person has been designated and agreed to perform the functions of treasurer.
- 4102.14 Each expenditure made for, or on behalf of, an exploratory committee shall be authorized by either:
- (a) The chairperson;
 - (b) The treasurer; or

- (c) Their designated agent, as listed on the Statement of Organization filed under § 4102.2.
- 4102.15 No expenditures may be made by an exploratory committee except by check drawn payable to the person to whom the expenditure is being made on the account at a bank designated by the exploratory committee as its depository in its Statement of Organization.
- 4102.16 A detailed account of each contribution or expenditure of fifty (\$50) or more for or on behalf of an exploratory committee shall be submitted to the treasurer of such committee within five (5) days of the receipt of the contribution or the making of the expenditure upon the treasurer's demand.
- 4102.17 The detailed account submitted pursuant to § 4102.16 shall include:
- (a) The amount of the contribution or expenditure;
 - (b) The name and address (including the occupation and principal place of business, if any) of the contributor or the person (including corporations) to whom the expenditure was made;
 - (c) The date of the contribution; and
 - (d) In the case of an expenditure, the office sought by the candidate on whose behalf the expenditure was made, if applicable.
- 4102.18 All funds of an exploratory committee shall be segregated from, and may not be commingled with, anyone's personal funds.

4103 FILING AND RECORDKEEPING REQUIREMENTS

- 4103.1 The treasurer of each exploratory committee must file Reports of Receipts and Expenditures (R&E Reports) on forms prescribed by the Director on the following dates:
- (a) The 10th day of March, June, August, October, and December in the 7 months preceding the date on which an election is held for the office sought, and on the 8th day next preceding the date on which said election is held, and also by the 31st day of January of each year thereafter. In addition, the reports shall be filed on the 31st day of July of each year in which there is no election.
 - (b) The reports shall be complete as of the date prescribed by the Director, which shall not be more than 5 days before the date of filing, except that any contribution of \$200 or more received after the closing date prescribed

by the Director for the last report required to be filed before the election shall be reported within 24 hours after its receipt.

4103.2 R&E reports required by this section must be filed in accordance with § 3017 of Chapter 30 of this title.

4103.3 R&E Reports must disclose:

- (a) The amount of cash on hand at the beginning of the reporting period;
- (b) The full name and mailing address, including occupation and principal place of business, if any, of each person who has made one or more contributions to or for the exploratory committee, including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, within the calendar year in an aggregate amount or value in excess of fifty dollars (\$50) or more, together with the amount and date of the contributions;
- (c) The total sum of individual contributions made to or for the exploratory committee during the reporting period;
- (d) Each loan to or from any person within the calendar year in an aggregate amount or value of fifty dollars (\$50) or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of the loans;
- (e) The net amount of proceeds from:
 - (1) The sale of tickets to each dinner, luncheon, rally, and other fundraising events organized by the exploratory committee;
 - (2) Collections made at events; and
 - (3) Sales by an exploratory committee of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;
- (f) Each contribution, rebate, refund, or other receipt of fifty dollars (\$50) or more not otherwise listed under paragraphs (b) through (e) of this subsection;
- (g) The total sum of all receipts by or for the exploratory committee during the reporting period;

- (h) The full name and mailing address, including the occupation and the principal place of business, if any, of each person to whom expenditures have been made by or on behalf of the exploratory committee within the calendar year in an aggregate amount or value of ten dollars (\$10) or more;
- (i) The amount, date, and purpose of each expenditure;
- (j) The total sum of expenditures made by the exploratory committee during the calendar year;
- (k) The amount and nature of debts and obligations owed by or to the exploratory committee, listed in such form as the Director of Campaign Finance may prescribe; and
- (l) Other information as may be required by the Director of Campaign Finance.

4103.4 R&E Reports must be complete within five (5) days before the prescribed filing deadline.

4104 PETTY CASH FUNDS

4104.1 An exploratory committee may maintain a Petty Cash Fund, which shall not exceed three hundred dollars (\$300) at any time.

4104.2 All records and transactions shall be recorded in a petty cash journal maintained and authorized by either:

- (a) The chairperson;
- (b) The treasurer; or
- (c) Their designated agents, as listed on the Statement of Organization filed under § 4102.2.

4104.3 Petty cash funds shall be administered in the following manner:

- (a) Cash shall only be received by check drawn on the account of the exploratory committee;
- (b) Cash expenditures shall not exceed fifty dollars (\$50) to any person in connection with a single purchase or transaction; and
- (c) All transactions shall be recorded in the petty cash journal.

- 4104.4 For each deposit to the petty cash fund, the amount and date shall be recorded in the petty cash journal.
- 4104.5 For each disbursement, the petty cash journal shall include:
- (a) The name and address of each recipient;
 - (b) The date of the disbursement;
 - (c) The amount of the disbursement;
 - (d) The purpose of the disbursement; and
 - (e) The candidate's name and the office sought, or the name of the exploratory committee for which the disbursement is made.
- 4104.6 All receipts, vouchers, petty cash journals, and other documentation shall be retained by the exploratory committee for a period of three (3) years from the date of the filing of the final R&E Report by the exploratory committee.

4105 EXPLORATORY COMMITTEE CONTRIBUTION LIMITATIONS

- 4105.1 Contributions in support of an exploratory committee shall be received or made in accordance with § 3009 of Chapter 30 of this title, except that individual and aggregate contributions shall be limited for the following exploratory committees to the amounts specified:
- (a) Mayor - \$2,000 individual, and \$200,000 aggregate;
 - (b) Chairman of the Council - \$1,500 individual, and \$150,000 aggregate;
 - (c) At-large member of the Council - \$1,000 individual, and \$100,000 aggregate;
 - (d) Ward Councilmember or President of the State Board of Education - \$500 individual, and \$50,000 aggregate; and
 - (e) Member of the State Board of Education - \$200 individual, and \$20,000 aggregate.

4106 LIMITATIONS ON THE USE OF EXPLORATORY COMMITTEE FUNDS

- 4106.1 Exploratory committee funds shall be used solely for the purpose of financing, directly or indirectly, an examination of the feasibility of becoming a candidate for an elective office in the District of Columbia.

4106.2 The provisions of § 3013 of Chapter 30 of this title, concerning impermissible uses of campaign funds, shall apply to exploratory committees unless the expenditures stated therein are solely related to exploratory activities.

4107 DURATION OF EXPLORATORY COMMITTEES

4107.1 The life of an exploratory committee for any office shall not exceed eighteen (18) months.

4107.2 When the duration of an exploratory committee reaches eighteen (18) months, one of the following acts shall occur:

- (a) The exploratory committee shall terminate; or
- (b) The named individual who is the prospective candidate of the exploratory committee shall become a candidate in accordance with § 3001 of Chapter 30 of this title.

4107.3 When the named individual of an exploratory committee becomes a candidate, the individual must:

- (a) File a Statement of Candidacy Form and declare their candidacy, pursuant to § 3002 of Chapter 30 of this title;
- (b) Form a principal campaign committee, pursuant to § 4101; and
- (c) Apply all contributions received during the life of the exploratory committee to the campaign contribution limitations for the specific candidate, pursuant to § 3011 of Chapter 30 of this title.

4107.4 When terminating, exploratory committees shall adhere to the applicable provisions of § 3016 of Chapter 30 of this title.

4108 USE OF SURPLUS FUNDS

4108.1 Any remaining funds of an exploratory committee shall be transferred only to either:

- (a) An established principal campaign or political committee; or
- (b) A charitable organization that meets the requirements of tax laws of the District of Columbia.

4108.2 All contributions and fund balances of any exploratory committee shall not be deemed the personal funds of any individual, including the prospective candidate of the exploratory committee.

4109 PENALTIES

4109.1 Penalties for any violation of this chapter shall be imposed pursuant to § 3711.2 of Chapter 37 of this title.

Chapter 99 of Title 3 of the DCMR is amended in its entirety to read as follows:

CHAPTER 99 DEFINITIONS

9900 DEFINITIONS

9900.1 The terms and phrases used in this title shall have the meanings set forth in the Election Act, the Ethics Act, and this section unless the text or context of the particular chapter, section, subsection, or paragraph provides otherwise.

Activity - acts or functions of an agency or its authorized agent and the methods of performing them.

Address - personal residence, principal place of business, campaign office, political committee office, and constituent-service program office.

Administrative action – the execution of policies relating to persons or things as previously authorized, or required by official action of the agency, adopted at an open meeting of the agency. The term does not include the deliberation of agency business or taking official action. Examples of administrative action include the review of an agenda, setting witness testimony time limitations, and other such procedural discussions.

Adversely affected – harm caused by an administrative action for which redress is necessary or required.

Affidavit – a written statement sworn to by the affiant before a notary or officer authorized to administer oaths, which attests to the truth of the stated written matter.

Aggrieved party – one who has been directly and detrimentally harmed by the outcome of an administrative decision or action.

Anything of value - related to the monetary worth of something.

Authorized committee – a principal campaign committee or any other political committee designated and authorized by a candidate, on the Statement of Candidacy Form, to support the candidate for election, receive contributions, or make expenditures on behalf of such candidate.

Authorized officer or agent - one who has the actual or apparent authority to bind the principal.

Ballot - a sheet of paper, or electronic card, filmstrip, or other device on which votes are recorded and stored. See also, “official ballot.”

Ballot card – see “ballot.”

Ballot measure – a specific category of ballot question, including initiatives, referenda, and recalls.

Ballot question – a direct vote in which the electorate is asked to either accept or reject a particular proposal, including ballot measures (initiatives, referenda, and recalls) and Charter Amendments.

Board - the District of Columbia Board of Elections, under Title III of the “Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011.”

Board Employee - as distinguished from a “polling place official,” an individual who is employed by the District of Columbia Board of Elections to perform personal services for the Board either as a permanent, temporary, intermittent, or trainee employee and includes employees on leave, leave without pay, or on furlough or leave of absence for educational purposes.

Board’s office – the Board’s principal place of business, and for purposes of registration only, any voter registration agency (VRA) or early voting center location that the Board shall designate.

Bundling – the combining of one or more contributions by different donors to make a single contribution to a candidate for public office or to support an initiative, referendum, or recall measure in the District of Columbia.

Business - any corporation, partnership, sole proprietorship, firm, nonprofit corporation, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock, trust, or any legal entity through which business is conducted, whether for profit or not.

Campaign Finance Act – the Campaign Finance Act of 2011 under Title III of the “Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011,” as amended.

Candidate – one who qualifies and seeks election for public office in the District of Columbia.

Candidate for election - an individual who has won a party primary; or who has survived the challenge period (D.C. Official Code §§ 1-1001.08(o) and 1-1101.01(2) (2011 Repl. & 2012 Supp.) after filing a petition to have his or her name printed directly on the general election ballot.

Candidate for nomination - an individual who is seeking to win a party primary; or an individual who is seeking ballot access in a general or special election by having registered voters sign a nominating petition to have the candidate's name printed directly on the ballot.

Chairman – the Chairman of the District of Columbia Board of Elections.

Close of business - 4:45 p.m. Monday through Friday, excluding District of Columbia legal holidays, unless otherwise indicated in this title.

Commingling - the improper mixing of personal and campaign or other funds donated for a specific or limited purpose.

Committee – an organized group consisting of a chairman and treasurer engaged for one of the following purposes:

- (a) to nominate, elect, or defeat a candidate for public office;
- (b) to solicit, accept, and expend funds to defray the costs of attorney fees, on behalf of a public officer;
- (c) to solicit, accept and expend funds for the transition of the Mayor or Chairman of the Council;
- (d) to explore or test the feasibility of an individual's viability as a candidate for public office in the District of Columbia;
- (e) to plan, raise, and expend funds for inaugural celebration for a new Mayor of the Council; or
- (f) to qualify an initiative, referendum, or recall measure for ballot access.

Complainant – one who alleges a violation of District of Columbia campaign finance law or regulation.

Constituent Service Fund – monetary resources authorized by law for use by the Mayor, Chairman and members of the DC Council to provide certain services to benefit the citizens of the District of Columbia.

Contest - the aggregate of candidates who run against each other among themselves for a particular nomination or number of nominations, or a particular office or number of offices. The write-in options for each of the positions to be filled by the election are also part of the contest.

Contribution – the meaning provided in D.C. Official Code § 1161.01(10)(A).

Council – the Council of the District of Columbia.

Days - calendar days, unless stated otherwise.

Director – the Director of Campaign Finance of the Board of Elections.

D.C. Official Code - the 2001 Edition of the Code, as amended.

Directly related - immediately or approximately connected to, allied to, or affiliated with.

Domestic partner – the same meaning as provided in D.C. Official Code § 32-701(3).

Duly registered voter - a registered voter who resides at the address listed on the Board's records.

Effective date (of registration) – the date from which a registered voter's information is valid.

Election – means a primary, general, or special election held in the District of Columbia to nominate an individual as candidate for election to office, to elect a candidate for office, or to decide an initiative, referendum, or recall measure, including a convention or caucus of a political party held to nominate such candidate.

Elected officials - the following local public officials:

- (a) The Delegate to the United States House of Representatives from the District of Columbia, as provided for in the District of Columbia Delegate Act of 1970, effective September 22, 1970, as amended (84 Stat. 848, Pub. L. 91-405; D.C. Official Code § 1-401, *et seq.* (2006 Repl.);
- (b) The Mayor of the District of Columbia, as provided for in D.C. Official Code §§ 1-204.21 and 1-204.22 (2006 Repl.);

- (c) The Chairperson and Members of the Council of the District of Columbia, as provided for in D.C. Official Code § 1-204.01 (2006 Repl.);
- (d) The Members of the State Board of Education, as provided for in D.C. Official Code § 38-2651 (2012 Supp.);
- (e) Electors of President and Vice President of the United States and the officials of political parties as provided for in D.C. Official Code § 1-1001.01 (2011 Repl.); and
- (f) Members of Advisory Neighborhood Commissions, as provided for in D.C. Official Code § 1-309.06 (2006 Repl. & 2012 Supp.) and § 1-1001.02(13) (2011 Repl. & 2012 Supp.).

Election Act - the District of Columbia Election Act, effective August 12, 1955, as amended (69 Stat. 699; D.C. Official Code § 1-1001.01, *et seq.* (2011 Repl.)), which governs the administration of all elections in the District of Columbia.

Election Day worker – see “polling place official.”

Election observer – an individual who has received proper credentials from the Board to witness the administration of elections, including members of nonpartisan or bipartisan, domestic or international organizations, who are not affiliated with a candidate or ballot measure.

Election official – any employees of the Board and polling place officials, excluding poll watchers and election observers.

Election year - the calendar year in which there is held an election, where a political committee is engaged in promoting or opposing a political party, nomination or election of an individual to office, or any initiative, referendum, or recall measure.

Electronic filing - as provided by the Office of Campaign Finance in chapters 30-40, the procedure by which filers may process required forms online through the world wide web at www.ocf.dc.gov.

Eligible candidate - an individual who is not ineligible to be a candidate pursuant to D.C. Official Code § 1-1001.15(b) (2006 Repl.) and who meets or is capable of meeting those statutory requirements necessary to serve in a particular office by the date of the election in which he or she seeks the office.

Employee - unless otherwise apparent from the context, a person who performs a function of the District of Columbia government and who receives compensation for the performance of such services, or a member of a District of Columbia government board or commission, whether or not for compensation.

Entrusted position - an elective and public office which is a public trust in which the citizenry reposes special confidence in the officeholder for the execution of duties or services which inure to the benefit of the citizenry.

Executive agency - includes:

- (a) A department, agency, or office in the executive branch of the District of Columbia government under the direct administrative control of the Mayor;
- (b) The State Board of Education or any of its constituent elements;
- (c) The University of the District of Columbia or any of its constituent elements;
- (d) The Board of Elections; and
- (e) Any District of Columbia professional licensing and examining board under the administrative control of the executive branch.

Expenditure – the meaning provided in D.C. Official Code § 1161.01(21)(A).

Exploratory Committee – any person, or group of persons, organized for the purpose of examining the feasibility of becoming a candidate for an elective office in the District of Columbia.

Fair market value - the fair and reasonable cash price for which the property can be sold in the market at the time of alleged violation, or at the time of filing of the financial statement.

Fictitious ballot – a ballot which shows the design and layout of a ballot in an upcoming election, and does not contain the names of nominees or candidates actually seeking office or ballot questions actually to appear on an official ballot.

File, filed, and filing – delivery in person, electronically or by mail to the OCF by 5:30 p.m. of the prescribed date.

FOIA- the District of Columbia Freedom of Information Act, which ensures disclosure of certain information relative to the conduct of the District of Columbia Government and its employees.

Gift - a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, unless consideration of equal or greater value is received.

Government photo identification – a card issued by the District of Columbia government that bears a photograph of the face of the voter and the voter’s current, District of Columbia residential address.

Household - a public official or employee and any member of his or her immediate family with whom the public official or employee resides.

Identification - in the case of an individual, the full name, including first name, middle name or initial, if available, last name of an individual, and full address of the principal place of residence; and in the case of partnership, committee, corporation, labor organization, and any other organization, full name and mailing address.

Immediate family - the spouse or domestic partner of a public official or employee and any parent, grandparent, brother, sister, or child of the public official or employee, and the spouse or domestic partner of any such parent, grandparent, brother, sister, or child.

Inaugural Committee – any person, or group of persons, organized for the purpose of soliciting, accepting, and spending funds and coordinating activities to celebrate the election of a new Mayor.

Incidental expenses - any unreimbursed payment from a volunteer’s personal funds for usual and normal local travel and subsistence expenses incident to volunteer activity.

Income - gross income as defined in Section 61 of the Internal Revenue Code (26 U.S.C. § 61).

Independent expenditures - an expenditure for communications by a person expressly advocating the election or defeat of a clearly identified candidate, which is made without cooperation or consultation with any candidate or any authorized committee or agent of the candidate.

In-kind contribution - a contribution of goods, services, or property by the contributor to a campaign finance committee, candidate, constituent-service program, or Statehood Fund.

Interpretative Opinion – a legal opinion issued by the Director of Campaign Finance concerning a proposed transaction relative to District of Columbia campaign finance law or regulation.

Legal Defense Committee – any person, or group of persons, organized for the purpose of soliciting, accepting, and spending funds to defray attorney and other related costs for a public official’s legal defense in civil, criminal, or administrative proceedings. Such funds shall not be used for fundraising, media or political consulting fees, mass mailing or advertising, payment or reimbursement for a fine, penalty, judgment, or settlement, or a payment to reimburse or to disgorge contributions from any other committee controlled by the public official.

Legal tender - currency and coins of the United States; ready money.

Legislative action - includes any activity conducted by an official in the legislative branch in the course of carrying out his or her duties as such an official, and relating to the introduction, passage, or defeat of any legislation in the Council.

Limited Liability Company (LLC) – is an unincorporated association established pursuant to District of Columbia Code (2001 Edition), Title 29, Chapter 8, with one or more members who have limited personal liability for the debts and actions of the LLC.

Logic and accuracy testing (“L&A testing”) – validation of the mathematical accuracy of vote recording and tabulation equipment for internal and external consistencies.

Made with cooperation or consultation with any candidate - any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be so made when it is as follows:

- (a) Based on information about the candidate’s plans, projects, or needs provided to the expending person by the candidate, or by candidate’s agent, with a view toward having an expenditure made; and
- (b) Made by or through any person who is, or has been, authorized to raise or expend funds; who is, or has been, an officer of an authorized committee; or who is, or has been receiving any form of compensation or reimbursement from the candidate, the candidate’s committee or agent.

Mass collections - the receipt of contributions by a committee, candidate, or individual, at dinners, luncheons, rallies, and other fundraising events organized by a committee, candidate, or individual.

Mass sales - to make available for purchase by a committee, candidate, or individual, at dinners, luncheons, rallies, and other fundraising events organized by such committee, candidate, or individual, items in bulk such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials.

Non-postmarked – not bearing the postal cancellation imprint on letters flats and parcels that shows the date, name, state, and ZIP Code of the post office or sectional center facility that accepted the mail.

Non-support year - any calendar year in which a political committee is not engaged in promoting or opposing a political party, the nomination or election of an individual to office, or any initiative, referendum, or recall measure.

Occupation - the principal job title or position, and type of business, or whether self-employed for the purposes of the Campaign Finance Act.

Office – the Office of Mayor, Attorney General, Chairman or member of the Council, President or member of the Board of Education, or an official of a political party in the District of Columbia.

Official ballot – a sheet of paper, or electronic card, filmstrip, or other device that has been approved by the Board for use during an election on which votes are recorded and stored. For direct-recording electronic (“DRE”) machines, the official ballot shall be the electronic card that records and stores the elector’s votes, except that the voter-verified paper audit trail (“VVPAT”) shall be the official ballot of record during all occurrences of manual tabulation, including audits and recounts.

Official in the executive branch - includes:

- (a) The Mayor;
- (b) Any officer or employee in the Executive Service;
- (c) Persons employed under the authority of D.C. Official Code §§ 1-609.01 through 1-609.03 (except § 1-609.03(a)(3)) paid at a rate of DS-13 or above in the General Schedule or equivalent compensation under the provisions of Subchapter XI of Chapter 6 of this title designated in § 1-609.08 (except paragraphs (9) and (10) of that section; or
- (d) Members of boards and commissions designated in § 1-523.01(e).

Official in the legislative branch - any candidate for Chairman or member of the Council in a primary, special, or general election, the Chairman or Chairman-elect or any member or member-elect of the Council, officers, and employees of the Council appointed under the authority of §§ 1-609.01 through 1-609.03 or designated in § 1-609.08.

Official of a political party – national committeemen and committeewomen and their alternates; delegates to conventions of political parties nominating candidates for the Presidency and Vice Presidency of the United States and their alternates, where permitted by party rules; such members and officials of local committees of political parties as designated by duly authorized local committees of such parties for election, by public ballot, at large or by ward in the District of Columbia.

Ordinary course of business - transacting business according to customary and reasonable business practices.

Overvote – instance in which a voter casts a vote for a greater number of candidates or positions than the number for which he or she was lawfully entitled to vote and no vote shall be counted with respect to that office or question.

Particular matter - a deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons.

Partnership – an association of two (2) or more persons acting as co-owners of a business for profit.

Party – a person or group of persons directly involved in, or having an interest at stake in the outcome of a transaction, which is the subject of a legal proceeding as a litigant.

Party affiliation status – for registration and registration update purposes, the elector’s choice of “Democratic Party,” “Republican Party,” “D.C. Statehood Green Party,” “Libertarian Party”, “no party (independent),” or any other minor party.

Person – an individual, partnership, committee, corporation, limited liability company, labor organization, or any other organization.

Political Committee – any proposer, individual, committee (including a principal campaign committee), club, organization, association, or other group of individuals organized for the purpose of, or engaged in promoting or opposing, the nomination or election of an individual to office, a political party, or any initiative, referendum, or recall measure.

Political Party – an association, committee, or other organized group of individuals who share a similar ideology concerning government policy, and which nominates a candidate for election to office in the District of Columbia.

Political Action Committee (PAC) – an organized group of individuals not authorized by a candidate to act on his or her behalf, but may operate independently of the candidate for purposes of supporting or opposing a clearly identified candidate for office, political party, or may be solely issues-oriented.

Poll watcher – a qualified elector who has received proper credentials from the Board to monitor voting or ballot counting activity on behalf of a qualified candidate, or proponent or opponent of a proposed initiative, referendum, recall measure, or Charter amendment.

Polling place official - an individual who is employed by the District of Columbia Board of Elections on those dates when elections and early voting are conducted in the District of Columbia or any subsequent dates upon which the counting or recounting of ballots occurs and includes, but is not limited to, precinct captains, precinct workers, counters, or area representatives.

Postmarked – bearing the postal cancellation imprint on letters flats and parcels that shows the date, name, state, and ZIP Code of the post office or sectional center facility that accepted the mail.

Principal Campaign Committee (PCC) – an organized group of individuals, whose name includes the name of a clearly identified candidate, which is authorized by a candidate to cause his or her nomination or election to office in the District of Columbia.

Principal place of business - full name under which the business is conducted and the addresses, city, and state in which the person is employed or conducts business.

Prohibited source - any person that:

- (a) Has or is seeking to obtain contractual or other business or financial relations with the District of Columbia government;
- (b) Conducts operations or activities that are subject to regulation by the District of Columbia government; or
- (c) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.

Public official - includes:

- (a) A candidate for nomination for election, or election, to public office;
- (b) The Mayor, Chairman, and each member of the Council of the District of Columbia holding office under Chapter 2 of this title;
- (c) The Attorney General;
- (d) A Representative or Senator elected pursuant to D.C. Official Code § 1-123;
- (e) An Advisory Neighborhood Commissioner;
- (f) A member of the State Board of Education;
- (g) A person serving as a subordinate agency head in a position designated as within the Executive Service;
- (h) A member of a board or commission listed in D.C. Official Code § 1-523.01(e); and
- (i) A District of Columbia Excepted Service employee paid at a rate of Excepted Service 9 or above, or its equivalent, who makes decisions or participates substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest; and any additional employees designated by rule by the Ethics Board who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or act in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest.

Qualified elector – a registered voter who resides at the address listed on the Board’s records.

Qualified registered elector – a registered voter who resides at the address listed on the Board’s records.

Registered qualified elector - a registered voter who resides at the address listed on the Board’s records.

Respondent – a party to a contested matter in an administrative proceeding.

Sample/specimen ballot – a representation of an original official ballot used for demonstration purposes only.

Statement of Candidacy - a written statement, filed with the Director, declaring one's intention of becoming a candidate for election, made "under penalty of perjury" and signed by the candidate.

Statement of Organization – a prescribed form that identifies the name of any group of individuals, proposer, individual, club, organization, or association organized for the purpose of promoting or opposing the nomination or election of an individual to office, or promoting or opposing a political party or any initiative, referendum or recall measure, made "under penalty of perjury" and signed by the Treasurer or a designated agent.

Submission – the voter's act of returning a voted ballot to the Board.

Surplus funds - residual or unexpended monies remaining in a candidate, constituent-service program, Statehood Fund, or political committee account in excess of the amount necessary to defray expenses.

Testimonial committee - any committee, association, or organization organized and operated exclusively for the purpose of publicly acknowledging an official's services, character, attainments, conduct, qualifications, or contributions while holding office. A testimonial committee is not a political committee.

Timely completed – the information given and signature made on or prior to the date required pursuant to the D.C. Official Code and the D.C. Code of Municipal Regulations, Title 3.

To cause to be undertaken - an actual writing, drawn up by an executive agency, intended to initiate a rulemaking proceeding. The phrase is not intended to include discussion among members of the agency or the public prior to their submission of the writing.

Transition Committee – any person or group of persons organized for the purpose of soliciting, accepting or expending funds for office and personnel transition on behalf of the Mayor or the Chairman of the Council.

Transmission – the Board's act of sending a ballot to the voter.

To propose legislation - an actual written proposal signed by the head of a proposing agency and submitted to the Mayor, Council, President of the

United States, or the United States Congress. It does not refer to discussion among members of the proposing agency before submission of the written request, nor does it refer to oral communications between the proposing agency and the Mayor, President, or members of the Council or the U. S. Congress.

Treasurer – an official of a political campaign or other committee, who is required to file a Statement of Acceptance of Treasurer with the Director of Campaign Finance, and authorized to receive contributions, to make expenditures and to file financial reports on behalf of a candidate or other committee.

Unauthorized committee – any organized political committee that has not been designated by a candidate for election.

Undervote – an instance in which a voter casts a vote for a lesser number of candidates or positions than the number for which he was lawfully entitled to vote.

Voter registration application – a Board-approved form that meets federal requirements pursuant to the National Voter Registration Act (“NVRA”) (42 U.S.C. § 1973gg, *et seq.*) and the Help America Vote Act (“HAVA”) (42 U.S.C. § 15301 – 15545) that a qualified elector uses to register to vote or to update voter registration information.

Voting system – any equipment or software used to tabulate ballots.

Write-in nominee - an individual whose name is written on or imprinted upon the ballot by a voter, in a primary, general, or special election and whose eligibility as a candidate in the election has not been determined by the Executive Director.

Write-in candidate (“qualified write-in candidate”) – as distinguished from a “write-in nominee,” an individual who is seeking nomination or election by the electorate and whose eligibility as a candidate in the election has been determined by the Executive Director.

All persons desiring to comment on the subject matter of this proposed rulemaking shall file written comments by no 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 the General Counsel, Board of Elections, 441 4th Street, N.W., Suite 270N, Washington, D.C. 20001. Please direct any questions or concerns to the Office of the General Counsel at 202-727-2194 or ogc@dcboee.org. Copies of the proposed rules may be obtained at cost from the above address, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m.

DISTRICT OF COLUMBIA PUBLIC LIBRARY**NOTICE OF PROPOSED RULEMAKING**

The District of Columbia Public Library Board of Trustees (Board), pursuant to the authority set forth in An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896, as amended (29 Stat. 244, ch. 315, § 5; D.C. Official Code § 39-105); Section 3205 (jjj) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 39-105); Section 2 of the District of Columbia Public Library Board of Trustees Appointment Amendment Act of 1985, effective September 5, 1985 (D.C. Law 6 – 17; D.C. Official Code § 39-105); and the Procurement Reform Amendment Act of 1996, effective April 12, 1997, as amended (D.C. Law 11-259; 44 DCR 1423); hereby gives notice of its intent to amend the following §§ 810.1 through 810.4 of Chapter 8 (Public Library) of Title 19 (Amusement, Parks, and Recreation) 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*.

Through D.C. Official Code § 39-105 (2012 Supp.), the Board designated the Chief Librarian to establish rules and manage the day-to-day operations of the library. The Library Rules Committee of the District of Columbia Public Library (DCPL) introduced the proposed amendments to 19 DCMR § 810 at a meeting held March 12, 2013. At a meeting held March 15, 2013, the Chief Librarian approved the proposed new amendments to the Behavior Guidelines Response Matrix.

The amended rules will uphold the DCPL policy to provide and maintain a safe and secure environment in which every customer can attain equitable access to information, expanded opportunities and an increased quality of life. The guidelines will act as rules of conduct for library customers, in order to deter and /or minimize the effect of unacceptable behavior, by defining such behavior so that individuals may conduct themselves in a manner consistent with the purpose and functions of DCPL.

Chapter 8, PUBLIC LIBRARY, of Title 19, AMUSEMENT, PARKS AND RECREATION, of the DCMR is amended as follows:

Section 810, Behavior Guidelines Response Matrix §§ 810.1 through 810.4 of Chapter 8, PUBLIC LIBRARY, of Title 19, AMUSEMENT, PARKS AND RECREATION, are amended to read as follows:

Add a new § 810 to Chapter 8, Title 19 of the DCMR as follows:

19-810 Behavior Rules Governing the Use of the District of Columbia Public Library

810.1 INTRODUCTION

The District of Columbia Public Library's behavior rules have a threefold purpose: to protect the rights and safety of library customers, to protect the rights and safety of staff members, and to preserve the library's materials, facilities, and property.

The DC Public Library supports the rights of all individuals to free and equal access to information and use of the library without discrimination, intimidation, threat of harm or invasion of privacy. The DC Public Library is dedicated to providing friendly, courteous and respectful service, and an enjoyable, clean, and comfortable environment for all Library users.

For everyone's safety and protection, the DC Public Library reserves the right to inspect an individual's belongings to include purses, backpacks, bags, parcels, shopping bags, briefcases, and other items to prevent unauthorized removal of library materials and equipment or for the health and safety of staff and other customers.

810.2 DEFINITIONS AND SCOPE

These behavior rules shall apply to all buildings, interior and exterior, and all grounds controlled and operated by the DC Public Library (such buildings and grounds are hereafter referred to as the "premises") and to all persons entering in or on the premises.

Listed below are the library's behavior rules. Persons who violate these rules may be removed from the premises and excluded from all library premises for the period of time listed below, by authority of the District of Columbia Public Library.

810.3 ENFORCEMENT

Authorized library staff, Library Police, security guards and/or the Metropolitan Police Department officers may intervene to stop prohibited activities and behaviors. Failure to comply with these rules may result in: 1) withdrawal of a person's permission to remain on Library premises; and/or 2) issuance of a Notice of Barring from Library property for a period of one day to five (5) years, as provided in policies and procedures issued by the Chief

Librarian. A violation of law may also result in arrest and prosecution. Violations of law and/or these rules may also result in the restriction and/or termination of Library privileges, including the use of Library computers and other equipment, and facilities. Authorized personnel may base a Notice of Barring on personal observation or investigation. Barred parties may have their photographs or video captured by DC Public Library staff to enforce the bar.

810.4 ADMINISTRATIVE REVIEW OF NOTICES OF BARRING

An individual who receives a Notice of Barring may request an administrative review of a barring that is greater than seven (7) days. This request must be made within ten (10) business days of the date on the barring notice. A request for review should be submitted in writing to:

Director of Public Safety
Martin Luther King Jr. Memorial Library
901 G. Street NW
Washington, D.C. 20001.

810.5 BEHAVIOR RULES

For the safety and comfort of the public and staff, and to create an environment conducive for library business the following activities are prohibited on library property and facilities:

(a) CATEGORY ONE INFRACTIONS:

Any person(s) who violates rules 1-5 while in or on library premises will be immediately removed and excluded from all DC Public Library premises. Any person so excluded shall lose all library privileges from one (1) to five (5) years and the incident will be reported to the appropriate law enforcement agency.

1. Committing or attempting to commit any activity that would constitute a violation of any Federal or District criminal statute or ordinance.

2. Directing a specific threat of physical harm against an individual, group of individuals or property.
3. Engaging in sexual conduct/activity, including, but not limited to, the physical manipulation or touching of a person's sex organs through a person's clothing in an act of apparent sexual stimulation or gratification.
4. Being under the influence of any controlled substance or intoxicating liquor or beverage.
5. Possessing, selling, distributing, or consuming any alcoholic beverage, except as allowed at a library approved event.

(b) CATEGORY TWO INFRACTIONS:

Any person(s) who violates rules 6-13 while in or on library premises may first be given a warning at the discretion of library staff. Subsequent offenses by that person will result in that person's immediate removal and exclusion from all DC Public Library premises. Any person so excluded shall lose all library privileges from six (6) months to one (1) year. Repeated violations of category two infractions may lead to category one barring periods (1 year to 5 years).

6. Engaging in conduct that disrupts or interferes with the normal operation of the library, or disturbs library staff or customers, including but not limited to, conduct that involves the use of abusive or threatening language or gestures, conduct that creates unreasonable noise, or conduct that consists of loud or boisterous physical behavior or talking.
7. Engaging in conduct that can be considered bullying as defined by the Youth Bullying Prevention Act of 2012, effective September 14, 2012 (D.C. Law 19-167; 59 DCR 7820).
8. Using library material, equipment, furniture, fixtures, or buildings in a manner inconsistent with the customary use thereof; or in a destructive, abusive or potentially damaging manner; or in a manner likely to cause personal injury to themselves or others.

9. Failure to comply with the reasonable direction of a library staff member.
10. Soliciting, petitioning, or distributing written materials or canvassing for political, charitable or religious purposes inside a library building, including the entrances or grounds or in a manner on the library premises that unreasonably interferes with or impedes access to the library.
11. Smoking or other use of tobacco in the library or within 25 feet of any library building (including electronic-cigarettes).
12. Violating the library's rules for *Acceptable Use of the Internet and Library Public Computers*.
13. Entering or attempting to enter a Library building while barred (*i.e.*, trespassing). Any customer who trespasses is prohibited from use of all DC Public Library facilities and services. Customers or persons returning to a DC Public Library facility during a period of barring may be arrested and prosecuted for unlawful entry pursuant to DC Official Code § 22-3302 (2001 ed. & 2012 Supp.).

(c) CATEGORY THREE INFRACTIONS:

Any person(s) who violates rules 14-30 while in or on library premises may be given a warning at the discretion of library staff. Offenses by that person will result in that person's immediate removal and exclusion from all DC Public Library premises. Any person so excluded shall lose all library privileges for seven (7) days. Repeated violations of category three infractions may lead to category two barring periods (6 months to 1 year).

14. Interfering with the free passage of library staff or customers in or on library premises, including, but not limited to, placing objects such as bicycles, skateboards, backpacks or other items in a manner that interferes with free passage.
15. Placing personal belongings on or against buildings, furniture, equipment or fixtures in a manner that interferes with library staff

or customer use of the library facility, or leaving personal belongings unattended.

16. Bringing bicycles or other similar devices inside library buildings, including, but not limited to, vestibules or covered doorways if no bicycle rack is provided within that area.
17. Operating roller skates, skateboards or other similar devices in or on library premises.
18. Parking vehicles on library premises for purposes other than library use. Vehicles parked in violation of this rule may be towed at the owner's expense.
19. Consuming food or drink that creates a nuisance or disrupts library use because of odor, garbage or spills. Non-alcoholic beverages in covered containers and food are only allowed in designated areas.
20. Bringing animals inside library buildings (with the exception of service animals), except as allowed at a library-approved event, or leaving an animal tethered and unattended on library premises.
21. Taking library materials into restrooms if the materials have not been checked out.
22. Bringing in items excluding personal items (purse, laptop, and briefcase) that occupy floor space in excess of 9" L x 14" W x 22" H. Items are measured in totality and must fit easily into a measuring box of the above dimensions. Bedrolls, blankets (except for use by babies and infants), and frame backpacks are prohibited. Bringing large duffel bags and plastic bags measuring over 12' x 36' and bringing infested personal items into the library.
23. Lying down or sleeping, to include the appearance of sleeping in the restrooms or on any floor, couch, table, or seat in the Library and on the premises, and by blocking aisles, exits, or entrances by sitting or lying down in them.
24. Improperly using library restrooms, including, but not limited to, bathing, shaving, washing hair and changing clothes.

25. Using personal electronic equipment at a volume that disturbs others, including, but not limited to, pagers, stereos, televisions, cellular telephones, computers and tablets.
26. Leaving one or more children eight (8) years old or under, who reasonably appear to be unsupervised or unattended, anywhere in or on library premises. [Please see Unattended Children Policy]
27. Adults and teens are prohibited from using the children's area, unless accompanying a child twelve (12) years old or younger.
28. Adults and children are prohibited from using the teen area unless accompanying a teen age thirteen (13) – nineteen (19).
29. Adults and teens are prohibited from using any restroom designated for children. Children's restrooms are for the sole use of children twelve (12) years old or younger, and their caregivers.
30. Children and teens eighteen (18) and younger who are not accompanied by an adult during regular school hours are considered truant. Students must provide written proof from school authorities excusing the students from school in order to enter the library or be on library premises on school days between 9 a.m. – 2:30 p.m.

(d) CATEGORY FOUR INFRACTIONS

Any person(s) who violates rules 31 and 32 while in or on library premises will be excluded from the premises until the problem is corrected.

Repeated violations of category four infractions may lead to category three barring periods (6 months to 1 year).

31. Entering library buildings with bare feet or a bare chest.
32. Any person creating or emanating an odor that can be detected by a reasonable person, from six (6) feet away and/or constitutes a

public nuisance for other customers, will be asked to leave the library until the situation can be corrected.

810.6 Library customers who wish to request a reasonable modification of these Guidelines because of a disability or health problem may contact Library staff or may call the ADA Coordinator at 202-727-1101.

Any person desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be submitted to Grace Perry-Gaiter, DCPL, General Counsel, Martin Luther King Jr. Memorial Library, 901 G Street, N.W., 4th Floor, Washington, D.C. 20001. Telephone: (202) 727-1134. Copies of the proposed rulemaking may be obtained by writing to the address stated above.

OFFICE OF TAX AND REVENUE**NOTICE OF PROPOSED RULEMAKING**

The Office of Tax and Revenue (OTR), pursuant to the authority set forth in Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; P.L. 109-356, D.C. Official Code § 1-204.24d(10) (2012 Supp.)) of the Home Rule Act, and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to amend Chapter 1, Income and Franchise Taxes, of Title 9, Taxation and Assessments, of the District of Columbia Municipal Regulations (DCMR), by amending subsection 176.1 and by adding new subsection 176.2.

Legislation on combined reporting became effective on September 14, 2011 in the 2012 Budget Support Act of 2011 (L19-0021), which requires combined reporting in the District of Columbia. The combined reporting provisions were incorporated into the Income and Franchise Taxes statutes, Chapter 18 of Title 47 of the District of Columbia Official Code. Through the following regulation, OTR will automatically grant a 7-month extension to file for all combined group members upon request.

OTR also gives notice of its intent to take final rulemaking action to adopt this regulation in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The regulations on Income and Franchise Taxes contained in Chapter 1 (Income and Franchise Taxes) of Title 9 (Taxation and Assessments) of the DCMR are amended as follows:

Subsection 176.1 is amended as follows:

176.1 *Extension for combined reporting filers.* Effective for tax years beginning after December 31, 2010, a calendar or fiscal year taxpayer that is a member of a combined group and that must report income derived from the activities of that group in a combined report, shall receive an automatic 7-month extension. This extension applies to all final zero returns.

New subsection 176.2 is added as follows:

176.2 The request for an extension of time to file must be made on or before the due date of the return and shall not extend the date for payment of the tax due.

Prior Subsection 176.2 (Closing out separate entities), is amended and renumbered as 176.3, as follows:

176.3 *Closing out separate entities.* If an entity filed a District return on a separate reporting basis or on a District consolidated basis for the tax year beginning prior to January 1, 2011, and that entity will now be filing on a combined reporting basis for the tax year beginning after December 31, 2010, that entity (or entities),

except for the designated agent, shall file a separate final zero return along with the combined report.

Comments on this proposed rulemaking should be submitted in writing to Aaishah Hashmi, Corporate Tax Counsel, District of Columbia Office of Tax and Revenue, 1101 4th Street, SW, 7th Floor, Washington, DC 20024, or via email at aaishah.hashmi@dc.gov, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of this rule and related information may be obtained by writing to the person at the address stated above.

DISTRICT DEPARTMENT OF TRANSPORTATION**NOTICE OF PROPOSED RULEMAKING**

The Director of the District Department of Transportation (DDOT), pursuant to the authority in Sections 3(b), 5(2)(K) (developing safe bicycle policies), 5(3)(D) (allocating and regulating on street parking and curb regulations), and 6(b) and (c) (transferring functions delegated to DPW) of the Department of Transportation Establishment Act of 2002 (“DDOT Establishment Act”), effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02(b), 50-921.04(2)(K), (3)(D), and 50-921.05(b) and (c) (2009 Repl.), and Sections 6(a)(1), (a)(2)(B), 6(a)(6) and 6(b), of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03(a)(1), (a)(2)(B), (a)(6), and (b) (2009 Repl.)), and Mayor’s Order 2013-63, dated April 2, 2013, hereby gives notice of the intent to adopt rules that amend Chapters 12 (Bicycles, Motorized Bicycles, and Miscellaneous Vehicles), and 99 (Definitions) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days after publication of this notice in the *D.C. Register*.

The proposed regulations will clarify that a pedicab shall not be motorized, clarify where the tail lights must be mounted, change the requirement for the display of reflective tape to only on the side of the pedicab, add a new requirement for the display of a slow-moving vehicle emblem on the rear of the pedicab, clarify that all passengers must fit within the confines of the pedicab passenger area when the pedicab is in motion, remove the requirement for all passengers to be seated while a pedicab is in motion because it is no longer needed, add trees to the list of prohibited attachment points, combine the lighting requirements for a pedicab, restrict pedicab operation to the rightmost travel lane of a roadway, and list the exceptions when a pedicab may be operated other than in the right most travel lane.

Additionally, this rulemaking will add a new Section 1217, which will prohibit the operation of multi-seat pedal cycles on public roadway in the District of Columbia. The rationale behind the prohibition of multi-seat pedal cycles is that the vehicle use is primarily for group entertainment, rather than for transportation on the District’s roadways. Also, due to their large size, typically six feet wide or more without passengers, and their slow speed of no more than five miles per hour, the operation of multi-seat pedal cycles presents an undue traffic operation hazard on the District’s roadways. The rulemaking also defines a public bike path.

Title 18, VEHICLES AND TRAFFIC, of the DCMR is amended as follows:

Chapter 12, BICYCLES, MOTORIZED BICYCLES, AND MISCELLANEOUS VEHICLES, is amended as follows.

Section 1213, PEDICABS, is amended to read as follows:

1213 PEDICABS

- 1213.1 Pedicabs shall be propelled solely by human power and shall be operated in accordance with the safe operation of bicycle regulations set forth in § 1201.
- 1213.2 Notwithstanding § 1213.1, pedicabs shall be operated only on public streets.
- 1213.3 Each pedicab shall meet the following safety requirements:
- (a) The maximum width of the pedicab shall be fifty-five inches (55 in.);
 - (b) The maximum length of the pedicab shall be ten feet (10 ft.);
 - (c) The pedicab shall be equipped with:
 - (1) Passenger seat belts (either one (1) seat belt for each passenger or one (1) seat belt that covers all passengers);
 - (2) Hydraulic or mechanical disc or drum brakes, which shall be unaffected by rain or wet conditions;
 - (3) At least one (1) and no more than two (2) battery-operated head lamps capable of projecting a beam of white light for a distance of three hundred feet (300 ft.) in front of the pedicab, under normal atmospheric conditions at the times that use of the head lamp is required;
 - (4) Battery-operated tail lamps mounted on the upper right and left areas of the rear of the pedicab, which, when operated, shall emit a red beam of light visible from a distance of five hundred feet (500 ft.) to the rear, under normal atmospheric conditions at the times that use of the head lamp is required;
 - (5) Turning lights;
 - (6) A bell or other device capable of giving a signal audible for a distance of at least one hundred feet (100 ft.); and
 - (7) Reflectors on the spokes of the wheels of the pedicab.
 - (d) Reflective tape shall be affixed on the pedicab in accordance with the following requirements:
 - (1) The tape shall be at least two inches (2 in.) wide;
 - (2) The tape shall be at least twelve inches (12 in.) long; and

- (3) There shall be at least one (1) piece of tape on each side of the pedicab.
- (e) A triangular shaped slow-moving vehicle (SMV) emblem conforming to the American National Standards Institute standard S276.7, shall be permanently affixed to the rear of the pedicab as follows:
 - (1) With one (1) point up;
 - (2) As close to the horizontal center of the pedicab as possible; and
 - (3) No less than two feet (2 ft.) and no more than six feet (6 ft.) above the roadway surface as measured from the lower edge of the emblem.

1213.4.1 Each pedicab shall be operated in accordance with the following provisions:

- (a) All passengers shall be seated within the confines of the pedicab passenger seating area while the pedicab is in motion;
- (b) All passengers shall have a seatbelt securely fastened while the pedicab is in motion. There shall be affixed to the pedicab a sign stating that all passengers shall have a seatbelt securely fastened while the pedicab is in motion, and the sign shall be clearly visible to passengers ;
- (c) A pedicab shall not be operated on a roadway with a posted speed limit of more than thirty miles per hour (30 m.p.h.);
- (d) A pedicab may not be operated or parked on a sidewalk;
- (e) Pedicab passengers shall be loaded and off-loaded while the pedicab is stopped;
- (f) No pedicab operator shall stop to load or unload passengers on the traffic-facing side of the pedicab, while occupying any intersection or crosswalk, or in such a manner as to unduly interfere with the orderly flow of traffic. All pedicab operators shall pull as close to the curb or edge of the roadway as possible to take on or discharge passengers;
- (g) A pedicab shall not be parked in a restricted zone identified for other vehicles, including, but not limited to, parking meter zones, residential permit parking zones, valet parking zones, bus zones, taxicab zones;
- (h) A pedicab shall not be tied, cabled, or otherwise attached to a parking meter, street light pole, tree, or other public space asset;

- (i) At any time from one half (1/2) hour after sunset to one-half (1/2) hour before sunrise, and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of five hundred feet (500 ft.) ahead, a pedicab shall be operated as follows:
 - (1) With a headlamp of sufficient intensity to reveal a person or a vehicle from a distance of three hundred feet (300 ft.); and
 - (2) With tail lamps capable of being seen from a distance of five hundred feet (500 ft.);
- (j) When operating a pedicab upon a roadway at less than the normal speed of traffic, a person shall travel in the right-most travel lane.
- (k) Notwithstanding paragraph (j) of this subsection, a pedicab may be operated in a travel lane other than the rightmost travel lane when:
 - (1) Operating in a lane designated for bicycles;
 - (2) Preparing to access a lane designated for bicycles;
 - (3) Preparing for a turn;
 - (4) Encountering road hazards or parked vehicles;
 - (5) Necessary to comply with lane use restrictions;
 - (6) Necessary for passenger safety; or
 - (7) Directed to do so by a police officer or other law enforcement or public safety official or by a traffic control officer.

1213.5 No one shall operate or be in control of a pedicab while the person's alcohol concentration is eight hundredths of a gram (0.08 g) or more either per one hundred milliliters (100 ml) of blood or per two hundred and ten liters (210 L) of breath or one tenth of a gram (0.10 g) or more per one hundred milliliters (100 ml) of urine, or while under the influence of intoxicating liquor or any drug or any combination thereof, or while the ability to operate a vehicle is impaired by the consumption of intoxicating liquor.

A new Section 1217 is added to read as follows:

1217 MULTI-SEAT PEDAL CYCLES

1217.1 No person shall operate, park, or stand any multi-seat pedal cycle, or cause any multi-seat pedal cycle to operate, park, or stand on any public bicycle path, public highway, or other public right-of-way within the District of Columbia.

Chapter 99, GENERAL PROVISIONS, is amended as follows:

Section 9901, DEFINITIONS, is amended as follows

The definition for Pedicab is amended to read as follows:

Pedicab – a bicycle with a single frame that connects two (2) rear wheels and one (1) front wheel or one (1) rear wheel and two (2) front wheels that is designed to be propelled by no more than one (1) person, that transports, or is capable of transporting, passengers on seats attached to the bicycle, and that is used for transporting passengers for hire.

New definitions for multi-seat pedal cycle and public bicycle path are added in alphabetical order to read as follows:

Multi-seat pedal cycle - a bicycle with three or more wheels that is designed and constructed to permit seating by more than two people, that is propelled by human power, and that is designed to permit propulsion by more than two individuals simultaneously. A multi-seat pedal cycle includes, but is not limited to conference bicycles, sightseeing pedal buses, or pedal taverns. A multi-seat pedal cycle shall not include a tandem bicycle.

Public bicycle path - means a right-of-way under the jurisdiction and control of the District of Columbia for use primarily by bicycles and pedestrians.

All persons interested in commenting on the subject matter in this proposed rulemaking may file comments in writing, not later than thirty (30) days after the publication of this notice in the *D.C. Register*, with Samuel D. Zimbabwe, Associate Director, District Department of Transportation, 55 M Street, S.E., 5th Floor, Washington, D.C. 20003. An interested person may also send comments electronically to publicspace.policy@dc.gov. Copies of this proposed rulemaking are available, at cost, by writing to the above address, and are also available electronically, at no cost, on the District Department of Transportation's website at www.ddot.dc.gov.

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(3),(13) (2012 Supp.)), hereby gives notice of its intent to amend Chapter 1 (Board of Trustees) of Subtitle B (University of the District of Columbia), 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 reconfigure the Standing Committees of the Board of Trustees. The Board of Trustees also gives notice it 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 1, BOARD OF TRUSTEES, of Subtitle B, UNIVERSITY OF THE DISTRICT OF COLUMBIA, of Title 8, HIGHER EDUCATION, is amended as follows:

Section 110, COMMITTEES OF THE BOARD OF TRUSTEES, is amended as follows:

Subsection 110.1(a) is amended to read:

110.1 The Chairperson of the Board shall annually propose a structure of standing committees to be chaired by voting Board members in addition to the Executive Committee; the Audit Committee; the Budget and Finance Committee; the Academic Affairs Committee, the Student Affairs Committee; and Committee of the Whole for adoption by resolution of a majority of the Board. The membership and jurisdiction of each committee shall be as follows:

- (a) The Executive Committee shall be comprised of the Officers of the Board and Chairpersons of all Board Committees. The Executive Committee shall have all of the power of the Board between meetings, but the Board may limit such power by Resolution. Interim actions taken by the Executive Committee must be submitted for ratification by the Board at its next regularly scheduled meeting. If a majority fails to confirm the validity of an Executive Committee action, that action shall be deemed void *ab initio*. Appropriate notice of Executive Committee actions must be given to all members of the Board and to the public within five (5) business days.

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 smills@udc.edu. Individuals wishing to comment by email must include the phrase "Comment to Proposed Rulemaking: Tuition and Fees" in the subject line. Copies of the proposed rules may be obtained from the Office of General Counsel at the address set forth above.

DEPARTMENT OF MOTOR VEHICLES**NOTICE OF EMERGENCY RULEMAKING**

The Director of the Department of Motor Vehicles (Director), pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905 (2009 Repl.)), Section 801 of the Motor Vehicle and Safe Driving Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-289; D.C. Official Code § 50-921 (2009 Repl.)), and Sections 6 and 7 of the District of Columbia Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03 and 50-1401.01 (2009 Repl.)), hereby gives notice of the adoption, on an emergency basis, of the following rulemaking that amends Chapter 1 (Issuance of Driver's Licenses) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR). The emergency rule extends the time period for waiver of the written or road test after a non-commercial driver's license has expired and repeals the provision pertaining to an applicant who has points on his or her record.

Pursuant to Section 801 of the Motor Vehicle and Safe Driving Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-289; D.C. Official Code § 50-921 (2009 Repl.)), a Notice of Proposed Rulemaking was transmitted to the D.C. Council on May 28, 2013 and was published in the *D.C. Register* on June 7, 2013 at 60 DCR 8676. Because the D.C. Council is scheduled to be on recess from July 15, 2013, through September 15, 2013, however, the proposed rules may not become final for several months.

This emergency rulemaking is necessitated by the immediate need to promote the public welfare by reducing the possible threat of individuals driving without valid driver's licenses because of delays in obtaining an appointment for a road test.

This emergency rulemaking was adopted on June 6, 2013 and became effective immediately. This emergency rule will remain in effect until October 3, 2013, one hundred twenty (120) days from the date it became effective, unless earlier superseded by a notice of final rulemaking.

Title 18, VEHICLES AND TRAFFIC, of the DCMR is amended as follows:**Chapter 1, ISSUANCE OF DRIVER'S LICENSES, is amended as follows:****Section 104, EXAMINATION OF APPLICANTS FOR DRIVER'S LICENSES, is amended as follows:****Subsection 104.9 is amended to read as follows:**

104.9 Except as provided in Section 111, the Director or his or her designee may waive the requirement that an applicant take a written test or road test in the following circumstances:

- (a) The written test may be waived if the applicant presents a District driver's license that has expired for three hundred sixty five (365) days or less or at any time successfully completes an online course as designated by the Department; and
- (b) The road test, including the motorcycle road test in the case of a motorcycle endorsement holder, may be waived if the applicant presents a driver's license issued by the District that has expired for five hundred and forty-five (545) days or less.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Chancellor of the District of Columbia Public Schools (DCPS), pursuant to Section 103 of the District of Columbia Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172(c) (2012 Supp.)), and Mayor's Order 2007-186 (August 10, 2007), hereby gives notice of the adoption of the following emergency rulemaking. This emergency rulemaking will amend Section 2106 (Out-of-Boundary Transfers) of Chapter 21 (Attendance and Transfers) of Subtitle E of Title 5 (Education) of the District of Columbia Municipal Regulations (DCMR), to amend the language regarding the start and end dates of the out-of-boundary lottery application process. The amendment is necessary so that the lottery application process may begin and end on a business day.

Emergency rulemakings must be necessary for the immediate preservation of the public peace, health, safety, welfare, or morals, pursuant to 1 DCMR § 311.4(e) The out-of-boundary lottery is utilized by a large number of DCPS parents each year to secure desired spots for their children in a school of their choice. Allowing the amendment to be made as emergency rulemaking will ensure that the amendment is effective prior to the start of the next school year, when DCPS will begin publicizing plans for the next out-of-boundary lottery. Having the lottery begin and end on a business day will allow DCPS to better serve the needs of parents throughout the entire process.

The emergency rules were adopted on May 23, 2013 and took effect at that time. The rules will remain in effect for up to one hundred twenty (120) days, expiring on September 20, 2013, unless earlier superseded by a notice of final rulemaking.

The proposed rulemaking will be submitted to the Council for a forty-five (45) day period of review. The Chancellor also hereby gives notice of the intent to adopt this rulemaking, in final, in not less than thirty (30) days from the publication of this notice in the *D.C. Register*, or upon approval of the rulemaking by the Council, whichever occurs later.

Chapter 21 (Attendance and Transfers) of Subtitle E of Title 5 (Education) of the DCMR is amended as follows:

Section 2106 (Out-of-Boundary Transfers), Subsection 2106.4 is amended to read as follows:

2106.4 Applications for out-of-boundary transfers for the following school year shall be submitted through the DCPS's formal application, not earlier than the last Monday in January nor later than the last Monday in February, stating the reasons for the request. The Chancellor or his/her designee shall send a response to any such request no later than March 31st.

Comments on this rulemaking should be submitted, in writing, to Kaya Henderson, Chancellor, DCPS, at 1200 First Street, N.E., 12th Floor, Washington, D.C., 20002, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Additional copies of this rule are available from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-103
June 12, 2013

SUBJECT: Delegation of Authority to the Deputy Mayor for Planning and Economic Development to Solicit Offers, Accept Unsolicited Offers, and Execute Certain Documents with Respect to Real Property Located at 1421 Euclid Street, NW

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §§ 1-204.22(6) and (11) (2012 Supp.); section 1 of An Act authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939, 53 Stat. 1211, D.C. Official Code § 10-801 *et seq.* (2008 Repl. and 2012 Supp.); and section 1(c) of An Act to grant additional powers to the Commissioners of the District of Columbia, and for other purposes, approved December 20, 1944, as amended, 58 Stat. 819, D.C. Official Code § 1-301.01(c) (2006 Repl. and 2012 Supp.), it is hereby **ORDERED** that:

1. The Deputy Mayor for Planning and Economic Development is delegated the authority to solicit offers, accept unsolicited offers, and execute on behalf of the District of Columbia any and all documents related to the disposition, development or use of the real property located at 1421 Euclid Street, NW, known for tax and assessment purposes as Lot 0811 in Square 2665 ("Property"), and to take all actions necessary or useful for or incidental to the solicitation and disposition or lease of the Property, including, but not limited to, easements, license agreements, use agreements, lease agreements, covenants, and/or other associated documents.
2. The authority delegated herein to the Deputy Mayor may be further delegated to subordinates under the jurisdiction of the Deputy Mayor.
3. This Order supersedes all previous Mayor's Orders to the extent of any inconsistency therein.

4. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to January 1, 2010.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-104
June 12, 2013

SUBJECT: Delegation of Authority to the Deputy Mayor for Planning and Economic Development – Real Property Management of Temporary Pavilion on St. Elizabeths East Campus

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §§ 1-204.22(6) and (11) (2012 Supp.); section 1(c) of An Act to grant additional powers to the Commissioners of the District of Columbia, and for other purposes, approved December 20, 1944, 58 Stat. 819, D.C. Official Code § 1-301.01(c) (2012 Supp.); and pursuant to section 1025(b) of the Department of General Services Establishment Act of 2011 (“Act”), effective September 14, 2011, D.C. Law 19-21, D.C. Official Code § 10-551.04(b) (2012 Supp.), it is hereby **ORDERED** that:

1. The Deputy Mayor for Planning and Economic Development (“Deputy Mayor”) is delegated the Mayor’s authority with respect to real property management functions under D.C. Official Code §10-551.04(b) for the temporary pavilion and its associated areas and structures to be constructed and operated on the MLK Forecourt within the St. Elizabeths East Campus, as described on the St. Elizabeths East Master Plan and Design Guidelines dated June 4, 2012.
2. This Order is a delegation for the above named property only and shall not apply to other properties or functions under the Act.
3. The authority delegated herein to the Deputy Mayor may be further delegated to subordinates under the jurisdiction of the Deputy Mayor.
4. This Order supersedes all previous Mayor’s Orders to the extent of any inconsistency therein.

5. **EFFECTIVE DATE:** This Order shall become effective immediately.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, JUNE 19, 2013
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On June 19, 2013 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”

1. Case#13-AUD-00043 Grand Central, 2447 18TH ST NW Retailer C Restaurant, License#: ABRA-076693

2. Case#13-251-00028 Current Sushi, 1215 CONNECTICUT AVE NW Retailer C Tavern, License#: ABRA-077883

3. Case#13-AUD-00045 Ventnor Sports Cafe, 2411 18TH ST NW Retailer C Restaurant, License#: ABRA-072529

4. Case#11-CC-00093 Randall Grocery, 2924 MINNESOTA AVE SE Retailer B Retail - Grocery, License#: ABRA-019046

5. Case#13-AUD-00042 Sabor Latino Bar & Grill, 3910 14TH ST NW Retailer C Restaurant, License#: ABRA-084113

6. Case#13-AUD-00044 Sunshine Bar & Lounge, 7331 Georgia AVE NW Retailer C Restaurant, License#: ABRA-085239

7. Case#13-CC-00013 WAGNER'S LIQUORS, 1717 WISCONSIN AVE NW Retailer A Retail - Liquor Store, License#: ABRA-089176

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
AGENDA

WEDNESDAY, JUNE 19, 2013 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Requests dated June 5, 2013 and June 7, 2013 from E& J Gallo Winery for approval to provide retailers with products valued at more than \$50 and less than \$500.

2. Review of letter, dated June 3, 2013, from Jerry Moore requesting permission from the Board to extend Bon Appetit Management Company's license to include any building that is located on the American University Campus. *Bon Appetit Management Company*, 4400 Massachusetts Avenue NW Retailer DR03, Lic.#: 71077.

3. Review of letter, dated May 30, 2013, from Tameru Zemenfes, the Landlord, providing information to the Board about its Tenant, Queen Makeda's. *Queen Makeda*, 1917 9th Street NW Retailer CR01, Lic.#: 60510.

4. Review of Petition for Reconsideration, dated June 10, 2013, from Samuel Sharpe requesting that the Board reverse Board Order No. 2013-262 dismissing the protest petitioners at the Roll Call Hearing. *Sunshine Bar & Lounge*, 7331 Georgia Avenue NW Retailer CR02, Lic.#: 85239.

5. Review of Request for Reinstatement, dated June 3, 2013, from Jack Rose in regards to Board Order No. 2013-261. The Licensee was dismissed at the Roll Call Hearing for failure to appear. *Jack Rose*, 2007 18th Street NW Retailer CR03, Lic.#: 81997.

6. Review of Request for Reinstatement, dated June 6, 2013, from Iraj Askarinam in regards to Board Order No. 2013-259. The Licensee was dismissed at the Roll Call Hearing for failure to appear. *Spaghetti Garden Brass Monkey Peyote Roxanne*, 2317 18th Street NW Retailer CR03, Lic.#: 10284.

Board's Agenda – June 19, 2013 - Page 2

7. Review of Request for Reinstatement, dated June 6, 2013, from Iraj Askarinam in regards to Board Order No. 2013-260. The Licensee was dismissed at the Roll Call Hearing for failure to appear. *Carriage House*, 2333 18th Street NW Retailer CR02, Lic.#: 60401.

8. Review of Settlement Agreement, dated June 3, 2013, between Mason Inn and ANC 3B. *Mason Inn*, 2408 Wisconsin Avenue NW Retailer CT02, Lic.#: 79644.*

9. Review of Settlement Agreement Amendment, dated May 31, 2013, between Justin's Café and ANC 6D. *Justin's Café*, 1025 1st Street SE Retailer CR01, Lic.#: 83690.*

*** In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

**** In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, this portion of the meeting will be closed to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations. The Board's vote will be held in an open session, and the public is permitted to attend.**

BRIDGES PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Design Build Services**

Bridges Public Charter School invites all interested parties to submit proposals to provide design build services as needed for interim space improvements and test fits to accommodate our short and long term facility needs. Proposals are due no later than 12:00 PM Friday, June 21, 2013. The complete RFP can be obtained by contacting Tom Porter via email at tporter@bhope.org.

Capital City Public Charter School**REQUEST FOR PROPOSALS****Program Management Services**

Capital City Public Charter School is advertising the opportunity to bid on program management services for the development of a campus master plan. Bids will be accepted until 5:00 PM on Friday, June 21, 2013. Additional specifications outlined in the Request for Proposals (RFP) may be obtained from: John Breyer, Chief Operating Officer, 100 Peabody Street, NW, Washington, DC 20011, jbreyer@ccpcs.org, [202-808-9727](tel:202-808-9727)

CESAR CHAVEZ PUBLIC CHARTER SCHOOLS

REQUEST FOR PROPOSALS

Purchase of IT equipment

The Cesar Chavez Public Charter Schools For Public Policy solicits Request for Proposals for the purchase of IT equipment.

Full text of the proposal is available upon request.

For inquiries and proposal submissions please send an email to itproposals@chavezschools.org with the subject line as "IT Equipment - July 2013".

Deadline for submissions is June 21st, 2013.

DISTRICT OF COLUMBIA CHILD SUPPORT GUIDELINE COMMISSION**NOTICE OF A PUBLIC MEETING****The District of Columbia's Child Support Guideline Commission's meeting**

Wednesday, June 26, 2013, at 8:30 A.M.

D.C. Office of the Attorney General, Child Support Services Division
441 4th Street, NW, Ste. 550N
Conference Room A
Washington, D.C. 20001

The District of Columbia Child Support Guidelines Commission (Commission) announces meeting in which it will discuss proposed changes to the District's Child Support Guideline (Guideline). The Commission's mission is to review the Guideline annually and to provide the Mayor with recommendations for improving the efficiency and effectiveness of the Guideline. In order to achieve its objective, and to ensure the recommendations the Commission provides to the Mayor take into account the public's concerns, it invites the public to attend its meeting.

Persons wishing to review the Child Support Guideline prior to the public meeting, may access it online by visiting the District of Columbia's website at www.dc.gov.

Individuals who wish to attend should contact: Cory Chandler, Chairperson, Child Support Guideline Commission, at 202-724-7835, or by e-mail at cory.chandler@dc.gov by Monday, June 24, 2013. E-mail submissions should include the full name, title, and affiliation, if applicable, of the person(s) wishing to attend. Persons wishing to comment should send nine (9) copies of their written commentary to the Office of the Attorney General for the District of Columbia at the address below.

Individuals who wish to submit their comments as part of the official record should send copies of written statements no later than 4:00 p.m., Tuesday, June 25, 2013 to:

Cory Chandler, Deputy Attorney General
Office of the Attorney General for the District of Columbia
Family Services Division
200 I Street, S.E.
4th Floor
Washington, D.C. 20003

COMMUNITY ACADEMY PUBLIC CHARTER SCHOOLS (CAPCS)**REQUEST FOR PROPOSAL****Cleaning Services**

The Dorothy I. Height Community Academy Public Charter Schools (CAPCS) is soliciting proposals from qualified vendors for evening cleaning services at its 3 campuses. Services will include, but not be limited to, standard commercial cleaning functions. Description of relevant experience, references and cost structure, including guaranteed maximum price for specified services required. Contact Roc Blakeney at 202-545-1267 for locations and scope of work.

Final proposals submitted electronically are due Monday, June 24, 2013. CAPCS RESERVES THE RIGHT TO CANCEL THIS RFP AT ANY TIME.

CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL**Request for Proposals 2013****Leadership Consultant Services**

Creative Minds International PCS, in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995, solicits proposals for Leadership Consultant services. Proposals are due no later than 5:00 PM June 21, 2013. Questions and proposals may be emailed to James Lafferty-Furphy at info@creativemindspcs.org.

Requested Services

Creative Minds International Public Charter School, a PreK3 to 3rd grade school located in Mount Pleasant, is seeking a Leadership Consultant to work with the school one or two days a week. The consultant should be a highly experienced school leader who can offer coaching and support in all areas of school functioning including instruction, professional development, operations, and finance/budgeting.

Assumptions and Agreements

Proposals will not be returned. Creative Minds International PCS reserves the right to dismiss a proposal without providing a reason. Creative Minds International PCS reserves the right to terminate a contract at any time.

Submission Information

Bids must include evidence of experience in the field, qualifications and estimated fees. Please send proposals to James Lafferty-Furphy at info@creativemindspcs.org.

Basis for Award of Contract

Creative Minds International PCS reserves the right to award a contract as it determines to be in the best interest of the school.

Proposals must be received by June 21, 2013, 5PM EST. Late proposals will not be accepted.

CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL**Various Requests for Proposals 2013**

Creative Minds International PCS is a public charter school that opened in August 2012. The school will be serving 136 students from preschool to 3rd grade during school year 2013-14.

Creative Minds International PCS invites all interested and qualified vendors to submit proposals to provide goods and services in the following areas: leadership consultant services; accounting and financial and accounting services; classroom and office furniture; classroom and office supplies; janitorial services; building maintenance; English Language Learner (ELL) assessments and related services; Special Education Services (SPED) and related services including but not limited to, Occupational Therapy, Physical Therapy, Speech and Language Therapy, Psychological Assessments and Special Education Evaluations. Proposals are due no later than 5:00 PM June 21, 2013. Bidding requirements can be obtained by contacting James Lafferty-Furphy at info@creativemindspcs.org.

Assumptions and Agreements

Proposals will not be returned. Creative Minds International PCS reserves the right to dismiss a proposal without providing a reason. Creative Minds International PCS reserves the right to terminate a contract at any time.

Submission Information

Bids must include evidence of experience in the field, qualifications and estimated fees. Please send proposals to James Lafferty-Furphy at info@creativemindspcs.org.

Basis for Award of Contract

Creative Minds International PCS reserves the right to award a contract as it determines to be in the best interest of the school.

Proposals must be received by June 26, 2013, 5PM EST. Late proposals will not be accepted.

EAGLE ACADEMY PUBLIC CHARTER SCHOOL**INVITATION FOR BID****FOOD SERVICE MANAGEMENT SERVICES**

Eagle Academy Public Charter School is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2013-2014 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on June 14, 2013 from:

Toia Brown
3400 Wheeler Road, SE
Washington, DC 20032
(202) 544-2646
tbrown@eagleacademypcs.org

Proposals will be accepted at the above address on Monday, July 22, 2013 no later than 3:00 p.m.

All bids not addressing all areas as outlined in the IFB will not be considered.

OFFICE OF STATE SUPERINTENDENT OF EDUCATION**Notice of Funding Availability****Fiscal Year 2014 21st Century Community Learning Centers Grant****Request for Application Release Date: Friday, June 28, 2013****Application Submission Deadline: Friday, September 6, 2013**

The Division of Elementary and Secondary Education, within the Office of the State Superintendent of Education (OSSE), will be soliciting grant proposals from District of Columbia community based organizations and local education agencies. The purpose of the 21st Century Community Learning Centers Program (21st CCLC) is to establish or expand community learning centers that provide students with academic enrichment opportunities along with activities designed to complement the students' regular academic program. 21st CCLCs offer the students' families literacy and related educational development. 21st CCLC programs, which can be located in elementary or secondary schools or other similarly accessible facilities, provide a range of high-quality services to support student learning and development. At the same time, centers help working parents by providing a safe environment for students during non-school hours or periods when school is not in session.

Authorized under Title IV, Part B, of the Elementary and Secondary Education Act (ESEA), as amended, the law's specific purposes are to:

- Provide opportunities for academic enrichment, including providing tutorial services to help students (particularly students in high-poverty areas and those who attend low-performing schools) meet State and local student performance standards in core academic subjects such as reading and mathematics;
- Offer students a broad array of additional services, programs, and activities, such as youth development activities; drug and violence prevention programs; counseling programs; art, music, and recreation programs; technology education programs; and character education programs that are designed to reinforce and complement the regular academic program of participating students; and
- Offer families of students served by community learning centers opportunities for literacy and related educational development.

Program costs must be paid, not merely incurred, by the awardee to the payee prior to requesting reimbursement. All awards will be reviewed annually for consideration of continued funding. To receive more information or for a copy of this RFA, please contact:

Sheryl Hamilton
Office of the State Superintendent of Education
810 First Street, NE, 5th Floor
Washington, D.C. 20002
Telephone: (202) 741-6404
Email: 21stcclc.info@dc.gov

The RFA and applications will also be available on the www.osse.dc.gov.

BOARD OF ELECTIONS**CERTIFICATION OF ANC/SMD VACANCY**

The District of Columbia Board of Elections hereby gives notice that there is a vacancy in one (1) Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 8A06

Petition Circulation Period: **Monday, June 17, 2013 thru Monday, July 8, 2013**

Petition Challenge Period: **Thursday, July 11, 2013 thru Wednesday, July 17, 2013**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections
441 - 4th Street, NW, Room 250N
Washington, DC 20001**

For more information, the public may call **727-2525**.

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

**Certification of Filling a Vacancy
In Advisory Neighborhood Commissions**

Pursuant to D.C. Official Code §1-309.06 (d)(6)(G) and the resolution transmitted to the District of Columbia Board of Elections (“Board”) from the affected Advisory Neighborhood Commission, the Board hereby certifies that a vacancy has been filled in the following single member district by the individual listed below:

Derrick Colbert
Single-Member District 8C04

DISTRICT OF COLUMBIA BOARD OF ETHICS AND GOVERNMENT
ACCOUNTABILITY**LIST OF PERSONS WHO HAVE FILED OR REQUESTED AN EXTENSION TO FILE
FINANCIAL DISCLOSURE STATEMENTS AND PERSONS WHO HAVE FAILED TO
FILE FINANCIAL DISCLOSURE STATEMENTS**

The Board of Ethics and Government Accountability herewith publishes a list of the names of public officials who have filed Public Financial Disclosure Statements, or requested an extension to file such statements with the District of Columbia Board of Ethics and Government Accountability, pursuant to the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 ("Ethics Act"), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code Section 1-1161.01 (2012 Supp.)). D.C. Official Code § 1-1162.24(c)(1)–(3) provides that the Board of Ethics and Government Accountability shall publish, in the D.C. Register, each year, the name of each public official who has filed a Public Financial Disclosure Statement pursuant to D.C. Official Code § 1-1162.24(a)(1); the name of each public official who has sought and received an extension for the filing deadline requirement and the reason therefore; and the name of each public official who has not filed a Public Financial Disclosure Statement and the reason for not filing, if known. This listing complies with D.C. Official Code § 1-1162.24(c)(1)-(3).

1. Filing Requirements

On or before May 15, 2013, each person listed was required to file a Public Financial Disclosure Statement with the Board of Ethics and Government Accountability. In addition, each person listed is required to submit a Public Financial Disclosure Statement amendment to the Board of Ethics and Government Accountability within thirty (30) days of any change in information in a previously filed statement.

2. Non-Filers

Each public official appearing in the list of non-filers published in the D.C. Register on June 14, 2013, may be in violation of D.C. Official Code § 1-1162.24(a)(1). Please contact the Board of Ethics and Government Accountability to obtain a Public Financial Disclosure Statement or additional information regarding the filing of the Public Financial Disclosure Statement at (202) 481-3411, www.bega.dc.gov, or visit the Office at 441 4th Street, NW, Suite 830 South, Washington, D.C. 20001. Our business hours are 8:30 a.m. until 5:00 p.m.

3. Where to File

Public Financial Disclosure Statements and supplementary documents may be mailed or delivered to:

The Board of Ethics and Government Accountability
441 4th Street NW, Suite 830 South
Washington, D.C. 20001

The Public Financial Disclosure Statement may also be filed electronically at www.bega.dc.gov.

4. Corrections

Any corrections to the information published herein, should be directed to the Board of Ethics and Government Accountability. Further, any public official who has filed the Public Financial Disclosure Statement under D.C. Official Code § 1-1162.24(a)(1), but is not listed as having filed, should contact the Board of Ethics and Government Accountability immediately.

5. Penalties for Violation of Financial Disclosure Filing Requirements

A civil penalty under D.C. Official Code § 1-1162.21 may be imposed by the Board of Ethics and Government Accountability, upon any person required to file a Public Financial Disclosure Statement who commits any of the following violations:

- (a) Failure to file a Public Financial Disclosure Statement;
- (b) Failure to timely file a Public Financial Disclosure Statement; and
- (c) Failure to file a complete and verified Public Financial Disclosure Statement.

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**Financial Disclosure Statement Filers (2012)**

FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000139918	5/2/2013	Abbott, Vera	Board Member	Office of Employee Appeals
FDS000130335	5/3/2013	Abdul-Rahim, Winifred	Scheduler/Legislative Asst.	Council of the District of Columbia
FDS000139768	4/24/2013	Acosta, Marcel	Board of Zoning Adjustment	Office of Zoning
FDS000139909	5/14/2013	Aikin, Gertrude Lee	Candidate (At Large Council Member)	Council of the District of Columbia
FDS000139821	5/15/2013	Aizawa, Motoko	Commissioner	Office of Human Rights
FDS000130329	5/3/2013	Alberti, Nick	Board Member	Alcohol Beverage Regulation Administration
FDS000139805	5/15/2013	Alexander, Yvette	COUNCILMEMBER	Council of the District of Columbia
FDS000139839	5/15/2013	ALLEN, CHARLES	Chief of Staff (C/M Wells)	Council of the District of Columbia
FDS000139692	5/28/2013	Allen, Sandra	Community Dev. Resource Spec.	Dept. of Housing and Community Dev.
FDS000139727	5/15/2013	Allen, Wynter	Chairperson	Public Employee Relations Board
FDS000139710	5/13/2013	Amy, Brian	Senior Deputy Director	Department of Health
FDS000139744	5/1/2013	Anderson, D. Kamili	Board Member, Ward 4	State Board of Education
FDS000139693	5/14/2013	Anderson, Keith	Rent Administrator	Dept. of Housing and Community Dev.
FDS000139823	4/30/2013	Araujo, Javier	Commissioner	Office of Human Rights
FDS000139935	4/29/2013	Aurbach, Andrew	Historian	DC Historic Preservation Review Bd
FDS000139724	4/27/2013	Babers, Lucinda	Director	Department of Motor Vehicles
FDS000139941	5/15/2013	Bacon, Elinor	Citizen	DC Historic Preservation Review Bd
FDS000139684	5/27/2013	Baker, Brian	Chief of Staff	D.C. Homeland Security & Emergency Mgmt. Agency
FDS000139665	5/15/2013	Banta, Susan	Budget Officer	Office of the Mayor
FDS000130354	5/23/2013	Barber, Claudia	Administrative Law Judge	Office of Administrative Hearings
FDS000139759	4/23/2013	Bardin, Sara	Director	Office of Zoning
FDS000139721	4/23/2013	Baron, Stephen	Director of Mental Health	Department of Mental Health
FDS000139806	5/15/2013	BARRY, MARION	COUNCILMEMBER	Council of the District of Columbia
FDS000139773	6/1/2013	Batties, Lela	Board Member	Housing Finance Agency Board
FDS000139923	5/8/2013	Beatty, Mary	Candidate (At Large Council Member)	Council of the District of Columbia
FDS000139775	5/15/2013	Bell, Christopher	Board Member	University of DC, Board of Trustees
FDS000139542	4/29/2013	Bell, Melanie	Management and Program Analysis Officer	Office of the City Administrator
FDS000130311	4/15/2013	Bellamy, Terry	Board Member	DC Water and Sewer Authority
FDS000130349	5/14/2013	Bellanca, Amy	Chief of Staff	Council of the District of Columbia
FDS000139824	5/13/2013	Beninda, Alexandra	Commissioner	Office of Human Rights
FDS000139776	5/14/2013	Bennett, LuAnn	Board Member	University of DC, Board of Trustees
FDS000139914	5/14/2013	Berkley, Marta	Commissioner	Rental Housing Commission

Monday, June 10, 2013

FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000139871	5/28/2013	Biddle, Sekou	Candidate (At-Large Council Member)	Council of the District of Columbia
FDS000130342	5/28/2013	Boardman, John	Member	Washington Convention & Sports Authority Bd. of Directors
FDS000130341	5/14/2013	Boardman-Schroyer, Kilin	Legislative Director	Council of the District of Columbia
FDS000139655	5/20/2013	Booth, Quincy	Chief of Staff, DM Public Safety and Justice	Office of the Mayor
FDS000139809	5/6/2013	BOWSER, MURIEL	COUNCILMEMBER	Council of the District of Columbia
FDS000139622	5/1/2013	Branche, Yolanda	DC Auditor	Office of the District of Columbia Auditor
FDS000139712	5/13/2013	Branson, Karen	GENERAL COUNSEL	Office of the Inspector General
FDS000139668	5/16/2013	Brock-Smith, Cynthia	Secretary of the District of Columbia	Office of the Mayor
FDS000130330	5/14/2013	Brooks, Donald	Board Member	Alcohol Beverage Regulation Administration
FDS000130184	5/1/2013	Brooks, Karen	Registrar of Voters	Board of Elections and Ethics
FDS000139846	5/14/2013	Brown, James	Chief of Staff	Council of the District of Columbia
FDS000139891	5/16/2013	Brown, Michael	U.S. Senator	U.S. Senate
FDS000139892	5/4/2013	Brown, Monica	Supervisory Attorney	Department of Human Services
FDS000139713	5/1/2013	Bruce, Blanche	DEPUTY INSPECTOR GENERAL	Office of the Inspector General
FDS000139804	5/10/2013	Bryant, Benjamin	Associate General Counsel	Council of the District of Columbia
FDS000139711	5/13/2013	Buckson, Frances	Interim Senior Deputy Director for APRA	Department of Health
FDS000139825	5/30/2013	Budd, Earline	Commissioner	Office of Human Rights
FDS000139653	5/14/2013	Bunn, Sheila	Deputy Chief of Staff	Office of the Mayor
FDS000139903	5/28/2013	Burke, Patrick	Board Member	Police Complaints Board
FDS000139714	5/31/2013	Burke Jr, Roger	CHIEF OF STAFF	Office of the Inspector General
FDS000130355	6/3/2013	Burnett, Louis	Administrative Law Judge	Office of Administrative Hearings
FDS000139953	5/31/2013	Burns, Michael	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139751	5/28/2013	Burns, Ralph	Commissioners	DC Taxicab Commission
FDS000139681	5/13/2013	Burrell, Scott	CHIEF OPERATIONS OFFICER	Office of the Mayor
FDS000130314	5/3/2013	Butani, Rachna	Board Member	DC Water and Sewer Authority
FDS000139544	5/14/2013	Campbell, Natasha	Director	Office of the City Administrator
FDS000139722	5/30/2013	Canavan, Patrick	Health System Administrator	Department of Mental Health
FDS000130352	5/1/2013	Carter, Christian	Candidate-- Mayor	Office of the Mayor
FDS000139737	4/22/2013	Carter, Michael	Deputy Director	Department of Public Works
FDS000130353	5/14/2013	Cary, Matthew	Director	Office of the Mayor
FDS000139937	5/8/2013	Casarella, Maria	Architect Board Member, HPRB	DC Historic Preservation Review Bd
FDS000139851	5/6/2013	Cash, Evan	Committee Director	Council of the District of Columbia

FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000130334	5/15/2013	Casiere, Megan	Special Assistant	Council of the District of Columbia
FDS000139826	3/8/2013	Catania, David	COUNCILMEMBER	Council of the District of Columbia
FDS000139907	5/7/2013	Chavez, Iris	Board Member	Police Complaints Board
FDS000139811	5/14/2013	CHEH, MARY	COUNCILMEMBER	Council of the District of Columbia
FDS000139704	5/15/2013	Chichester, Colette	Chief of Staff	Department of Health
FDS000139758	6/5/2013	Chrappah, Ernest	Special Assistant	DC Taxicab Commission
FDS000139847	5/14/2013	Clements Smith, Joyce	Chief of Staff	Council of the District of Columbia
FDS000130356	5/27/2013	Cobbs, Nicholas	Administrative Law Judge	Office of Administrative Hearings
FDS000139899	5/15/2013	Cofield, Kena	Supervisory Measurements Analysis Planning Speciali	Department of Human Resources
FDS000139631	5/9/2013	Cohen, Bonnie	Board Member	Board of Library Trustees
FDS000139762	5/14/2013	Cohen, Marcie	Zoning Commissioner	Office of Zoning
FDS000139752	5/15/2013	Cohn, Paul	Commissioners	DC Taxicab Commission
FDS000130072	5/9/2013	Coleman, Renee	Audit Manager	Office of Campaign Finance
FDS000139666	4/30/2013	Constantino, Justin	Senior Budget Analyst	Office of the Mayor
FDS000130002	4/29/2013	Cooper, A.J.	Candidate (At Large Council Member)	Council of the District of Columbia
FDS000139624	5/15/2013	Cooper, Ginnie	Executive Director/ Chief Librarian	DC Public Library
FDS000139860	5/15/2013	Cooper, Larry	Director, Support Services	Council of the District of Columbia
FDS000130312	5/3/2013	Cotruvo, Joseph	Board Member	DC Water and Sewer Authority
FDS000130357	6/5/2013	Crichlow, Claudia	Administrative Law Judge	Office of Administrative Hearings
FDS000139778	5/15/2013	Crider, Elaine	Board Member	University of DC, Board of Trustees
FDS000139753	5/15/2013	Crocker, Cyril	Commissioners	DC Taxicab Commission
FDS000130318	5/16/2013	Croft, Howard	Board Member	DC Water and Sewer Authority
FDS000139900	5/2/2013	Cross, Carolyn	Deputy Director for Operations	Department of Corrections
FDS000130179	5/17/2013	Curry, Devarieste	Board Member	Board of Elections and Ethics
FDS000139779	5/20/2013	Curry, Kendrick	Board Member	University of DC, Board of Trustees
FDS000130180	5/14/2013	Danzansky, Stephen	Board Member	Board of Elections and Ethics
FDS000130358	6/7/2013	Davenport, Joan	Administrative Law Judge	Office of Administrative Hearings
FDS000139939	5/28/2013	Davidson, D. Graham	Citizen	DC Historic Preservation Review Bd
FDS000130359	6/2/2013	Dean, John	Principal Administrative Law Judge	Office of Administrative Hearings
FDS000139782	5/31/2013	Diakite, Cheick	Board Member	University of DC, Board of Trustees
FDS000139539	5/21/2013	Donald, Brenda	Agency Director	Child and Family Services Agency
FDS000139747	4/26/2013	Douglas, Dorothy	Board Member, Ward 7	State Board of Education
FDS000130340	5/14/2013	Durso, Emily	Treasurer	Washington Convention & Sports Authority Bd. of Directors
FDS000139780	5/14/2013	Dyke, Jr., James	Board Member	University of DC, Board of Trustees
FDS000130308	5/6/2013	Elam, Linda	Senior Deputy Director	Department of Health Care Finance

FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000139645	5/13/2013	Ellerbe, Kenneth	Fire and EMS Chief	D.C. Fire and Emergency Medical Servs. Dept.
FDS000130360	5/30/2013	England, William	Administrative Law Judge	Office of Administrative Hearings
FDS000139813	5/2/2013	Evans, Jack	COUNCILMEMBER	Council of the District of Columbia
FDS000139663	5/2/2013	Evans, Kenneth	Deputy Budget Director	Office of the Mayor
FDS000130185	5/6/2013	Fairley, Kathryn	Special Assistant	Board of Elections and Ethics
FDS000139922	5/28/2013	Farolina, Nancy	Candidate (Delegate)	Council of the District of Columbia
FDS000139621	5/3/2013	Faust, Thomas	Director	Department of Corrections
FDS000139781	5/15/2013	Felton, Reginald	Board Member	University of DC, Board of Trustees
FDS000139669	5/3/2013	Ferrell-Benavies, Aretha	Deputy Secretary	Office of the Mayor
FDS000139695	5/15/2013	Fields, Beatrix	Legislative Affairs Specialist	Dept. of Housing and Community Dev.
FDS000139816	5/9/2013	Fields, Beverly	Chief of Staff	Office of the Chief Medical Examiner
FDS000130361	5/24/2013	Figueroa, Elizabeth	Administrative Law Judge	Office of Administrative Hearings
FDS000139848	5/15/2013	Fisher, Edward	Chief of Staff	Council of the District of Columbia
FDS000139868	5/13/2013	Fisher, Gene	Committee Director	Council of the District of Columbia
FDS000139685	4/20/2013	Fitzsimmons, Timothy	Chief, Grants Division	D.C. Homeland Security & Emergency Mgmt. Agency
FDS000139670	5/13/2013	Flowers, Brian	General Counsel, EOM	Office of the Mayor
FDS000139812	5/13/2013	Fogg, Peggy	Management Services Officer	Office of the Chief Medical Examiner
FDS000139772	6/4/2013	Ford, Derek	Vice Chairman	Housing Finance Agency Board
FDS000139734	5/7/2013	Fort, Joanne	Commissioner	Public Service Commission
FDS000130343	5/29/2013	Gandhi, Natwar	Chief Financial Officer	Office of the Chief Financial Officer
FDS000139886	5/24/2013	Gaston, Darrell	Candidate (Ward 8 Council Member)	Council of the District of Columbia
FDS000139854	5/13/2013	Gebru, Solomon	Information Technology Specialist	Council of the District of Columbia
FDS000139683	5/26/2013	Geidart, Chris	Director	D.C. Homeland Security & Emergency Mgmt. Agency
FDS000139646	5/29/2013	Gerhart, Timothy	Assistant Fire and EMS Chief, Operations	D.C. Fire and Emergency Medical Servs. Dept.
FDS000130317	5/14/2013	Gibbs, Howard	Board Member	DC Water and Sewer Authority
FDS000139864	5/14/2013	Ginsberg, Joanne	Senior Legislative Assistant	Council of the District of Columbia
FDS000130182	5/8/2013	Goldsberry-Adams, Sylvia	Elections Operations Manager	Board of Elections and Ethics
FDS000130362	5/21/2013	Goode, Jesse	Administrative Law Judge	Office of Administrative Hearings
FDS000130363	5/21/2013	Goodie, Sharon	Administrative Law Judge	Office of Administrative Hearings
FDS000139662	5/28/2013	Goulet, Eric	Budget Director	Office of the Mayor
FDS000139815	5/15/2013	Graham, James	COUNCILMEMBER	Council of the District of Columbia
FDS000139802	5/14/2013	Grant, Schanette	Chief of Staff (C/M Evans)	Council of the District of Columbia
FDS000139546	5/15/2013	Graves, Warren	Chief of Staff	Office of the City Administrator

FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000139651	5/14/2013	Gray, Vincent	Mayor	Office of the Mayor
FDS000130339	5/16/2013	Greenan, Linda	Secretary	Washington Convention & Sports Authority Bd. of Directors
FDS000139547	5/14/2013	Greenberg, Judith	Special Assistant	Office of the City Administrator
FDS000139687	4/23/2013	Greene, Johnny	Emergency Operations Officer	D.C. Homeland Security & Emergency Mgmt. Agency
FDS000130364	6/3/2013	Greene, Tiffini	Executive Director	Office of Administrative Hearings
FDS000130000	5/16/2013	Grosso, David	Candidate (At Large Council Member)	Council of the District of Columbia
FDS000139874	5/15/2013	Gurley, Calvin	Candidate (Ward 4 Council Member)	Council of the District of Columbia
FDS000139696	4/20/2013	Gutierrez, Sonia	Housing Program Coord.	Dept. of Housing and Community Dev.
FDS000130344	5/13/2013	Haddock Ortiz, Jay	Vice Chairman	Washington Convention & Sports Authority Bd. of Directors
FDS000130338	5/28/2013	Hagans, Michele	Chairman	Washington Convention & Sports Authority Bd. of Directors
FDS000139791	5/1/2013	Hall, Shirley	Board Member	Metropolitan Washington Airports Authority
FDS000130365	5/20/2013	Handy, Paul	Administrative Law Judge	Office of Administrative Hearings
FDS000139682	4/10/2013	Hanlon, Brian	Director, Dept of General Svcs	Department of General Services
FDS000139732	5/29/2013	Harley, Keturah	General Counsel	Public Employee Relations Board
FDS000130366	5/31/2013	Harmon, James	Admin. Law Judge	Office of Administrative Hearings
FDS000139680	4/29/2013	Harper Jr., Ollie	Dep. Dir. for Facilities Mgmt.	Department of General Services
FDS000139731	5/14/2013	Harris, Ondray	Executive Director	Public Employee Relations Board
FDS000139897	4/30/2013	Harvey, LaVerne	Administrative Officer	Department of Human Resources
FDS000130367	5/23/2013	Harvey, Scott	Administrative Law Judge	Office of Administrative Hearings
FDS000139865	5/15/2013	Hawkins, James	Legislative Director	Council of the District of Columbia
FDS000139697	5/15/2013	Haynes-Franklin, Jessica	Chief of Staff	Dept. of Housing and Community Dev.
FDS000139961	5/31/2013	Henderson, Kathy	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139626	5/10/2013	Hill, John	Board President	Board of Library Trustees
FDS000130368	5/20/2013	Hines, Caryn	administrative law judge	Office of Administrative Hearings
FDS000139767	6/7/2013	Hinkle, Jeffrey	Board of Zoning Adjustment	Office of Zoning
FDS000139801	5/14/2013	Hoellen, John	Deputy General Counsel	Council of the District of Columbia
FDS000139728	5/13/2013	Hoffman, Ann	Board Member	Public Employee Relations Board
FDS000139845	5/1/2013	Holland, Joy	Chief of Staff	Council of the District of Columbia
FDS000139760	4/29/2013	Hood, Anthony	Zoning Commissioner	Office of Zoning
FDS000139675	5/17/2013	Hook, Melissa	Director for Justice Grants Administration/OVS	Office of the Mayor
FDS000130183	5/7/2013	Horton, Darlene	Data Systems Manager	Board of Elections and Ethics

Monday, June 10, 2013

FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000130320	4/16/2013	Hoskins, Victor	Deputy Mayor, Planning & Economic Development	Office of the Mayor
FDS000139797	5/28/2013	Houck, Max	Director	Department of Forensic Sciences
FDS000139736	5/9/2013	Howland, William	Director	Department of Public Works
FDS000139964	5/15/2013	Hubbard, Drew	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139803	5/12/2013	Hutchinson, Jordan	Special Assistant (C/M Catania)	Council of the District of Columbia
FDS000139688	6/4/2013	Jack, Joshua	Emergency Management Change Officer	D.C. Homeland Security & Emergency Mgmt. Agency
FDS000139672	5/20/2013	Jackson, Janene	Director, Office of Policy & Legislative Affairs	Office of the Mayor
FDS000139647	5/31/2013	Jackson, Kenneth	Assistant Fire and EMS Chief, Services	D.C. Fire and Emergency Medical Servs. Dept.
FDS000139866	5/7/2013	Jacobs, Jessica	Legislative Counsel	Council of the District of Columbia
FDS000130025	5/11/2013	Jacobson, Jack	Candidate (Ward 2 State Board of Education Member)	State Board of Education
FDS000139875	4/25/2013	Jahi, Baruti	Candidate (Ward 4 Council Member)	Council of the District of Columbia
FDS000130369	5/20/2013	Jenkins, Audrey	Administrative Law Judge	Office of Administrative Hearings
FDS000139827	5/24/2013	Jenkins, Rahim	Commissioner	Office of Human Rights
FDS000139925	4/30/2013	Johns, Richard	Board Member	Office of Employee Appeals
FDS000130331	5/15/2013	Jones, Herman	Board Member	Alcohol Beverage Regulation Administration
FDS000139745	6/2/2013	Jones, Mark	Board Member, Ward 5, & Vice President	State Board of Education
FDS000139769	5/24/2013	Jordan, Lloyd	Board of Zoning Adjustment	Office of Zoning
FDS000130075	5/14/2013	Journiette, Nadine	Administrative Officer	Office of Campaign Finance
FDS000139835	5/6/2013	Joyner, Angela	Deputy Budget Director	Council of the District of Columbia
FDS000139733	5/9/2013	Kane, Elizabeth	Chairman	Public Service Commission
FDS000139671	5/3/2013	Kaufman, Donald	Deputy General Counsel, EOM	Office of the Mayor
FDS000130346	5/28/2013	Keene, Solomon	Member	Washington Convention & Sports Authority Bd. of Directors
FDS000139700	5/15/2013	Kelly, Michael	Director	Dept. of Housing and Community Dev.
FDS000139715	5/22/2013	Kennedy, Susan	Director, Medicaid Fraud Control Unit	Office of the Inspector General
FDS000130321	5/13/2013	Kenner, Brian	Chief of Staff, Planning & Economic Development	Office of the Mayor
FDS000139716	5/7/2013	King, Ronald	SUPERVISORY AUDITOR	Office of the Inspector General
FDS000139679	5/15/2013	Koo, Soohyun	Executive Director, Asian and Pacific Islander Aff	Office of the Mayor
FDS000139549	4/20/2013	Kreiswirth, Barry	Senior Legal Advisor	Office of the City Administrator

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FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000139792	4/30/2013	Lang, Barbara	Unknown	Metropolitan Washington Airports Authority
FDS000139723	4/2/2013	Lanier, Cathy	Chief of Police	Metropolitan Police Department
FDS000139757	6/5/2013	Lasner, Bart	Commissioners	DC Taxicab Commission
FDS000139583	5/15/2013	Lathen, Deborah	Board Member	Board of Ethics & Government Accountability
FDS000139738	5/14/2013	Lattimore,, Phillip	Chief Risk Officer	Office of Risk Management
FDS000139735	5/13/2013	Lee, Lori	Commissioner	Public Service Commission
FDS000139869	5/2/2013	Lee, Michael	Delegate	U.S. House of Representatives
FDS000139648	5/30/2013	Leonard, Edward	Supervisory IT Specialist	D.C. Fire and Emergency Medical Servs. Dept.
FDS000139659	4/18/2013	Leonard, Jennifer	Interim Deputy Mayor for Education	Office of the Mayor
FDS000139705	5/16/2013	Levin, Saul	Interim Director	Department of Health
FDS000139629	5/6/2013	Levy, Richard	Trustee	Board of Library Trustees
FDS000139551	5/15/2013	Lew, Allen	City Administrator	Office of the City Administrator
FDS000139637	4/23/2013	Lewis, James	Board Member	Board of Library Trustees
FDS000130347	5/28/2013	Lindner, Miriam	Member	Washington Convention & Sports Authority Bd. of Directors
FDS000139750	4/29/2013	Linton, Ron	Chairman	DC Taxicab Commission
FDS000139877	5/31/2013	Little, Lydia	Candidate (Ward 4 Council Member)	Council of the District of Columbia
FDS000130006	5/31/2013	London, Angela	Candidate (At Large Council Member)	Council of the District of Columbia
FDS000139742	5/15/2013	Lord, Mary	Board Member, Ward 2	State Board of Education
FDS000139559	5/6/2013	Loud, Marc	Chief Administrative Judge	Contract Appeals Board
FDS000139771	5/8/2013	Lowery, Charles	Board Member	Housing Finance Agency Board
FDS000139717	5/3/2013	Lucchesi, Victoria	DEPUTY GENERAL COUNSEL	Office of the Inspector General
FDS000139814	5/8/2013	Mack, Michelle	Supervisory Medicolegal Investigations	Office of the Chief Medical Examiner
FDS000130165	5/29/2013	Mahaley Jones, Hosanna	State Superintendent	Office of State Superintendent of Education
FDS000139555	4/23/2013	Majett, Nicholas	Director	Dept. of Consumer & Reg. Affairs
FDS000139991	6/5/2013	Majors, Bruce	Candidate (Delegate)	U.S. House of Representatives
FDS000139632	5/29/2013	Mallett, Valerie	Board Member	Board of Library Trustees
FDS000139795	5/31/2013	Mallory, Lisa	Director	Department of Employment Services
FDS000139531	5/4/2013	Mancini, Rob	Chief Technology Officer	Office of the Chief Technology Officer
FDS000130371	5/20/2013	Mangan, Margaret	Administrative Law Judge	Office of Administrative Hearings
FDS000139741	5/15/2013	Mara, Patrick	Board Member, Ward 1	State Board of Education
FDS000139970	5/28/2013	Marshall, Ruth	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000130372	5/20/2013	Masulla, Mary	Administrative Law Judge	Office of Administrative Hearings

FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000139725	5/10/2013	Mattavous-Frye, Sandra	People's Counsel	Office of the People's Counsel
FDS000139994	5/24/2013	Matthews, Robert	Candidate (Chairman of the Council)	Council of the District of Columbia
FDS000139765	5/12/2013	May, Peter	Zoning Commissioner	Office of Zoning
FDS000139563	5/8/2013	McBean, Maxine	Administrative Judge	Contract Appeals Board
FDS000130310	5/6/2013	McCabe, Heather	Special Assistant	Department of Health Care Finance
FDS000139633	5/10/2013	McCarthy, Gregory	Vice President	Board of Library Trustees
FDS000130373	5/20/2013	McClendon, Samuel	Principal Administrative Law Judge	Office of Administrative Hearings
FDS000139641	5/14/2013	McCollough, Mathew	Executive Director	Office of Disability Rights
FDS000139829	5/13/2013	McCollough, Matthew	Commissioner	Office of Human Rights
FDS000130374	5/15/2013	McDonald, Calonette	Administrative Law Judge	Office of Administrative Hearings
FDS000139817	5/14/2013	McDuffie, Kenyan	COUNCILMEMBER	Council of the District of Columbia
FDS000130187	5/8/2013	McGann, Rudolph	Attorney Advisor	Board of Elections and Ethics
FDS000139664	5/15/2013	McGaw, John	Deputy Director, Capital Improvements	Office of the Mayor
FDS000130186	5/14/2013	McGhie, Kenneth	General Counsel	Board of Elections and Ethics
FDS000130190	5/6/2013	McLaughlin, Alysoun	Former Supervisory Public Affairs Specialist	Board of Elections and Ethics
FDS000139855	5/13/2013	McMillon, Anthony	Information Technology Specialist	Council of the District of Columbia
FDS000130336	5/10/2013	McPherson, Chester	Deputy Commissioner of Mkt Operation	Dept. of Insurance, Securities and Banking
FDS000139798	5/15/2013	Mendelson, Philip	Chairman	Council of the District of Columbia
FDS000130324	4/17/2013	Miller, Jeff	Chief Operating Officer, Planning & Economic	Office of the Mayor
FDS000139761	5/6/2013	Miller, Robert	Zoning Commissioner	Office of Zoning
FDS000130333	5/15/2013	Miller, Ruthanne	Board Chair	Alcohol Beverage Regulation Administration
FDS000139649	5/29/2013	Miramontes, Dr. David	Medical Director	D.C. Fire and Emergency Medical Servs. Dept.
FDS000130326	5/15/2013	Mobley, L. Jeannette	Board Member	Alcohol Beverage Regulation Administration
FDS000139852	4/24/2013	Moir, Thomas	Budget Counsel	Council of the District of Columbia
FDS000130069	5/14/2013	Montgomery, Cecily	Director	Office of Campaign Finance
FDS000139841	5/10/2013	MOORE, BRIAN	Special Assistant (Chairman)	Council of the District of Columbia
FDS000139906	5/15/2013	Moore, Margaret	Board Member Police Complaints	Police Complaints Board
FDS000130328	5/14/2013	Moosally, Fred	Director	Alcohol Beverage Regulation Administration
FDS000139921	5/29/2013	Morgan, Barbara	Board Member	Office of Employee Appeals
FDS000139729	5/8/2013	Murphy, Charles	Board Member	Public Employee Relations Board
FDS000139652	5/15/2013	Murphy, Christopher	Chief of Staff, Executive Office of the Mayor	Office of the Mayor

FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000139667	4/30/2013	Murray, Christopher	Budget Analyst	Office of the Mayor
FDS000130315	5/31/2013	Nancoo, Alethia	Board Member	DC Water and Sewer Authority
FDS000130375	6/3/2013	Nash, Beverly	Administrative Law Judge	Office of Administrative Hearings
FDS000139526	5/13/2013	Nathan, Irvin	Attorney General	Office of the Attorney General
FDS000139971	5/31/2013	Newell, Bessie	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139857	5/15/2013	Newman, Andrew	Committee Director	Council of the District of Columbia
FDS000130178	5/6/2013	Nichols, Deborah	Board Chairman	Board of Elections and Ethics
FDS000139676	4/18/2013	Nmezi, Ngozi	Director of African Affairs	Office of the Mayor
FDS000130327	5/31/2013	Nophlin, Calvin	Board Member	Alcohol Beverage Regulation Administration
FDS000139870	5/7/2013	Norton, Eleanor	Delegate-US House of Representatives	U.S. House of Representatives
FDS000130350	5/15/2013	Nuss, Laura	Director	Department on Disability Services
FDS000139678	5/13/2013	Olivas, Roxana	Director of Latino Affairs	Office of the Mayor
FDS000139819	5/9/2013	Orange, Vincent	COUNCILMEMBER	Council of the District of Columbia
FDS000139640	5/24/2013	Orr, Derek	Director	Office of Disability Rights
FDS000130079	5/15/2013	Palmer, Crystal	Director	Office of Motion Picture & Television Development
FDS000130028	5/15/2013	Pannell, Phillip	Candidate (Ward 8 State Board of Education Member)	State Board of Education
FDS000139706	6/3/2013	Pappas, Gregory	Senior Deputy Director	Department of Health
FDS000139561	5/13/2013	Parchment, Monica	Administrative Judge	Contract Appeals Board
FDS000139689	5/29/2013	Payne, Kerry	Deputy Chief, Emergency Operations Specialist	D.C. Homeland Security & Emergency Mgmt. Agency
FDS000139634	5/10/2013	Peralta, Myrna	Board Member	Board of Library Trustees
FDS000139623	5/5/2013	Perry, Lawrence	Deputy Auditor	Office of the District of Columbia Auditor
FDS000139916	6/4/2013	Persina, William	Board Chair	Office of Employee Appeals
FDS000139973	4/29/2013	Petti, Caroline	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139739	4/28/2013	Pettigrew, Jr., Harold	Director	Department of Small and Local Business Development
FDS000139927	5/5/2013	Pfaehler, Gretchen	Chair	DC Historic Preservation Review Bd
FDS000130376	6/6/2013	Pierson, Erika	Principal Administrative Law Judge	Office of Administrative Hearings
FDS000130022	5/16/2013	Pina, Jarni	Candidate (At Large State Board of Education)	State Board of Education
FDS000139577	5/2/2013	Pittell, Stacie	Assistant Inspector General for Investigations	Board of Ethics & Government Accountability
FDS000130377	5/20/2013	Poindexter, Mark	Deputy Chief Admin. Law Judge	Office of Administrative Hearings
FDS000139790	5/25/2013	Pooda, Ollo Jean-Bosco	UDC Student Member of the board of trustees	University of DC, Board of Trustees
FDS000139625	5/15/2013	Poole, Eva	Chief of Staff	DC Public Library

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FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000139783	5/29/2013	Porter, Stephen	Board Member	University of DC, Board of Trustees
FDS000139831	4/26/2013	Powell, Edwin	Commissioner	Office of Human Rights
FDS000139919	5/14/2013	Price, Sheree	Board Member	Office of Employee Appeals
FDS000139929	5/7/2013	Pryor Metzger, Nancy	Citizen	DC Historic Preservation Review Bd
FDS000139654	5/15/2013	Quander, Paul	Deputy Mayor for Public Safety and Justice	Office of the Mayor
FDS000139657	4/21/2013	Quinones, Ariana	Chief of Staff, DM Health and Human Services	Office of the Mayor
FDS000139787	5/9/2013	Ramirez, Carmen	Board Member UDC	University of DC, Board of Trustees
FDS000130309	5/13/2013	Rapp, Melisa	Chief of Staff	Department of Health Care Finance
FDS000139740	5/8/2013	Rauch, Jesse	Executive Director	State Board of Education
FDS000139796	5/1/2013	Reich, Stephanie	Chief of Staff	Department of Employment Services
FDS000139581	5/15/2013	Richards, Laura	Board Member	Board of Ethics & Government Accountability
FDS000139635	5/8/2013	Richardson, Brenda	Board Member	Board of Library Trustees
FDS000130316	5/8/2013	Richardson, Brenda	Board Member	DC Water and Sewer Authority
FDS000139630	4/29/2013	Richardson, Donald	Board Member	Board of Library Trustees
FDS000130077	4/26/2013	Richardson, Eric	Executive Director	Office of Cable Television & Telecomms.
FDS000139673	4/23/2013	Richardson, Jeffrey	Executive Director, Serve DC	Office of the Mayor
FDS000139933	5/15/2013	Rimensnyder, Nelson	Unknown	Council of the District of Columbia
FDS000139834	5/5/2013	Robinson, John	Commissioner	Office of Human Rights
FDS000139553	4/25/2013	Robinson, Tony	Director of Public Affairs	Office of the City Administrator
FDS000139836	5/10/2013	Rojo, Luis	Commissioner	Office of Human Rights
FDS000130348	5/15/2013	Rolark-Barnes, Denise	Member	Washington Convention & Sports Authority Bd. of Directors
FDS000130378	6/4/2013	Rooney, John	Administrative Law Judge	Office of Administrative Hearings
FDS000139893	5/31/2013	Ross, Pete	Candidate (U.S. Senator)	U.S. Senate
FDS000130313	5/18/2013	Roth, Alan	Board Member	DC Water and Sewer Authority
FDS000139660	5/16/2013	Salami, Scheherazade	Educ Strategy Coord, DM for Education	Office of the Mayor
FDS000139977	5/16/2013	Salatti, John	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000130071	5/8/2013	Sanford, William	Supervisory General Counsel	Office of Campaign Finance
FDS000139978	5/30/2013	Schilling, Matthew	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139784	5/29/2013	Schwartz, Errol	Board Member	University of DC, Board of Trustees
FDS000130017	5/30/2013	Swartzman, David	Candidate (U.S. Senator)	U.S. House of Representatives
FDS000139889	4/26/2013	Seegars, Sandra	Candidate (Ward 8 Council Member)	Council of the District of Columbia
FDS000139793	5/9/2013	Session, Warner	Director	Metropolitan Washington Airports Authority

FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000139789	4/28/2013	Sessoms, Allen	Board Member	University of DC, Board of Trustees
FDS000139867	5/15/2013	Setlow, Christina	Legislative Counsel	Council of the District of Columbia
FDS000139872	4/25/2013	Shapiro, Peter	Candidate (At-Large Council Member)	Council of the District of Columbia
FDS000130379	5/20/2013	Sharkey, Robert	Principal Administrative Law Judge	Office of Administrative Hearings
FDS000139785	4/29/2013	Shelton, Jerome	Board Member	University of DC, Board of Trustees
FDS000139861	5/30/2013	Sibert, Karen	Legislative Assistant	Council of the District of Columbia
FDS000139718	5/9/2013	Silverman, Stuart	ATTORNEY	Office of the Inspector General
FDS000130332	5/13/2013	Silverstein, Mike	Board Member	Alcohol Beverage Regulation Administration
FDS000139878	5/6/2013	Skolnik, Max	Candidate (Ward 4 Council Member)	Council of the District of Columbia
FDS000139743	5/15/2013	Slover, Laura	Board Member, Ward 3 & President	State Board of Education
FDS000139636	5/11/2013	Smith, Kelley	Board of Trustee	Board of Library Trustees
FDS000139830	5/8/2013	SMITH, NYASHA	Secretary to the Council	Council of the District of Columbia
FDS000139707	5/7/2013	Snyder, Shaun	Chief Operating Officer	Department of Health
FDS000139575	5/10/2013	Sobin, Darrin	Director of Government Ethics	Board of Ethics & Government Accountability
FDS000139934	6/7/2013	Sonderman, Robert	Archaeologist	DC Historic Preservation Review Bd
FDS000139579	4/26/2013	Spagnoletti, Robert	Board Chairman	Board of Ethics & Government Accountability
FDS000139638	4/26/2013	Stanchfield, Eric	Executive Director	D.C. Retirement Board
FDS000130177	5/3/2013	Stanley, Neil	Director	Department of Youth Rehabilitation Services
FDS000139620	5/15/2013	Staton, Jr., James	Director	Office of Contracting and Procurement
FDS000139904	5/31/2013	Stracuzzi, Natale	Candidate (Delegate)	U.S. House of Representatives
FDS000130188	5/8/2013	Stroud, Terri	Senior Staff Attorney	Board of Elections and Ethics
FDS000130009	5/31/2013	Swain, Leon	Candidate (At Large Council Member)	Council of the District of Columbia
FDS000139910	5/13/2013	Szegedy-Maszak, Peter	Chairman	Rental Housing Commission
FDS000139837	5/13/2013	Taifa, Nkechi	Commission Chair	Office of Human Rights
FDS000139756	5/29/2013	Tapscott, Stanley	Commissioners	DC Taxicab Commission
FDS000130181	5/8/2013	Tatum, Clifford	Executive Director	Board of Elections and Ethics
FDS000139849	5/3/2013	TAYLOR, JAMAINE	Assistant Secretary to the Council	Council of the District of Columbia
FDS000130380	5/30/2013	Teal, Arabella	Administrative Law Judge	Office of Administrative Hearings
FDS000139691	5/26/2013	Thomas, Jorhena	Fusion Center Operations Manager	D.C. Homeland Security & Emergency Mgmt. Agency
FDS000130176	5/16/2013	Thomas, Lionell	Executive Director	Commission on the Arts & Humanities
FDS000130337	5/13/2013	Thompson, John	Executive Director	Office on Aging
FDS000139786	5/15/2013	Thompson, Mary	Board Member	University of DC, Board of Trustees
FDS000139661	5/26/2013	Thornton, Charles	Director, Office of Returning Citizens	Office of the Mayor

FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000139843	5/16/2013	Tolliver, Denise	Chief of Staff (Chairman)	Council of the District of Columbia
FDS000139749	4/24/2013	Trabue, Ted	Board Member, At-Large	State Board of Education
FDS000130023	5/24/2013	Tucker, Marvin	Unknown	State Board of Education
FDS000130381	5/30/2013	Tucker, Wanda	Administrative Law Judge	Office of Administrative Hearings
FDS000139644	5/2/2013	Tulou, Christophe	Former Director	District Department of the Environment
FDS000130307	5/6/2013	Turnage, Wayne	Director	Department of Health Care Finance
FDS000139766	5/13/2013	Turnbull, Michael	Zoning Commissioner	Office of Zoning
FDS000139840	6/10/2013	Velasquez, Gustavo	Director	Office of Human Rights
FDS000139908	5/10/2013	Vondran, Kurt	Chairperson	Police Complaints Board
FDS000139788	5/31/2013	Vradenburg, George	Board Member	University of DC, Board of Trustees
FDS000130383	6/3/2013	Walker, Mary	Chief Administrative Law Judge	Office of Administrative Hearings
FDS000139650	5/27/2013	Walls, Lon	Communications Director	D.C. Fire and Emergency Medical Servs. Dept.
FDS000139838	5/14/2013	Ward, Michael	Commissioner	Office of Human Rights
FDS000139799	5/2/2013	Warren, Christopher	Chief Information Officer	Council of the District of Columbia
FDS000139746	4/26/2013	Warren-Jones, Monica	Board Member, Ward 6	State Board of Education
FDS000139730	5/15/2013	Wasserman, Donald	Board Member Public Employee Relations Board	Public Employee Relations Board
FDS000130384	6/4/2013	Wellner, Steven	Principal Administrative Law Judge	Office of Administrative Hearings
FDS000139820	5/15/2013	WELLS, THOMAS	COUNCILMEMBER	Council of the District of Columbia
FDS000139859	5/3/2013	WERNER, RUTH	Committee Director (C/M Evans)	Council of the District of Columbia
FDS000139858	5/7/2013	Westcott, Katherine	Assistant General Counsel	Council of the District of Columbia
FDS000139709	5/31/2013	Wharton-Boyd, Linda	Special Assistant	Department of Health
FDS000139770	4/28/2013	Wheet, Michael	Chairman	Housing Finance Agency Board
FDS000139902	5/10/2013	White, William	Commissioner	Dept. of Insurance, Securities and Banking
FDS000139912	6/10/2013	Wilcox, Ann	Candidate (At Large Council Member)	Council of the District of Columbia
FDS000139853	5/15/2013	Wilkins, Valerie	Human Resources Director	Council of the District of Columbia
FDS000130027	5/15/2013	Williams, Karen	Candidate (Ward 7 State Board of Education Member)	State Board of Education
FDS000139810	5/13/2013	Williams, Sharlene	General Counsel	Office of the Chief Medical Examiner
FDS000130074	5/15/2013	Williams, Sidney Wesley	Public Affairs Manager	Office of Campaign Finance
FDS000139863	5/13/2013	Williams-Kief, Brendan	Deputy Chief of Staff	Council of the District of Columbia
FDS000139856	5/14/2013	Willingham, Jonathan	Chief of Staff (C/M Cheh)	Council of the District of Columbia
FDS000139719	4/25/2013	Willoughby, Charles	INSPECTOR GENERAL	Office of the Inspector General
FDS000130385	5/20/2013	Wilson-Taylor,, Denise	Administrative Law Judge	Office of Administrative Hearings
FDS000139708	5/13/2013	Woldu, Feseha	Senior Deputy Director	Department of Health
FDS000139842	5/12/2013	Wolfe, Joseph	Capital Budget Analyst	Council of the District of Columbia

FDS ID	Filing Date	Incumbent	Title	Agency Name
FDS000139720	4/29/2013	Wolfingbarger, Brentton	SUPERVISORY ATTORNEY ADVISOR	Office of the Inspector General
FDS000130319	5/6/2013	Wright, Alvin	ASSISTANT INSPECTOR GENERAL	Office of the Inspector General
FDS000139658	5/31/2013	Wright, De'Shawn	Deputy Mayor for Education	Office of the Mayor
FDS000130386	6/2/2013	Yahner, Ann	Principal Administrative Law Judge	Office of Administrative Hearings
FDS000139913	4/30/2013	Young, Ronald	Commissioner	Rental Housing Commission
FDS000139818	4/26/2013	Zarwell, Lucas	Chief Toxicologist	Office of the Chief Medical Examiner
FDS000130323	4/29/2013	Zipper, David	Director of Business Development	Office of the Mayor
FDS000139833	5/15/2013	ZVENYACH, VLADLEN	General Counsel	Council of the District of Columbia

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**Required FDS (2012) Filers Who Failed To File**

FDS ID	Incumbent	Title	Agency Name
FDS000139884	Abraham, Jauhar	Candidate (Ward 8 Council Member)	Council of the District of Columbia
FDS000139947	Albrecht, Robert	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139932	Ally, Rauzia	Architect	DC Historic Preservation Review Bd
FDS000139643	Anderson, Keith	Acting Director	District Department of the Environment
FDS000139774	Askew, Jr., Joseph	Board Member	University of DC, Board of Trustees
FDS000139879	Bennett II, William	Candidate (Ward 7 Council Member)	Council of the District of Columbia
FDS000139901	Bennett-Fleming, Nate	Candidate (U.S. Representative)	U.S. House of Representatives
FDS000139949	Boston, William	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139950	Broadnax, Amanda	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139951	Brown, Jermaine	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139998	Brown, Michael	At Large Council Member	Council of the District of Columbia
FDS000139880	Brown, Tom	Candidate (Ward 7 Council Member)	Council of the District of Columbia
FDS000139828	Budoff, Jennifer	Budget Director	Council of the District of Columbia
FDS000139943	Buell, Catherine	Citizen	DC Historic Preservation Review Bd
FDS000139881	Chavous, Kevin	Candidate (Ward 7 Council Member)	Council of the District of Columbia
FDS000139955	Cheeks, John	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139924	Day, Tim	Candidate (At Large Council Member)	Council of the District of Columbia
FDS000139915	Douglass, Marian	Candidate (Ward 7 Council Member)	Council of the District of Columbia
FDS000139957	Dwenger, Bill	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139885	Feenster, Gary	Unknown	Council of the District of Columbia
FDS000139754	Ferguson, Elliott	Commissioners	DC Taxicab Commission
FDS000130016	Flanagan, John	Candidate (Ward 2 Council Member)	Council of the District of Columbia
FDS000139928	Folden Sr., Don	Candidate (Ward 7 Council Member)	Council of the District of Columbia
FDS000139905	Fraser, Karl	Board Member	Police Complaints Board
FDS000139942	Galvez, Teri	Candidate (RNC)	Republican National Committee

FDS ID	Incumbent	Title	Agency Name
FDS000139959	Gardner, Shelly	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000130345	Hall, William	Member	Washington Convention & Sports Authority Bd. of Directors
FDS000139642	Hunt, Jessica	Special Projects Coordinator	Office of Disability Rights
FDS000139966	Hunter, Delano	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000130004	Jackson, George	Candidate (At Large Council Member)	Council of the District of Columbia
FDS000139882	Johnson, Monica	Candidate (Ward 7 Council Member)	Council of the District of Columbia
FDS000130026	Johnson, Villareal	Candidate (Ward 7 State Board of Education Member)	State Board of Education
FDS000139926	Labor, Clarence	Board Chair	Office of Employee Appeals
FDS000139944	Landis, Chris	Architect	DC Historic Preservation Review Bd
FDS000139883	Leacraft, David	Candidate (Ward 7 Council Member)	Council of the District of Columbia
FDS000139968	Magnus, Ron	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139917	Moch, Darryl	Unknown	Council of the District of Columbia
FDS000139930	Moten, Ron	Candidate (Ward 7 Council Member)	Council of the District of Columbia
FDS000139755	Muhammad, Anthony	Commissioners	DC Taxicab Commission
FDS000139887	Narain, Angela	Candidate (Ward 8 Council Member)	Council of the District of Columbia
FDS000139931	Nightingale, Maxine	Candidate (Ward 7 Council Member)	Council of the District of Columbia
FDS000139656	Otero, Beatriz	Deputy Mayor for Health and Human Services	Office of the Mayor
FDS000139888	Patterson, Jacque	Candidate (Ward 8 Council Member)	Council of the District of Columbia
FDS000130029	Pretlow, Larry	Candidate (Ward 8 State Board of Education Member)	State Board of Education
FDS000139832	Reed, Denise	Commissioner	Office of Human Rights
FDS000139975	Robertson King, Julianne	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139763	Sorg, Nicole	Board of Zoning Adjustment	Office of Zoning
FDS000139686	Spriggs, Timothy	Chief, Operations Division	D.C. Homeland Security & Emergency Mgmt. Agency
FDS000130189	Stenbjorn, Paul	Former Supervisory Information Technology	Board of Elections and Ethics
FDS000139936	Taylor, Joseph	Associate University Architect / Planner	DC Historic Preservation Review Bd

<i>FDS ID</i>	<i>Incumbent</i>	<i>Title</i>	<i>Agency Name</i>
FDS000139895	Thomas, Carl	Candidate (U.S. Senator)	U.S. Senate
FDS000139726	Tregoning, Harriet	Director	Office of Planning
FDS000130382	Tyson, Kiyo Oden	General Counsel	Office of Administrative Hearings
FDS000139911	Webster, Matt	Candidate (At Large Council Member)	Council of the District of Columbia
FDS000139690	White, Patrice	Assistant Director , Plans and Preparedness Div.	D.C. Homeland Security & Emergency Mgmt. Agency
FDS000139748	White, Trayon	Board Member, Ward 8	State Board of Education
FDS000139982	Wilds, Frank	Candidate (Ward 5 Council Member)	Council of the District of Columbia
FDS000139794	Williams, Joslyn	Unknown	Metropolitan Washington Airports Authority
FDS000139890	Williams, Natalie	Candidate (Ward 8 Council Member)	Council of the District of Columbia
FDS000139873	Wolterbeek, Edward	Candidate (At-Large Council Member)	Council of the District of Columbia
FDS000139986	Zapata, Rae	Candidate (Ward 5 Council Member)	Council of the District of Columbia

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

Required Financial Disclosure Statement Filers Who Requested Extension (2012)

FDS ID	Extension Date	Incumbent	Title	Agency Name Reason for Extension
FDS000130388	6/28/2013	Alfonso, Pedro	Chairman	D.C. Housing Authority <i>Agency requested extension on behalf of Filer</i>
FDS000130354	6/3/2013	Barber, Claudia	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130342	5/30/2013	Boardman, John	Member	Washington Convention & Sports Authority Bd. of Directors <i>Agency requested extension on behalf of Filer</i>
FDS000139777	6/24/2013	Bradley, Katherine	UDC Board Member	University of DC, Board of Trustees <i>Filer was not notified until after deadline</i>
FDS000139998	5/29/2013	Brown, Michael	At Large Council Member	Council of the District of Columbia <i>Requested time to gather financial documents</i>
FDS000130355	6/3/2013	Burnett, Louis	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130356	6/3/2013	Cobbs, Nicholas	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130390	6/28/2013	Council, Kenneth	Board Member	D.C. Housing Authority <i>Agency requested extension on behalf of Filer</i>
FDS000130357	6/3/2013	Crichlow, Claudia	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130358	6/3/2013	Davenport, Joan	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130359	6/3/2013	Dean, John	Principal Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130340	5/30/2013	Durso, Emily	Treasurer	Washington Convention & Sports Authority Bd. of Directors <i>Agency requested extension on behalf of Filer</i>
FDS000130360	6/3/2013	England, William	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130361	6/3/2013	Figueroa, Elizabeth	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130343	5/30/2013	Gandhi, Natwar	Chief Financial Officer	Office of the Chief Financial Officer <i>Agency requested extension on behalf of Filer</i>
FDS000130362	6/3/2013	Goode, Jesse	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130363	6/3/2013	Goodie, Sharon	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>

FDS ID	Extension Date	Incumbent	Title	Agency Name Reason for Extension
FDS000130339	5/30/2013	Greenan, Linda	Secretary	Washington Convention & Sports Authority Bd. of Directors <i>Agency requested extension on behalf of Filer</i>
FDS000130364	6/3/2013	Greene, Tiffini	Executive Director	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130391	6/28/2013	Grossinger, Ken	Board Member	D.C. Housing Authority <i>Agency requested extension on behalf of Filer</i>
FDS000130344	5/30/2013	Haddock Ortiz, Jay	Vice Chairman	Washington Convention & Sports Authority Bd. of Directors <i>Agency requested extension on behalf of Filer</i>
FDS000130338	5/30/2013	Hagans, Michele	Chairman	Washington Convention & Sports Authority Bd. of Directors <i>Agency requested extension on behalf of Filer</i>
FDS000130345	5/30/2013	Hall, William	Member	Washington Convention & Sports Authority Bd. of Directors <i>Agency requested extension on behalf of Filer</i>
FDS000130365	6/3/2013	Handy, Paul	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130366	6/3/2013	Harmon, James	Admin. Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130367	6/3/2013	Harvey, Scott	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130368	6/3/2013	Hines, Caryn	administrative law judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130369	6/3/2013	Jenkins, Audrey	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130346	5/30/2013	Keene, Solomon	Member	Washington Convention & Sports Authority Bd. of Directors <i>Agency requested extension on behalf of Filer</i>
FDS000130392	6/28/2013	Lancaster, Frank	Board Member	D.C. Housing Authority <i>Agency requested extension on behalf of Filer</i>
FDS000130347	5/30/2013	Lindner, Miriam	Member	Washington Convention & Sports Authority Bd. of Directors <i>Agency requested extension on behalf of Filer</i>
FDS000130370	6/3/2013	Little, E. Savannah	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130371	6/3/2013	Mangan, Margaret	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>
FDS000130372	6/3/2013	Masulla, Mary	Administrative Law Judge	Office of Administrative Hearings <i>Was not notified until after deadline</i>

FDS ID	Extension Date	Incumbent	Title	Agency Name	Reason for Extension
FDS000130373	6/3/2013	McClendon, Samuel	Principal Administrative Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000130374	6/3/2013	McDonald, Calonette	Administrative Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000130393	6/28/2013	Mobley, Clarence	Board Member	D.C. Housing Authority	<i>Agency requested extension on behalf of Filer</i>
FDS000130375	6/3/2013	Nash, Beverly	Administrative Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000139916	6/7/2013	Persina, William	Board Chair	Office of Employee Appeals	<i>Illness</i>
FDS000130376	6/3/2013	Pierson, Erika	Principal Administrative Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000130377	6/3/2013	Poindexter, Mark	Deputy Chief Admin. Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000130394	6/28/2013	Reed, Jennifer	Board Member	D.C. Housing Authority	<i>Agency requested extension on behalf of Filer</i>
FDS000130348	5/30/2013	Rolark-Barnes, Denise	Member	Washington Convention & Sports Authority Bd. of Directors	<i>Agency requested extension on behalf of Filer</i>
FDS000130378	6/3/2013	Rooney, John	Administrative Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000130313	5/29/2013	Roth, Alan	Board Member	DC Water and Sewer Authority	<i>Due to travel, needed extra time to organize financial documents</i>
FDS000130379	6/3/2013	Sharkey, Robert	Principal Administrative Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000130380	6/3/2013	Teal, Arabella	Administrative Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000130389	6/28/2013	Thompson, Terri	Vice Chairman	D.C. Housing Authority	<i>Agency requested extension on behalf of Filer</i>
FDS000130395	6/28/2013	Tolson, M. Bernadette	Board Member	D.C. Housing Authority	<i>Agency requested extension on behalf of Filer</i>
FDS000130381	6/3/2013	Tucker, Wanda	Administrative Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000130382	6/3/2013	Tyson, Kiyoo Oden	General Counsel	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000130396	6/28/2013	Vann-Ghasri, Aquarius	Board Member	D.C. Housing Authority	<i>Agency requested extension on behalf of Filer</i>

FDS ID	Extension Date	Incumbent	Title	Agency Name	Reason for Extension
FDS000130383	6/3/2013	Walker, Mary	Chief Administrative Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000130384	6/3/2013	Wellner, Steven	Principal Administrative Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000130385	6/3/2013	Wilson-Taylor,, Denise	Administrative Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>
FDS000130386	6/3/2013	Yahner, Ann	Principal Administrative Law Judge	Office of Administrative Hearings	<i>Was not notified until after deadline</i>

FRIENDSHIP PUBLIC CHARTER SCHOOL**NOTICE OF REQUEST FOR PROPOSAL**

Friendship Public Charter School (FPCS) is soliciting proposals for the following services:

Friendship Public Charter School is seeking bids from prospective candidates to provide **Audio Visual Services** for its annual convocation in accordance with requirements and specifications detailed in the Request for Proposal.

Friendship Public Charter School is seeking bids from prospective candidates to provide **Inventory/Asset Management Services** in accordance with requirements and specifications detailed in the Request for Proposal.

An electronic copy of the full Request for Proposal (RFP) may be requested via e-mail from Valerie Boahene at vboahene@friendshipschools.org call 202-281-1722

**DEPARTMENT OF GENERAL SERVICES
NOTICE OF PUBLIC MEETINGS REGARDING
Surplus Resolutions Pursuant to D.C. Official Code 10-801**

The District will conduct public hearing to receive public comments on the proposed surplus of the following District property. The date, time and location shall be as follows:

- Property:** Parcel 238/40, in the 800 block of Barnaby Road, S.E. (between Bonini Road and Chesapeake Street, SE)
- Date:** Tuesday, July 9, 2013
- Time:** 6:30PM
- Location:** William Lockridge/Bellevue Library
115 Atlantic Street, SW
Washington, DC 20032
- Contact:** S. E. Ponds, Realty Program Specialist
Department of General Services – Portfolio Division
202.741.0942 sheryl.ponds@dc.gov

HEALTH BENEFIT EXCHANGE AUTHORITY**NOTICE OF PUBLIC MEETING****Executive Board of the Health Benefit Exchange Authority**

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held via teleconference on **Monday, June 17, 2013 at 1:00 pm**. The call in number is 1-877-668-4493, Access code 645 301 984. Topics that will be discussed include procurement measures and consideration of an amendment to the by-laws of the Exchange Authority regarding timing of elections for Board Officers.

The Executive Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

Department of Health (DOH)
 Community Health Administration (CHA)
 Nutrition and Physical Fitness Bureau
 Notice of Funding Availability (NOFA)
 Request for Application (RFA)

#CHA_HDMEAL062813

Medical Nutrition Therapy and Home Delivered Meal Services

The Government of the District of Columbia, Department of Health (DOH), Community Health Administration (CHA) is soliciting applications from qualified applicants to provide medical nutrition therapy and meal service delivery to homebound District of Columbia residents suffering from a chronic disease(s) including cancer, diabetes, cardiovascular disease, renal disease and HIV/AIDS.

Up to \$675,000 in local FY 14 District of Columbia Appropriated funds will become available for one award for the provision of the following services between October 1, 2013 and September 30, 2014.

Service Category	Funding Source	Expected Available Funds (Annual)
Medical Nutrition Therapy /Home Delivered Meals	Local Appropriated	\$675,000

All awards resulting from this RFA are contingent upon the availability of locally appropriated District of Columbia funding for a DOH-issued grant award. The award is for one year with the possibility of two option years.

The following entities are eligible to apply for grant funds under this RFA: not-for-profit public and private organizations with a demonstrated track record in providing medical nutrition therapy and home delivered meal service to people living with a chronic disease.

The RFA #CHA_HDMEAL062813 will be released on **Friday June 28, 2013**. The RFA will be posted on the Office of Partnerships and Grants Services website, www.opgs.dc.gov under the District Grants Clearinghouse. A limited number of copies of the RFA will be available for pick up at DOH/CHA offices located at 899 North Capitol Street, NE Washington, DC on the 3rd floor.

The deadline for submission is **July 26 at 4:45 pm**. All applications must be received in the DOH Community Health Administration (CHA) suite on the third floor by 4:45 pm.

The Pre-Application Conference will be held at the CHA offices located at 899 North Capitol Street, NE on the 3rd floor in Room 306 on **Tuesday July 10, 2013 from 1 pm to 2 pm**. Please contact Amelia Peterson-Kosecki at 202.442.9140 for additional information.

**DEPARTMENT OF HEALTH
HEALTH PROFESSIONAL LICENSING ADMINISTRATION**

NOTICE OF MEETING

Board of Medicine
June 26, 2013

On JUNE 26, 2013 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 8:30 am until 10:30 am to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations. The meeting will be open to the public from 10:30 am to 12:00 pm to discuss various agenda items and any comments and/or concerns from the public. After which the Board will reconvene in closed session to continue its deliberations until 2:00 pm. The meeting location is 899 North Capitol Street NE, 2nd Floor, Washington, DC 20002.

Visit the Board of Medicine website www.doh.dc.gov/bomed - select BoMed Calendars and Agendas to view the agenda. Executive Director for the Board – Jacqueline A. Watson, DO, MBA, (202) 724-8755.

**DISTRICT OF COLUMBIA
POLICE OFFICERS STANDARDS AND TRAINING BOARD**

NOTICE OF PUBLIC MEETING

The District of Columbia Police Officers Standards and Training (D.C. POST) Board will hold an open meeting on:

Wednesday, June 26, 2013, 4:00 p.m. – 5:30 p.m.

The meeting will be held in Room 5147, Henry J. Daly Building, 300 Indiana Avenue, Northwest, Washington, D.C. 20001 or as otherwise announced in the D.C. Register. Anyone interested in the work of the D.C. POST Board may attend the meetings. Please note that you must present picture identification in order to enter the building.

Copies of the materials to be voted on by the Board at a particular meeting may be obtained in advance beginning ten (10) business days prior to the meeting. Typed written comments on the materials may be submitted to the Office of the Board at least one (1) business day in advance of the meeting. Written comments received or postmarked after this date will not be accepted.

Members of the public who wish to present oral testimony at a particular meeting should contact the Office of the D.C. POST at least one (1) business day prior to the meeting by telephone or by faxing a written copy of the comments to be presented. Public comments will be limited to the last thirty (30) minutes of the meeting. Individual comments will be limited to three (3) minutes. Members of the public will be scheduled on a “first come-first served” basis.

The contact information is as follows:

District of Columbia Police Officers Standards and Training Board
300 Indiana Avenue, Northwest, Room 6029
Washington, D.C. 20001
dcpost@dc.gov

POTOMAC LIGHTHOUSE PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****June 6, 2013**

Charter Facilities Management, Inc., on behalf of Lighthouse Academies, Inc., and the Potomac Lighthouse Public Charter School, DC is seeking competitive proposals by June 24, 2013 at 12:00 p.m. EST for the delivery of student transportation for the 2013-2014 school year with a possible extension of (2) one-year renewals. Transportation must conform in all aspects to D.C. laws, the rules and regulations of the US Department of Transportation, the Registry of Motor Vehicles or other regulatory agency with jurisdiction over the transportation of school children. All sealed proposals shall be forwarded to the address listed below:

Attn: Ms. Rebecca Rudder
Charter Facilities Management
1661 Worcester Road, Suite 203
Framingham, MA 01701
Phone: 508-626-0904 ext. 103
Fax: 508-626-0944
rrudder@charterfacilities.org

Sealed proposals shall be received no later than June 24, 2013 by 12:00 PM EST.

Sealed proposals shall be submitted according to the specifications enclosed herein. In addition all sealed proposals shall be submitted in a sealed envelope marked as: "Potomac School Bus Transportation Services 2013-2014". Indicate the firm name on the envelope. Included with the hard-copy proposals shall be an electronic copy of the proposal.

Late and/ or faxed proposals will not be accepted.

Charter Facilities Management, Inc., reserves the right to reject any and all proposals without limitation. Charter Facilities Management reserves the right to award a contract as it determines to be in the best interest of Lighthouse Academies, Inc. and the Potomac Lighthouse Public Charter School. To acquire a copy of the proposal specification, please contact Rebecca Rudder at the above contact information. To download the proposal specifications go to the Charter Facilities Management website at www.charterfacilities.org, RFP page.

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD**NOTICE OF PUBLIC COMMENT PERIOD**

The District of Columbia Public Charter School Board (PCSB) hereby gives notice that it has released for public comment the 2014 Application Guidelines for New Charter Schools in District of Columbia. The guidelines provide the steps required for organizations or individuals seeking approval to open a new charter school or convert a traditional, parochial or private school. A copy of the proposed guidelines can be found at:

http://www.dcpsb.org/data/images/pcsb_2014_application%20guidelines%20for%20charter%20schools%20public%20comment_20130610.pdf

The public comment period opened June 10, 2013 and will close by Tuesday, July 9. A public hearing will be held during the Board's monthly meeting on Monday, June 24 at 7:30 pm at PCSB offices located at 3333 14th St, NW, Washington, DC. The final guidelines will be published on August 2.

To submit written comments, please email Isoken Igodan, iigodan@dcpsb.org, or mail them to DC Public Charter School Board, 3333 14th Street, NW, Suite 210, Washington, DC 20010. To sign up to testify at the public hearing, please email iigodan@dcpsb.org or call the PCSB office at (202) 328-2660 by 4:00 pm on Friday, June 21 to be placed on the witness list. Testimony will be limited to two minutes. Please bring copies of your testimony to the hearing.

DC PUBLIC CHARTER SCHOOL BOARD**NOTICE OF REQUEST FOR PROPOSALS****Interactive Data Dashboards**

The District of Columbia Public Charter School Board seeks proposals from organizations and consulting firms that are experienced in Microsoft SQL Server and web development/design to build interactive data dashboards. Responding companies should have specific experience managing event logistics, attendance measurements, registrations, and sponsor and exhibitor tracking, and support. Work will begin June 1, 2013 and conclude January 15, 2014.

Name of Project: Interactive Data Dashboards

RFP Issue Date: June 14, 2013

Proposal Due Date: June 28, 2013 5:00PM

Submittal: Proposals should be submitted electronically to:
mlytton@dcpcsb.org

Scope of Work/ Deliverables

PCSB seeks to make a wide variety of data available to DC's public charter schools and the public at large. PCSB's goal is to make professional quality, well designed dashboards that are easily understood by parents but provide enough detail and flexibility to be useful to educational professionals and policy makers. In some cases, the data dashboards will need to be secured for limited access in compliance with the Family Educational Rights and Privacy Act (FERPA); in the case of other types of data, the dashboards will be made available to the public. The data to be built into the dashboards, including assessment, non-academic, and enrollment data, are primarily stored in Microsoft SQL Server 2008. PCSB also requires flexibility in the design so that PCSB staff can easily make changes to the dashboards in the future without additional development or cost.

The key tasks of the work include:

- compiling business rules for any calculations embedded in the dashboards;
- building any necessary cubes and views off the existing SQL tables;
- designing the dashboard user interfaces based on PCSB's requirements, including multiple levels of user access permissions;
- building the dashboards in PCSB's existing SharePoint site or another content management system, as approved by PCSB; and
- ensuring data quality between the source data (SQL database) and the created dashboards.

The dashboards are to be developed in three phases. Proposals may be submitted for one, two, or all three phases.

Phase One

Public dashboards with static, aggregated, FERPA-compliant, non-academic data (e.g. attendance and discipline). PCSB expects these dashboards to be released, with PCSB approval, by August 30, 2013.

Phase Two

A Performance Management Framework interactive dashboard based on static data, with student demographic subgroup drill-downs and school comparison tools. PCSB expects these dashboards to be released, with PCSB approval, in conjunction with the Performance Management Framework, on November 5, 2013.

Phase Three

More complex dashboards with more advanced calculations, student-level drilldowns with FERPA-compliant security management, and dynamic data fed from SQL.

Explanation of the RFP Process

- a. A selection committee comprised of PCSB staff will review the proposals.
- b. The selected proposal will be announced on or before July 12, 2013.

The PCSB reserves the right to amend the contract resulting from this RFP for necessary time constraints and the availability of approved funding.

Evaluation of Proposals

Criteria to be used to evaluate proposals are as follows:

Experience and Qualifications (50 points)

The Committee will evaluate a firm’s relevant experience in providing similar services to other school districts or community-based organizations. The evaluation of experience will be a subjective assessment based upon information supplied by the firm in its submission and via reference checks. The firm’s explanation of its approach to each of the key tasks, as listed above, will be considered within this criterion.

Significant sub-factors include:

	Possible Points
Experience with SQL and web development	15
Demonstration of past high-quality dashboard creation, including evidence of usability testing	15
Experience assuring data quality	10
Understanding of the education sector	10

Past Performance (20 points)

Past performance is defined as a measure of how well the firm has satisfied its customers, successfully achieved deliverables, and conducted business in an ethical manner, especially in similar projects. The evaluation of past performance will be a subjective assessment based upon information supplied by the firm in its submission and via reference checks.

This criterion will include, but is not necessarily limited to, factors such as:

	Possible Points
Quality of service/customer satisfaction	10
Timeliness of performance/reliability	10

Price (20 Points)

The Committee will review each firm’s stated rates while keeping in mind the expected quality of the service.

Local, Small, and Disadvantaged Business Enterprises (10 Points)

An additional 10 points will be awarded to proposals from certified local, small, and disadvantaged business enterprises.

Preliminary List of Dashboards

This list is subject to change.

Phase	Description	Filters	Drill Down	Benchmark
1	Average Daily Attendance	LEA Campus Grade Month Week	Year Month Day Student Home Ward	Grade level average YTD same campus/same student last year ADA
1	In-Seat Attendance	LEA Campus Grade Month Week Race/Ethnicity Economic Disadvantage	Year Month Day Student Student Home Ward	Grade level average YTD same campus/same student last year ISA
1	Lost Instruction Time (all absences & discipline)	LEA Campus Grade Month Week Race/Ethnicity Economic Disadvantage	Year Month Day Student Student Home Ward	Grade level average YTD same campus/same student last year lost instruction time
1	Truancy Rate	LEA Campus Grade Month Week	Year Month Day Student Student Home Ward	Charter average by campus and grade level (K-12) YTD by same campus/student as last year
2	DC-CAS performance (achievement or MGP)	Year LEA Campus Test Subject Test Type Race/Ethnicity ELL Status Special education status Economic disadvantage status Gender	Grade	Charter average for school type (e.g. MS), grade tested, demographic subgroup in specified subject/grade Campus average for all students in specified subject/grade Charter average for all students in school type (e.g. MS) in specified subject/grade
2	School profile			Allows parents to search and compare schools by mission, educational offerings, transportation/walkability, grades served, tier, etc.

Phase	Description	Filters	Drill Down	Benchmark
3	DC-CAS performance by consistent enrollment cohort	Year LEA Campus Test Subject Test Type Race/Ethnicity ELL Status Special education status Economic disadvantage status Gender	Grade	Charter average for consistent enrollment cohort for school type (e.g. MS), grade tested, demographic subgroup in specified subject/grade Charter average for all students (regardless of reenrollment) in specified subject/grade Campus average for all students (regardless of reenrollment) in specified subject/grade
3	Reenrollment	LEA Campus Grade Student home ward	Student	PMF floor & target
3	Enrollment	LEA Campus Grade	Grade Race/Ethnicity ELL Status Special education status Economic disadvantage status Gender	LEA enrollment ceiling Campus enrollment projection
3	Student out-of-school suspension rate	LEA Campus Grade	Year Month Day Student Student Home Ward	By grade level with YTD comparisons
3	Expulsion rate	LEA Campus Grade	Year Month Day Student Student Home Ward	By grade level with YTD comparisons

DISTRICT OF COLUMBIA RETIREMENT BOARD

NOTICE OF CLOSED MEETING

June 20, 2013

9:30 a.m.

DCRB Board Room (2nd floor)

900 7th Street, N.W.

Washington, D.C 20001

On June 20, 2013, at 9:30 a.m., the District of Columbia Retirement Board (DCRB) will hold a closed meeting for the purpose of receiving investment and fiduciary training as permitted by D.C. Official Code §2-575(b)(12).

The meeting will be held in the DCRB Board Room (2nd floor) at 900 7th Street, N.W., Washington, D.C 20001.

For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or Deborah.Reaves@dc.gov.

**DISTRICT OF COLUMBIA RETIREMENT BOARD
BOARD OF TRUSTEES**

NOTICE OF OPEN BOARD MEETING

AGENDA

Thursday, June 20, 2013

On June 20, 2013, DCRB will hold a brief Open Board meeting at 9:30 a.m. A general agenda for the Open Board meeting is below. This meeting will be held at 900 7th Street, N.W., (Mezzanine Level) Washington, D.C. 20001.

For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or Deborah.Reaves@dc.gov.

AGENDA

- | | | |
|------|---|----------------|
| I. | Call to Order and Roll Call | Chairman Bress |
| II. | Approval of Board Meeting Minutes: May 16, 2013 | Chairman Bress |
| III. | Other Business | Chairman Bress |
| IV. | Adjournment | Chairman Bress |

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA
RECOMMEND FOR APPOINTMENTS OF NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after July 15, 2013.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on June 14, 2013. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary
Recommended for appointment as a DC Notaries Public

Effective: July 15, 2013

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Anderson	Gail M.	Foster, Murphy, Altman & Nickel, PC 1899 L Street, NW, Suite 1150	20036
Asfaw	Martha M.	Wiley Rein, LLP 1776 K Street, NW	20006
Banks	Vernell A.	Capitol City Brewing Company 1612 U Street, NW, Suite 400	20009
Barnes	Pearl Elizabeth	Construction & General Laborers' Local Union 657 5201 1st Place, NE	20011
Beavans, III	James B.	Clements Worldwide One Thomas Circle, NW, 8th Floor	20005
Blount	Fatuma	Bank of America 1501 Pennsylvania Avenue, NW	20006
Boyar	Alexander R.	SmartSenseCom, Inc 126 C Street, NW	20001
Brown	Rhonda Harrison	Self (Dual) 3930 10th Street, NE, Apt. #2	20017
Browne	Stephen A.	World Vision 300 I Street Street, NE	20002
Bruton	Scott	Housing Counseling Services 2410 17th Street, NW	20009
Buckley	Tricia	Northridge Capital 1101 30th Street, NW, Suite 150	20007
Capps	Evelyn D.	Clifford Chance US LLP 2001 K Street, NW	20006
Carroll	Brenda D.	Self 734 Hamilton Street, NW	20011
Carvajal	Orlando	International Monetary Fund, Investment Office 700 19th Street, NW	20431

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Cerria	Christian M.	Ellisdale Construction 3050 K Street, NW, Suite 201	20007
Deane	Damon	Bank of America 888 17th Street, NW	20006
DiBartolo	Rosalynn M.	Alderson Court Reporting 1158 Connecticut Avenue, NW, Suite 200	20036
Do	Lan	ICMA 777 North Capitol Street, NE, Suite 500	20002
Duke	Candace M.	CDQ Consulting & Insurance, LLC 20 F Street, NW, Suite 700	20001
Eisen	Richard C.	Eisen & Rome, P.C. One Thomas Circle, NW, Suite 850	20005
EL-Fakih	Zeina	Fidelity Investments 1900 K Street, NW	20004
Emanuel	Shirley A.	Ionia R. Whipper Home, Inc. 2000 Channing Street, NE	20018
Emery	Devin James McCue	WDCW-TV LLC 2121 Wisconsin Avenue, NW	20020
Enriquez	Jaime N.	Bank Fund Staff Federal Credit Union 1725 I Street, NW, Suite 150	20006
Feinstein	Rachel	MedRed, LLC 2600 Virginia Avenue, NW	20037
Ferland	Christiane	White & Case, LLP 701 13th Street, NW	20005
Forman	Scott L.	Merrill LAD 1325 G Street, NW, 2nd Floor	20005
Frederick, Sr.	Anthony W.	Laborers' Local Union 657 5201 First Place, NE	20011

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Friedman	Brian	Language Innovations, LLC 1725 I Street, NW, Suite 300	20006
Gallmon	Shirley J.	Self 320 17th Street, NE	20002
Garcia	Liliana M.	Eisen & Rome PC 1 Thomas Circle, Suite 850	20005
Green	Anna L.	Mayer Brown 1999 K Street, NW	20006
Hamilton	Edna B.	Office of Business and Community Assistance, Inc. 1250 Maryland Avenue, SW, Suite CY-10, Box 64N	20024
Hara	Jennifer L.	Taylor-DeJongh, Inc 1101 17th Street, NW, Suite 1220	20036
Henry	Claudette B.	Perkins Coie, LLP 700 13th Street, NW, Suite 600	20005
Houchens	Kathleen D.	DuPont Fabros Technology, Inc. 1212 New York Avenue, NW, Suite 900	20005
Jackson	Nancy M.	AdvaMed (The Advanced Medical Technology Association) 701 Pennsylvania Avenue, NW, Suite 800	20004
Jackson	Shauna R.	Federal Aviation Administration 800 Independence Avenue, SW	20591
Jarquín	Christopher	Construction & General Laborers' Local Union 657 5201 1st Place, NE	20011
Johnson	Donald R.	Tax Foundation 529 14th Street, NW, Suite 420	20045
Kaviladze	George	Capital One Bank, NA 1545 Wisconsin Avenue, NW	20007

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Anderson	Hugh	Bank of America 3 Dupont Circle, NW	20036
Ketchoyian	Kimberly	The UPS Store 4410 Massachusetts Avenue, NW	20016
Kiefer	Nancy J.	World Resources Institute 10 G Street, NE, Suite 800	20002
Kontinos	Thomas C.	Self (Dual) 4230 22nd Street, NW	20018
Kruzich	Maria Brenda	Bank of America, N.A. 3131 Mount Pleasant Street, NW	20010
Liford	Robert	Robertson Foundation for Government 1801 F Street, NW, 3rd Floor	20006
Lum	Michael	NIH Federal Credit Union 2200 Pennsylvania Avenue, NW	20037
Marshall	Che	Che Marshall 5005 D Street, SE, #203	20019
McDonald	Katherine J.	Bank Fund Staff Federal Credit Union 1900 Pennsylvania Avenue, NW	20006
McDonough	Stephanie	Jacobson Holman PLLC 400 Seventh Street, NW, Suite 600	20004
Melvin	Sheri	National Endowment for Democracy 1025 F Street, NW	20004
Minor	Kofi Ross	Capital One Bank 2831 Alabama Avenue, SE	20010
Monkres	Patricia A.	AdvaMed (The Advanced Medical Technology Association) 701 Pennsylvania Avenue, NW, Suite 800	20004

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Negash	Fetlework	Apollo Travel 1937 14th Street, NW, Suite 301	20009
Nelson	Marvett	Pressler & Senftle, P.C. 1432 K Street, NW, 12th Floor	20005
Noppenau	Sharon	McArthur Franklin PLLC 1101 Seventeenth Street, NW, Suite 820	20036
Onungwa	Onyinyechi N.	Bank of America 3 Dupont Circle, NW	20036
Penn	Coletha	Ameren Services 1331 Pennsylvania Avenue, NW, Suite 550S	20004
Perry	Rebecca	Shiffman & Shiffman, P.C. 2600 Virginia Avenue, NW, Suite 560	20037
Pomeroy	Barbara A.	Wiley Rein LLP 1776 K Street, NW	20006
Porter	Delphia	DuPont Fabros Technology, Inc. 1212 New York Avenue, NW, Suite 900	20005
Reed	Tracy Bernice	Self 920 Southern Avenue, SE	20032
Reyes	Maria	McDaniel & Associates, P.A. 1211 Connecticut Avenue, NW, Suite 506	20036
Rice	Rahima	AdvaMed (The Advanced Medical Technology Association) 701 Pennsylvania Avenue, NW, Suite 800	20004
Rich	L. Lola	Foley & Lardner LLP 3000 K Street, NW, Suite 600	20007
Riera	Pilar S.	Clifford Chance US LLP 2001 K Street, NW	20006

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Roberts-Williams	Carmenlita	DC Teachers Federal Credit Union 5656 3rd Street, NE	20011
Robinson	Emille G.	Holland & Knight, LLP 800 17th Street, NW	20006
Rodriguez	Sindy	La Oficina 717 Kennedy Street, NW	20011
Rothstein	Robert L.	Self 2010 12th Street, NW, #711	20009
Rust	Melinda K.	Douglas Development Corporation 702 H Street, NW, Suite 400	20001
Shreckengast	Keith G.	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Silva	Kody Charles	Ackerman Brown, PLLC 1250 Connecticut Avenue, NW, Suite 200	20036
Simcox	Emily N.	Newseum 555 Pennsylvania Avenue, NW	20001
Smith	Dana M.	Rappahannock Investment Company 2099 Pennsylvania Avenue, NW, Suite 900	20006
Sowash	Shenandoah	AdvaMed (The Advanced Medical Technology Association) 701 Pennsylvania Avenue, NW, Suite 800	20004
Tapp	Lisa	Metropolitan Police Department 300 Indiana Avenue, NW	20001
Taylor	Judith W.	Self 2423 Otis Street, NE	20018
Thelen	Jason	The Atlantic Council 1101 15th Street, NW, 11th Floor	20005

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Tourniaire	Guillaume C.	The Willard InterContinental Hotel 1401 Pennsylvania Avenue, NW	20004
Tupper	Janet	Council for Christian Colleges and Universities 321 8th Street, NE	20002
Veiga	Maria-Albertina	Edison Electric Institute 701 Pennsylvania Avenue, NW	20004
Washington	Elizabeth	Office of Tax and Revenue, Customer Service Administration 1101 4th Street, SW, Suite 2761	20024
Watson	Denise	District Department of the Environment 1200 1st Street, NE, 5th Floor	20002
Watt	Sara A.	Esquire Deposition Solutions 1025 Vermont Avenue, NW, Suite 503	20005
Williams	Debra C.	Sterne Kessler Goldstein & Fox, P.L.L.C. 1100 New York Avenue, NW	20005
Williams	Price A.	McGuinness & Yager 1100 13th Street, NW, Suite 850	20005
Wiltshire	Ana G.	Construction & General Laborers' Local Union 657 5201 1st Place, NE	20011
Winston	Valencia R.	Howard University - School of Social Work 601 Howard Place, NW	20059
Wood	Robert	Douglas Development Corporation 702 H Street, NW, Suite 400	20001
Wright	Cynethia D.	AAA Complete Building Services, Inc 2101 Wisconsin Avenue, NW	20007
Wright	Ardith M.	Bank of America 3 Dupont Circle, NW	20036

**D.C. Office of the Secretary
Recommended for appointment as a DC Notaries Public**

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Yuen	Wing C.	Agriculture Federal Avenue, SW 1400 Independence Avenue, SM2	20250
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DISTRICT OF COLUMBIA TAX REVISION COMMISSION**NOTICE OF PUBLIC MEETING**

The District of Columbia's Tax Revision Commission (the "Commission") will be holding a meeting on Monday, June 17, 2013 from 3:00 p.m. to 6:00 p.m. The meeting will be held at One Judiciary Square, 441 4th Street, NW, Room 1107, Washington, DC 20001.

The agenda for the meeting is below.

For additional information, please contact Ashley Lee at (202) 478-9143 or Ashley.Lee@dc.gov

AGENDA

- I. Call to Order**
- II. Approval of Minutes from June 3, 2013 Meeting**
- III. Property Tax Expenditures**
- IV. Sales Tax in the District of Columbia**
- V. Funding of Long Term Infrastructure**
- VI. D.C. Tax Revision Commission Business**
- VII. Adjournment**

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Joint Meeting – Environmental Quality and Sewerage Services and
Water Quality and Water Services Committees**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Sewerage Services Committee and Water Quality and Water Services Committee will hold a joint meeting on Thursday, June 20, 2013 at 10:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

- | | | |
|-------------|--|--|
| I. | Call to Order | Committee Chairperson |
| II. | Presentation – Facilities Master Plan | TBD |
| III. | Action Item | Committee Chairperson |
| IV. | Safety Presentation | Director, Occupational Safety & Health |
| V. | Adjournment | Committee Chairperson |

WILLIAM E. DOAR JR., PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Food Services**

The William E. Doar Jr., Public Charter School for the Performing Arts is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2013-2014 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on June 14, 2013 from:

Mrs. Lilly Morgan and Ms. Nakia Belton
705 Edgewood Street, NE 2nd Floor
Washington, DC 20017
(202) 269-4646

Proposals will be accepted at the above address on Thursday, July 18, 2013 no later than 2:00 p.m.

All bids not addressing all areas as outlined in the IFB will not be considered.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18518 of YMCA Capitol View, pursuant to 11 DCMR § 3104.1, for a special exception for a Child Development Center – Before and After School Program (150 children and eight staff) under § 205, in the R-5-A District at premises 4275 4th Street, S.E. (Square 6242, Lot 834).

HEARING DATE: June 4, 2013

DECISION DATE: June 4, 2013

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated November 8, 2012, from the Zoning Administrator, which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is needed for a special exception under § 350.4(b), to use the subject premises as a “Child Development Center with one-hundred and fifty (150) children, ages ranging from 3 years to 14 years and eight (8) staff” in a R-5-A Zone, per § 3104.1. (Exhibit 2.)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 8D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8D, which is automatically a party to this application. ANC 8D filed a report, dated May 25, 2013, indicating that a meeting of the ANC was held on that date and at which a quorum was present. The report did not contain a description of what occurred at the meeting or a recommendation of the ANC. (Exhibit 36.) At the hearing, the Applicant testified on the record that she attended the ANC meeting and that the ANC voted unanimously to approve the application.

The Office of Planning (“OP”) submitted a timely report recommending approval of the application, subject to conditions. (Exhibit 27.) By its letter, dated January 22, 2013, the Office of State Superintendent of Education (“OSSE”) recommended that the application be approved. (Exhibit 24.) The District Department of Transportation (“DDOT”) submitted a letter of no objection dated March 19, 2013. (Exhibit 26.)

Letters of support for the application were submitted to the record from Julie Donatelli, Executive Director, Victory Youth Centers c/o Archdiocese of Washington; Carlo Impeduglia, Victory Youth Center Manager, Archdiocese of Washington; Rev. Raymond Moore, Pastor, Saint Thomas More Catholic Church; Kathleen Curtin, Executive Director, Christ Child Society D.C.; Tamika Anderson; and Atiya Anderson. (Exhibits 30 and 31.)

BZA APPLICATION NO. 18518**PAGE NO. 2**

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under § 205. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 205 that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application be **GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The number of enrolled children shall not exceed 150.
2. The number of staff shall not exceed eight.
3. The days and hours of operation shall be Monday through Friday from 7:00 a.m. to 9:00 a.m., and from 2:00 p.m. to 6:00 p.m.

VOTE: **4-0-1** (Lloyd J. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle, and Peter G. May to APPROVE; the third Mayoral appointee seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: June 7, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

BZA APPLICATION NO. 18518**PAGE NO. 3**

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4TH STREET, N.W.
SUITE 200-SOUTH
WASHINGTON, D.C. 20001**

PUBLIC NOTICE OF CLOSED MEETING -- CORRECTED

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), on 05/21/13, the Board of Zoning Adjustment voted 4-0-1 to hold closed meetings telephonically on Monday, June 3rd, June 10th, June 17th, and June 24th beginning at 4:00 pm for the purpose of obtaining legal advice from counsel and/or to deliberate upon, but not voting on the cases scheduled to be publicly heard or decided by the Board on the day after each such closed meeting, as those cases are identified on the Board's agendas for June 4th, 11th, 18th and 25th.

FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

**LLOYD J. JORDAN, CHAIRMAN, S. KATHRYN ALLEN, JEFFREY L. HINKLE
AND A MEMBER OF THE ZONING COMMISSION ----- BOARD OF
ZONING ADJUSTMENT, CLIFFORD W. MOY, SECRETARY TO THE BZA,
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4TH STREET, N.W.
SUITE 200-SOUTH
WASHINGTON, D.C. 20001**

PUBLIC NOTICE OF CLOSED MEETING -- RESCHEDULED

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), this is public notice that due to an unforeseen event caused by bad weather, the previously scheduled closed meeting that was scheduled for June 10th at 4:00 p.m. could not be held when scheduled and was rescheduled to June 11th at 9:00 a.m.

FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

**LLOYD J. JORDAN, CHAIRMAN, S. KATHRYN ALLEN, JEFFREY L. HINKLE
AND A MEMBER OF THE ZONING COMMISSION ----- BOARD OF
ZONING ADJUSTMENT, CLIFFORD W. MOY, SECRETARY TO THE BZA,
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4TH STREET, N.W.
SUITE 200-SOUTH
WASHINGTON, D.C. 20001**

PUBLIC NOTICE OF CLOSED MEETING

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), on June 11, 2013, in a public hearing, the Board of Zoning Adjustment voted 3-0-2 to hold a closed meeting on June 18, 2013, beginning at 9:30 am for the purpose of training.

FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

LLOYD J. JORDAN, CHAIRMAN, JEFFREY L. HINKLE AND A MEMBER OF THE ZONING COMMISSION ----- BOARD OF ZONING ADJUSTMENT, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 06-04C
(Florida & Q Street, LLC – PUD Modification @ Square 3100, Lot 48)
June 4, 2013

THIS CASE IS OF INTEREST TO ANC 5E

On May 31, 2013, the Office of Zoning received an application from Florida & Q Street, LLC (the “Applicant”) for approval of a modification to a previously approved planned unit development (“PUD”) for the above-referenced property.

The property that is the subject of this application consists of Lot 48 in Square 3100 in Northwest Washington, D.C. (Ward 5), which is located at 1600 North Capitol Street, N.W. The property is zoned, through a PUD-related map amendment, C-2-B, for the purposes of this project.

The Applicant proposes the following modifications to the project: to reduce the building’s maximum height from 86 feet to 72 feet 4 ½ inches; to increase the number of residential units from the range of 65 to 85 units, to the range of 85 to 95 units, to increase the cellar-level retail from 4,970 square feet to 4,998 square feet, with the option of converting the retail space to residential space if it cannot be leased for retail use; to reduce the number of parking spaces from 84 to 41, and to make minor refinements to the exterior façade.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://.dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 07-13D
(TR SW 2, LLC – PUD Modification @ Square 643-S, Lot 801)
June 5, 2013**

THIS CASE IS OF INTEREST TO ANC 6D

On May 31, 2013, the Office of Zoning received an application from TR SW 2, LLC (the “Applicant”) for approval of a modification to a previously approved planned unit development (“PUD”) for the above-referenced property.

The property that is the subject of this application consists of Lot 801 in Square 643-S in Southwest Washington, D.C. (Ward 6), which is located at 65 I Street, S.W. The property is currently zoned, for the purposes of this project, C-3-C through a PUD-related map amendment.

The Applicant proposes a modification to the PUD to change the program of the arts component of the project, redesign the building envelope, and modify the number of residential units and parking spaces.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://.dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 12-11
Z.C. Case No. 12-11
(Text Amendment – 11 DCMR)
(Various Administrative Amendments)
February 25, 2013**

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF CLOSED MEETINGS**

TIME AND PLACE: **Tuesday, June 18, 2013, @ 9:00 a.m.**
Office of Zoning Conference Room
441 4th Street, N.W., Suite 220
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

The Zoning Commission, in accordance with § 406 of the District of Columbia Administrative Procedure Act (“Act”)(D.C. Official Code § 2-576), hereby provides notice it will hold a closed meeting at the time and place noted above for the purpose of receiving training as permitted by D.C. Official Code § 2-575(b)(12).

**ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY,
AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT
OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN,
SECRETARY TO THE ZONING COMMISSION.**

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:
Fraternal Order of Police/Metropolitan Police Department Labor Committee,
Complainant,
v.
District of Columbia, et al,
Respondents.
PERB Case No. 08-U-41
Opinion No. 1101
Second Motion for Reconsideration
CORRECTED COPY

DECISION AND ORDER

I. Statement of the Case:

The instant matter stems from an unfair labor practice complaint filed on May 30, 2008, by the Fraternal Order of Police/Metropolitan Police Department Labor Committee ("Complainant", "FOP" or "Union") against the District of Columbia, et al, ("Respondents" or "MPD"). The Complainant alleges that Respondents have violated D.C. Code § 1-617.01 and § 1-617.04(a)(1)-(5) by failing to bargain in good faith with the Complainant. (See Complaint at p. 16).

1 The Complaint names the following parties as Respondents: District of Columbia Metropolitan Police Department; District of Columbia Office of the Attorney General; District of Columbia Office of Labor Relations and Collective Bargaining; Mayor Adrian Fenty; Chief Cathy L. Lanier, Metropolitan Police Department; Attorney General Peter Nickles, Office of the Attorney General; Director Natasha Campbell, Office of Labor Relations and Collective Bargaining; General Counsel Terrence Ryan, Office of the Attorney General; Supervisory Attorney Dean Aqui, Office of Labor Relations and Collective Bargaining; Attorney Ivelisse Cruz, Office of Labor Relations and Collective Bargaining; Attorney William Montross, Office of Labor Relations and Collective Bargaining; Assistant Chief Winston Robinson, Metropolitan Police Department; Assistant Chief Peter Newsham, Metropolitan Police Department; Assistant Chief Joshua Ederheimer, Metropolitan Police Department; Assistant Chief Alfred Durham, Metropolitan Police Department; Assistant Chief Patrick Burke, Metropolitan Police Department; Commander Jennifer Greene, Metropolitan Police Department; Inspector Matthew Klein Metropolitan Police Department; and Lieutenant Linda Nischan, Metropolitan Police Department.

Decision and Order
PERB Case No. 08-U-41
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The following is a chronology of the pleadings filed by the parties in this matter:

- (1) May 30, 2008, FOP files Unfair Labor Practice Complaint;
- (2) June 2, 2008, Respondents file Cross Complaint and Motion for Preliminary Relief;
- (3) June 5, 2008, Respondents file Motion for Temporary Restraining Order;
- (4) June 11, 2008, Respondents file Amended Cross Complaint and Motion for Preliminary Relief.
- (5) June 13, 2008, FOP files Opposition to the Motion for a Temporary Restraining Order;
- (6) June 16, 2008, Respondents file: (1) Answer to the FOP's Complaint; and (2) Motion to Dismiss all Respondents named in their Individual Capacity;
- (7) June 18, 2008, FOP files an Opposition to the Motion for Preliminary Relief;
- (8) June 19, 2008, FOP files Answer to the Respondents' Cross Complaint, including a motion to dismiss the Cross-Complaint;
- (9) June 26, 2008, FOP files Answer to the Respondents' Amended Cross Complaint, including a motion to dismiss the Amended Cross Complaint;
- (10) November 20, 2008, FOP files Request for Pre-Hearing Conference;
- (11) February 4, 2009, FOP files Motion Requesting an Order that the Burden of Proof be Shifted to Respondents with Respect to the FOP's Charge of Bad Faith Bargaining;
- (12) February 4, 2009, Respondents file Opposition to Complainant's Request to Shift the Burden of Proof;

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Page 3

- (13) February 25, 2009, Complainant's file Motion to Dismiss Respondent's Unfair Labor Practice Cross Complaint and Motion for Preliminary Relief, and Respondents' Amended Unfair Labor Practice Cross Complaint and Motion for Preliminary Relief;
- (14) March 4, 2009, Respondents file Opposition to Complainant's Motion to Dismiss Respondents' Unfair Labor Practice Cross Complaint and Motion for Preliminary Relief, and Respondents' Amended Unfair Labor Practice Cross Complaint and Motion for Preliminary Relief;
- (15) March 26, 2009, Parties' file Joint Request for Continuance of Hearing;
- (16) April 15-23, 2009, FOP files subpoena requests;
- (17) April 23, 2009, Parties request that PERB Case No. 08-U-41 be held in abeyance for 60-days to allow the D.C. Superior Court to rule on a case with Status Report due on June 22, 2009;
- (18) September 30, 2009, Board issues Decision and Order Slip Op. No. 988;
- (19) October 15, 2009, FOP files Motion for Reconsideration of the Board's Decision and Order of September 30, 2009;
- (20) October 29, 2009, Respondents file Opposition to Complainant's Motion for Reconsideration of the Board's Decision and Order of September 30, 2009;
- (21) December 31, 2009, Board issues Decision and Order Slip Op. No. 1007.
- (22) January 11, 2010, Respondents file Motion for Reconsideration of the Board's Decision and Order of December 31, 2009;

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Page 4

- (23) January 25, 2010, FOP files Opposition to Respondents' Motion for Reconsideration of the Board's Decision and Order of December 31, 2009.

As indicated above, the Board issued a decision and order on September 30, 2009, Slip Op. No. 988, that denied: (1) the Respondents' motion to dismiss the unfair labor practice complaint filed by the FOP; and (2) the Respondents' motion for preliminary relief. (See Slip Op. No. 988 at p. 15). In addition, the Board directed that the case be referred to a hearing examiner to develop a factual record.

On October 16, 2009, FOP filed a Motion for Reconsideration of Slip Op. No. 988. Specifically, the motion asserted that the Board's decision and order in Slip Op. No. 988 failed to address the Union's motions to dismiss the Respondents' Cross Complaint and Amended Cross Complaint. Among the allegations set forth in the Union's answers and motions, the Union claimed that the Respondents' complaints alleged violations of the parties' bargaining ground rules, and that because ground rules were akin to contractual provisions, that the Board lacked jurisdiction to hear the alleged contractual violations. (See Answer to Respondents' Unfair Labor Practice Cross Complaint at p. 5; and Answer to Amended Unfair Labor Practice Cross Complaint at pgs. 7-8).

On December 31, 2009, the Board issued Slip Opinion No. 1007, which granted the FOP's motion for reconsideration of Slip Opinion No. 988. The Board found that reconsideration was appropriate because FOP's motions to dismiss the Cross Complaint and Amended Cross Complaint had not been ruled on in Slip Op. No. 988.

A review of the language in Slip Op. No. 988 reveals that the Board acknowledged receipt of FOP's motion to dismiss; however, we did not issue a ruling concerning this motion. Therefore, we grant FOP's Motion for Reconsideration for the purpose of ruling on the motion to dismiss the Cross-Complaint.

Slip Op. No. 1007 at p. 2.

In granting the motion for reconsideration of Slip Op. No. 988, the Board determined that the Respondents' Cross Complaint and Amended Cross Complaint alleged only contractual violations (*i.e.* the parties' ground rules) and failed to assert any facts establishing a statutory violation, or interference with, coercing or restraining of employees or the District in the exercise of their rights under the CMPA. (See Slip Op. No. 1007 at p. 8). As a result, the Board concluded that it lacked jurisdiction over the matters alleged in the Cross Complaint and Amended Cross Complaint and granted the Union's motions to dismiss the Cross Complaint and Amended Cross Complaint. (See Slip Op. No. 1007 at p. 8).

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Page 5

On January 11, 2010, Respondents filed the instant Motion for Reconsideration of the Board's Decision and Order of December 31, 2009 ("Motion"). The Union responded with an Opposition to the Respondents' Motion ("Opposition"). The Respondents' Motion and the Union's Opposition are before the Board for disposition.

II. Discussion

The matters raised in the Respondents' Cross Complaint and Amended Cross Complaint which are at issue in the instant Motion involve the Respondents' contention the Union's Complaint as well as other communications, breached ground rules and a statutory prohibition against disclosing information concerning confidential compensation negotiations.²

The FOP filed an Answer to both the Cross Complaint and Amended Cross Complaint, in which it denied any violation of the CMPA.

Motion for Reconsideration of Slip Op. No. 1007.

The Respondents' Cross Complaint and Amended Cross Complaint asserted that the FOP violated the confidentiality requirements of the CMPA by: (1) disclosing the Respondents' "proposed affirmative changes" in its Complaint (PERB Case No. 08-U-41); (2) issuing "a newsletter . . . outlining substantive provisions of [Respondents'] proposals titled 'Pay and Benefits,' 'Scheduling and Position Security,' 'On the Job Injuries,' 'Discipline,' and 'Representation and the Effective End of Your Union.'"; and (3) causing "the substance of [Respondents'] proposals to be reported by several news outlets and posted on the internet." (Cross Complaint at p. 3).

The Respondents argued that:

[t]he statutory mandate of D.C. Official Code § 1-617.12 bars the public from the bargaining process. Also, § 1-617.17(h) mandates that bargaining over compensation be kept confidential until a settlement is reached or impasse resolution proceedings have been concluded, i.e., in an interest arbitrator's award, and the ground rules reemphasize the confidentiality of negotiations as outlined in referenced statutes by making all meetings "closed meetings" and all information shared therein confidential.

² The Respondents cite to D.C. Official Code § 1-617.12, which states in pertinent part: "[c]ollective bargaining sessions between the District and employee organization representatives shall not be open to the public." D.C. Code § 1-617.17(h), which provides that "[a]ll information concerning [compensation] negotiations shall be considered confidential until impasse resolution proceedings have been concluded or upon settlement. (See Cross Complaint at p. 4).

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(Cross Complaint at pgs. 5-6).

The Respondents claimed that the FOP, through its Complaint and contact with the media, etc., directly interfered with “management’s right to confidential negotiations . . . [and that each] publication constitute[d] a violation of D.C. Official Code at § 1-617.04(b)(1), an unfair labor practice.” (Cross Complaint at p. 6).

In Slip Op. No. 1007, the Board addressed these allegations and found that:

the Cross Complaint is based, at least in part, on alleged contractual violations. The Board has previously treated Ground Rules as contractual provisions. *AFGE, Local 2741 v. D.C. Dep’t of Recreation and Parks*, [46 DCR 6502,] Slip Op. No. 588 at p. 3, PERB Case No. 98-U-16 (1999). Furthermore, the Board has held that where the parties have agreed to allow their negotiated agreement to establish the obligations that govern the very acts and conduct alleged in the complaint as statutory violations of the CMPA, the Board lacks jurisdiction over the complaint allegation. [*Id.* at p. 4]. Here, the very acts and conduct alleged in the Cross Complaint as statutory violations of the CMPA, pertain to a provision in the parties’ Ground Rules. Therefore, the issue of confidentiality is contained in a contractual agreement and the Board lacks jurisdiction over the complaint allegations. The Board has also held that: “If.. an interpretation of a contractual obligation is necessary and appropriate to a determination of whether or not a non-contractual, statutory violation has been committed”, the Board has deferred the contractual issue to the parties’ grievance arbitration procedure. *AFSCME, D.C. Council 20, Local 2921 v. D.C. Public Schools*, 42 DCR 5685, Slip Op. No. 339 at n. 6, PERB Case No. 92-U-08 (1995). Therefore, the Cross Complaint is not properly before the Board and must be dismissed.

(Slip Op. No. 1007 at p. 8).

In the present case, the Respondents’ Motion for Reconsideration merely asserts a disagreement with the Board’s determination that the Cross Complaint failed to allege an unfair labor practice within the meaning of D.C. Code § 1-617.04(a)(1) – (5). The Respondents repeat their argument that a violation of D.C. Code § 1-617.12 and § 1-617.17 should be deemed a “*per se* violation” of the CMPA. However, as noted in Slip Op. No. 1007, no factual allegations were made that the Union interfered with, coerced or restrained union members, or the District management, in the exercise of their rights.

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Page 7

The Board has repeatedly held that a motion for reconsideration cannot be based upon mere disagreement with its initial decision. (See *AFGE Local 2725 v. District of Columbia Department of Consumer and Regulatory Affairs and Office of Labor Relations and Collective Bargaining*, _DCR_, Slip Op. No. 969, PERB Case No. 06 U 43 (2009); see also *D.C. Department of Human Services and Fraternal Order of Police Department of Human Services Labor Committee*, 52 DCR 1623, Slip Op. No. 717, PERB Case Nos. 02-A-04 and 02-A-05 (2003); *D.C. Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee (Shepherd)*, 49 DCR 8960, Slip Op. No. 680, PERB Case No. 01 A 02 (2002); and *AFSCME Local 2095 and AFSCME NUHHCE and D.C. Commission on Mental Health Services*, 48 DCR 10978, Slip Op. No. 658, PERB Case No. 01-AC-01 (2001). Here, Respondents' argument that the Board erred in denying the Respondents' Cross Complaint is based on its reassertion that the violation of D.C. Code § 1-617.2 and § 1-617.17 be considered a "per se" violation of the CMPA, and presumably unfair labor practices in violation of D.C. Code § 1-617.04(a)(1)-(5). As stated above, no allegations were put forth that, if proven, would establish the alleged statutory violations. See *Virginia Dade v. National Association of Government Employees, Service Employees International Union, Local R3-06*, 46 DCR 6876, Slip Op. No. 491 at p. 4, PERB Case No. 96-U-22 (1996); and *Gregory Miller v. American Federation of Government Employees, Local 631, AFL-CIO and D.C. Department of Public Works*, 48 DCR 6560, Slip Op. No. 371, PERB Case Nos. 93-S-02 and 93-U-25 (1994).

For the reasons discussed above, the Board denies the Respondents' Motion for Reconsideration.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondents' Motion for Reconsideration is denied.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

March 4, 2011

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 08-U-41 was transmitted via Fax and U.S. Mail to the following parties on this the 4th day of March 2011.

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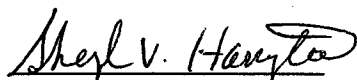
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PERB Case No. 08-U-41
Page 2

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Sheryl V. Harrington
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Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

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In the Matter of:)
)
Fraternal Order of Police/Metropolitan)
Police Department Labor Committee,)
)
Complainant,)
)
v.)
)
District of Columbia)
Metropolitan Police Department ¹ ,)
)
Respondent.)
<hr/>)

PERB Case No. 10-U-21

Opinion No. 1378

DECISION AND ORDER

I. Statement of the Case

Complainant Fraternal Order of Police/Metropolitan Police Department Labor Committee (“FOP” or “Complainant”) filed the above-captioned Unfair Labor Practice Complaint (“Complaint”), against Respondent District of Columbia Metropolitan Police Department (“MPD” or “Respondent”) for alleged violations of section 1-617.04(a)(1) of the Comprehensive Merit Protection Act (“CMPA”). Respondent filed an Answer (“Answer”), denying that it violated the CMPA, and requesting that the Board dismiss the Complaint. (Answer at 6).

¹ FOP lists Chief Cathy Lanier, Commander George Kucik, Inspector Jacob Kischter, Lieutenant Moses Vines, and Manager David Jackson as respondents in this Complaint. The Executive Director has removed the names of the individual respondents from the caption, consistent with the Board’s precedent requiring individual respondents named in their official capacities to be removed from the complaint for the reason that suits against District officials in their official capacities should be treated as suits against the District. See *Fraternal Order of Police/Metropolitan Police Dep’t Labor Comm. v. D.C. Metropolitan Police Dep’t*, 59 D.C. Reg. 6579, Slip Op. No. 1118 at p. 4-5, PERB Case No. 08-U-19 (2011). The D.C. Superior Court upheld the Board’s dismissal of such respondents in *Fraternal Order of Police/Metropolitan Police Dep’t Labor Comm. v. D.C. Public Employee Relations Board*, Civ. Case No. 2011 CA 007396 P(MPA) (D.C. Super. Ct. Jan 9, 2013).

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II. Discussion

A. Background

FOP alleges that on November 18, 2009, FOP Chief Shop Steward Hiram Rosario was contacted by Officer Arturo Balcazar, a member of the FOP bargaining unit. (Complaint at 4-5). Officer Balcazar informed Rosario that a "Question and Answer" session was scheduled to take place regarding possible allegations against Balcazar. (Complaint at 5). MPD characterizes the meeting as a "meeting with community members." (Answer at 3). Chief Shop Steward Rosario arrived at the meeting location and found that Officer Balcazar was already in the Third District's Lieutenant's office with Commander George Kucik. (Complaint at 5; Answer at 3). Commander Kucik informed Chief Shop Steward Rosario that he could not attend the meeting "because the Metropolitan Police Department was not conducting an investigation." (Complaint at 5). MPD admits that Commander Kucik informed Chief Shop Steward Rosario that he "would not be allowed into a meeting with community members," and that he informed Chief Shop Steward Rosario that there was no investigation of Officer Balcazar, but it denies that Chief Shop Steward Rosario was provided with this information immediately upon his entry into the Third District's Lieutenant's office. (Answer at 3). Chief Shop Steward Rosario responded that an investigation was already underway into the allegations involving Officer Balcazar, given the presence of Third District officials, and that any "Question and Answer" session could become part of the investigation against Officer Balcazar at any time. (Complaint at 5). Commander Kucik again told Chief Shop Steward Rosario that he could not participate, and stated that he could "just file a grievance." (Complaint at 6; Answer at 4).

Chief Shop Steward Rosario attempted to speak privately with Officer Balcazar, but was interrupted shortly thereafter by Commander Kucik. (Complaint at 6). MPD denies this assertion. (Answer at 4). Chief Shop Steward Rosario advised Commander Kucik of Officer Balcazar's *Weingarten* rights, specifically that Officer Balcazar had the right to call a union representative, and that Chief Shop Steward Rosario was Officer Balcazar's representative. (Complaint at 6; Answer at 4). Nonetheless, Chief Shop Steward Rosario was not permitted to be present during the meeting. (Complaint at 6; Answer at 4).

B. Analysis

FOP alleges that MPD violated the CMPA by threatening and intimidating Officer Balcazar when he requested to speak with his union representative, and by refusing to allow him to fully consult with his union representative prior to being interviewed. (Complaint at 7). FOP contends that the Board has recognized that the CMPA provides a right to union representation in accordance with the standards set forth in *NLRB v. Weingarten*, 420 U.S. 251, 262 (1975), and that *Weingarten* guarantees employees the right to fully consult with their representative prior to the interview, as well as the right to representation during the interview. (Complaint at 7). FOP asserts that the brief consultation between Officer Balcazar and Chief Shop Steward Rosario does not cure the alleged unfair labor practice, as the Board has held that "once an employee's rights are denied, the violation has occurred and the violation is not dismissed or cured because

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remedial action is taken.” (Complaint at 7; citing *Fraternal Order of Police/Metropolitan Police Dep’t Labor Committee v. D.C. Metropolitan Police Dep’t*, 59 D.C. Reg. 4548, Slip Op. No. 932 at p. 5, PERB Case No. 07-U-10(2008)).

In *Weingarten*, the U.S. Supreme Court upheld the National Labor Relations Board’s determination that an employee has a right to union representation during an investigatory interview that the employee reasonably fears may result in discipline. 420 U.S. at 257. The denial of this right “has a reasonable tendency to interfere with, restrain, and coerce employees in violation of Section 8(a)(1) of the [National Labor Relations Act].” *Id.* The *Weingarten* right to union representation arises in situations where an employee requests representation, and is limited to situations where the employee reasonably believes the investigation will result in disciplinary action. *Id.*

Like the National Labor Relations Act, the CMPA prohibits the District, its agents, and representatives from interfering with, restraining, or coercing any employee in the exercise of their rights under D.C. Code § 1-617.01(b). See D.C. Code § 1-617.04(a)(1). The Board recognizes a right to union representation during a disciplinary interview in accordance with the standards set forth in *Weingarten*. See *D.C. Nurses Association v. D.C. Dep’t of Youth Rehabilitation Services*, 59 D.C. Reg. 12638, Slip Op. No. 1304 at p. 2, PERB Case No. 10-U-35 (2012); *D.C. Nurses Association v. D.C. Health and Hospitals Public Benefit Corp.*, 45 D.C. Reg. 6736, Slip Op. No. 558, PERB Case Nos. 95-U-03, 97-U-16, and 97-U-28 (1998). Further, the Board has agreed with the Federal Labor Relations Authority that “for the right to representation to be meaningful, the representative must have freedom to assist, and consult with, the affected employee.” *D.C. Nurses Association*, Slip Op. No. 1304 at p. 2 (quoting *Department of Veterans Affairs, Veterans Affairs Medical Center, Jackson, Mississippi*, 48 FLRA 787, 799 (1993)).

In the instant case, Chief Shop Steward Rosario attempted to attend the meeting as Office Balcazar’s union representative. (Complaint at 5). The parties disagree on the type of meeting that was held: FOP calls the meeting a “question and answer” session regarding potential allegations against Officer Balcazar, while MPD describes the meeting as a “meeting with community members.” (Complaint at 5; Answer at 3).

The right to representation attaches when an employee reasonably fears discipline might arise from an interview and requests representation. *Fraternal Order of Police/Metropolitan Police Dep’t Labor Committee v. D.C. Metropolitan Police Dep’t*, 59 D.C. Reg. 4548, Slip Op. No. 932 at p. 4, PERB Case No. 07-U-10 (2008). Whether the employee’s fear of discipline is reasonable is measured by objective standards under all of the circumstances present. *Quality Mfg. Company and Upper South Dep’t, Int’l Ladies’ Garment Workers’ Union*, 195 NLRB 197, 198 fn. 3 (1972). In regards to Officer Balcazar’s beliefs about the purpose of the meeting, the Complaint alleges only that Officer Balcazar told Chief Shop Steward Rosario that a “‘Question and Answer’ session was going to take place regarding possible allegations against Officer Balcazar.” (Complaint at 5). Chief Shop Steward Rosario believed that an investigation was underway due to the presence of officials from the Third District, and that the “question and answer” session could become part of an investigation against Officer Balcazar. *Id.* MPD

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contends, and FOP admits, that Commander Kucik stated there was no investigation of Officer Balcazar. (Complaint at 5; Answer at 3). MPD calls the meeting in the Third District Lieutenant's Office a "meeting with community members," but does not elaborate on the meaning of this phrase. (Answer at 3). The parties disagree about whether an investigation of Officer Balcazar was underway at the time of the meeting. (Complaint at 5; Answer at 3). Without more information about the facts and circumstances surrounding the meeting, the Board cannot determine whether MPD violated Officer Balcazar's *Weingarten* rights by refusing to allow Chief Shop Steward Rosario to participate in the meeting as Officer Balcazar's union representative, and by interfering with Chief Shop Steward Rosario's consultation with Officer Balcazar at the meeting.

The issue of whether MPD's actions rise to the level of a violation of the CMPA is a matter best determined after the establishment of a factual record through an unfair labor practice hearing. See *Bargainer v. Fraternal Order of Police/Dep't of Corrections Labor Committee and D.C. Dep't of Corrections*, 45 D.C. Reg. 4013, Slip Op. No. 542, PERB Case No. 98-S-03 (1998). The Board finds that FOP has pled or asserted allegations that, if proven, would constitute a statutory violation. Therefore, the Complaint will continue to be processed through an unfair labor practice hearing.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Board's Executive Director shall refer the Fraternal Order of Police/Metropolitan Police Department Labor Committee's Complaint to a hearing examiner.
2. The Notice of Hearing shall be issued seven (7) days prior to the date of the hearing.
3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

May 28, 2013

AMENDED CERTIFICATE OF SERVICE

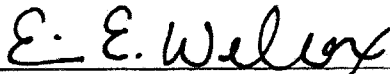
This is to certify that the attached Decision and Order in PERB Case No. 10-U-21 was transmitted via U.S. Mail and e-mail to the following parties on this the 3rd day of June, 2013.

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Erin E. Wilcox, Esq.
Attorney-Advisor

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**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
Fraternal Order of Police/Metropolitan)	
Police Department Labor Committee,)	
		)	PERB Case No. 11-U-01
Complainant,)	
		)	Opinion No. 1388
v.)	
)	
District of Columbia)	
Metropolitan Police Department ¹ ,)	
)	
Respondent.)	
_____)	

DECISION AND ORDER

I. Statement of the Case

Complainant Fraternal Order of Police/Metropolitan Police Department Labor Committee (“FOP” or “Complainant”) filed the above-captioned Unfair Labor Practice Complaint (“Complaint”), against Respondent District of Columbia Metropolitan Police Department (“MPD” or “Respondent”) for alleged violations of sections 1-617.04(a)(1) and (5) of the Comprehensive Merit Protection Act (“CMPA”). Respondent filed an Answer (“Answer”) in which it denies the alleged violations and raises the following affirmative defenses:

- (1) The Complaint is untimely pursuant to Board Rule 520.4; and

¹ FOP listed Chief Cathy Lanier as a respondent in this Complaint. The Executive Director has removed this name from the caption, consistent with the Board’s precedent requiring individual respondents named in their official capacities to be removed from the complaint for the reason that suits against District officials in their official capacities should be treated as suits against the District. See *Fraternal Order of Police/Metropolitan Police Dep’t Labor Comm. v. D.C. Metropolitan Police Dep’t*, 59 D.C. Reg. 6579, Slip Op. No. 1118 at p. 4-5, PERB Case No. 08-U-19 (2011). The D.C. Superior Court upheld the Board’s dismissal of such respondents in *Fraternal Order of Police/Metropolitan Police Dep’t Labor Comm. v. D.C. Public Employee Relations Board*, Civ. Case No. 2011 CA 007396 P(MPA) (D.C. Super. Ct. Jan 9, 2013).

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- (2) the Board lacks jurisdiction because the Complaint solely concerns a dispute arising out of the application and interpretation of the parties' collective bargaining agreement ("CBA").

(Answer at 5).

II. Discussion

A. Background

The parties agree that on April 9, 2010, Sergeant Horace Douglas ("Sergeant Douglas") was advised that his scheduled tour of duty on April 17, 2010, would be changed from 7:30 a.m. through 4:00 p.m. to 2:30 p.m. through 11:00 p.m. (Complaint at 3; Answer at 2). The tour of duty change was made to accommodate an international summit held from April 11, 2010, through April 17, 2010. (Complaint at 3; Answer at 2).

Alleging that the change to his tour of duty violated Articles 4, 9, and 24 of the parties' CBA, Sergeant Douglas filed a step one grievance. (Complaint at 3; Answer at 2). The step one grievance was denied by the commander of the MPD Special Operations Division, citing "the needs of the Department." (Complaint at 4; Answer at 2). Sergeant Douglas appealed the step one grievance denial and filed a step two grievance with Chief of Police Cathy Lanier. (Complaint at 4; Answer at 3). In the step two grievance, Sergeant Douglas requested the following remedies:

- a) That the Department ceases and desists from violating District of Columbia law;
- b) That the Department cease and desist from violating the Agreement and manage in accordance with applicable laws, rules, and regulations;
- c) That the Department compensates Sergeant Horace Douglas at the rate of time and one-half for the day he worked outside his normal tour of duty;
- d) That the Command staff of the Court Liaison Division be retrained on the Agreement's scheduling provisions.
- e) That a letter of apology be issued from the Director of Court Liaison Division to Sergeant Horace Douglas concerning this matter.

(Complaint Exhibit 4). On May 27, 2010, Chief Lanier issued a letter agreeing that MPD violated Article 24² of the parties' CBA by changing Sergeant Douglas' tour of duty without

² Article 24, Section 1 states:

Each member of the Bargaining Unit will be assigned days off and tours of duty that are either fixed or rotated on a known regular schedule. Schedules shall be posted in a fixed and known location. Notice of any changes to their days off or tours of duty shall be made fourteen (14) days in advance. If notice is not given of changes fourteen (14) days in advance the member shall be paid, at his or her option, overtime pay or compensatory pay at the rate of time and one half, in accordance with the provisions of the Fair Labor Standards Act. The notice requirement is waived for those members assigned to the Executive Protection Unit and the Office of Professional Responsibility. (Complaint Exhibit 1).

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providing the requisite fourteen day notice. (Complaint at 4; Answer at 3). On June 21, 2010, FOP contacted Chief Lanier to inquire when the step two grievance remedies would be implemented, particularly the Court Liaison Division command staff training and the letter of apology. (Complaint at 5, Complaint Exhibit 6). Chief Lanier responded in part that:

As stated in my response to the grievance, the Department violated Article 24 by changing Sergeant Douglas's tour of duty without providing the requisite 14-day notice. The relief under the Agreement provides for compensation at the rate of time and one-half for the one day he worked outside his normal tour of duty. None of the other requested remedies are afforded by Article 24 or anywhere else in the Agreement.

Accordingly, your request for additional relief not provided for under the Agreement is denied. To avoid any confusion regarding this matter, I am changing this grievance classification from "granted" to "denied, in part" to clarify that not all of the relief requested was provided. Sergeant Douglas will be compensated at the rate of time and one-half for the day he worked outside of his normal tour of duty.

(Complaint Exhibit 7).

B. Analysis

As a threshold issue, we must address MPD's allegation that the Board lacks jurisdiction to consider this matter, either because the Complaint is untimely, or because the issue is purely contractual. (Answer at 4-5). Board Rule 520.4 states that unfair labor practice complaints shall be filed "not later than 120 days after the date on which the alleged violations occurred." The Board does not have jurisdiction to consider unfair labor practice complaints filed outside of the 120-day window. *See, e.g., Hoggard v. District of Columbia Public Employee Relations Board*, 655 A.2d 320, 323 (D.C. 1995) ("[T]ime limits for filing appeals with administrative adjudicative agencies...are mandatory and jurisdictional."). The 120-day period for filing a complaint begins when the complainant knew or should have known of the acts giving rise to the violation. *Pitt v. D.C. Dep't of Corrections*, 59 D.C. Reg. 5554, Slip Op. No. 998 at p. 5, PERB Case No. 09-U-06 (2009). In the instant case, MPD offers no explanation in support of its claim that the Complaint is untimely. (Complaint at 4). Chief Lanier's June 22, 2010, letter to the FOP was the Complainant's first indication that MPD was changing the classification of the grievance from "granted" to "denied, in part." (Complaint at 5). The Complaint was filed with the Board on October 20, 2010, less than 120 days from June 22, 2010. Therefore, the Complaint is not untimely.

MPD's second affirmative defense is that the Board lacks jurisdiction to consider this matter because it "solely concerns a dispute arising out of the application and interpretation of the parties' labor agreement and its grievance procedures." (Answer at 5). The Board

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“distinguishes between those obligations that are statutorily imposed under the CMPA and those that are contractually agreed upon between the parties.” *American Federation of Government Employees, Local 2741 v. District of Columbia Department of Recreation and Parks*, 50 DCR 5049, Slip Op. No. 697, PERB Case No. 00-U-22 (2002) (citing *American Federation of State, County and Municipal Employees, Local 2921*, Slip Op. No. 339). In addition, it is well established that the Board’s “authority only extends to resolving statutorily based obligations under the CMPA.” *Id.* Therefore, the Board examines the particular record of a matter to determine if the facts concern a violation of the CMPA, notwithstanding the characterization of the dispute in the complaint or the parties’ disagreement over the application of the collective bargaining agreement. The Board looks to whether the record supports a finding that the alleged violation is: (1) restricted to facts involving a dispute over whether a party complied with a contractual obligation; (2) resolution of the dispute requires an interpretation of those contractual obligations; and (3) no dispute can be resolved under the CMPA. See *American Federation of Government Employees, Local Union No. 3721 v. District of Columbia Fire Department*, 39 D.C. Reg. 8599, Slip Op. No. 287 at n. 5, PERB Case No. 90-U-11 (1991). Although a violation that is solely contractual is not properly before the Board, a contractual violation will be deemed an unfair labor practice if the complainant can establish that it also violates the CMPA, or constitutes a repudiation of the parties’ CBA. *University of the District of Columbia Faculty Ass’n v. University of the District of Columbia*, Slip Op. No. 1350 at p. 2, PERB Case No. 07-U-52 (January 2, 2013); see also *American Federation of Government Employees, Local 3721 v. D.C. Fire Dep’t*, 39 D.C. Reg. 8599, Slip Op. No. 287, PERB Case No. 90-U-11 (1991).

Upon considering the record of this case, the Board determines that the matter is not purely contractual and may concern a violation of the CMPA. First, the case does not involve a dispute over the terms of the parties’ CBA, but rather whether MPD acted in bad faith by altering its classification of Sergeant Douglas’s grievance. (Complaint at 5). Second, the Board is not required to interpret the parties’ CBA to resolve the dispute. Instead, the Board may resolve the dispute based upon its interpretation of D.C. Code § 1-617.04(a)(1) and (5), and its case law. Finally, the dispute can be resolved by the CMPA; specifically, whether MPD’s actions constituted a failure to bargain in good faith.

In the instant case, FOP alleges that “by initially granting the Grievance and subsequently unilaterally changing the classification of the Grievance to ‘denied, in part,’” MPD failed to bargain in good faith, in violation of D.C. Code § 1-617.04(a)(1) and (5). (Complaint at 5). In support of its allegation of bad faith, FOP cites from several National Labor Relations Board (“NLRB”) cases. First, FOP states that “[i]n determining whether a party has violated its statutory duty to bargain in good faith, the totality of the party’s conduct, both at and away from the bargaining table, is relevant.” (Complaint at 5, citing *In re Public Service Co. of Oklahoma*, 334 NLRB 487 (2001); *Overnite Transportation Co.*, 296 NLRB 669, 671 (1989), enforced 938 F.2d 815 (7th Cir. 1991); *Atlanta Hilton & Tower*, 271 NLRB 1600, 1603 (1984)). Further, FOP cites to *NLRB v. Herman Sausage Co.*, 275 F.2d 229, 213 (5th Cir. 1960) for the holding that good faith “includes a duty to enter into discussions with an open and fair mind, and a sincere purpose to find a basis of agreement.” (Complaint at 6). In addition, FOP cites to *Chevron Chemical Co.*, 261 NLRB 44, 45 (1982) for its statement that determining whether parties have complied with the duty to bargain in good faith “usually requires examination of their motive or

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state of mind during the bargaining process, and is generally based on circumstantial evidence, since a charged party is unlikely to admit overtly having acted with bad intent.” (Complaint at 6). Finally, FOP states that “[t]o determine whether the duty of good faith has been assumed by a party, the Board necessarily looks at the substance of the proposals themselves...” (Complaint at 6, citing *NLRB v. Reed & Prince Mfg. Co.*, 205 F.2d 131, 134 (1st Cir. 1953)). MPD denies that it has committed an unfair labor practice. (Answer at 4).

The CMPA obligates District agencies to bargain in good faith with the exclusive bargaining representative of their employees. D.C. Code § 1-617.04(a)(5). An agency’s violation of the duty to bargain in good faith under D.C. Code § 1-617.04(a)(5) results in interference with employee rights, which constitutes a violation of D.C. Code § 1-617.04(a)(1). See *D.C. Water and Sewer Authority v. American Federation of Government Employees, Local 872*, 59 D.C. Reg. 4659, Slip Op. No. 949, PERB Case No. 05-U-10 (2009). The Board has found examples of a failure to bargain in good faith where an agency refuses to produce relevant and necessary information requested by an exclusive representative, *American Federation of Government Employees, Local 2725 v. D.C. Dep’t of Health*, 59 D.C. Reg. 6003, Slip Op. No. 1003 at p. 4, PERB Case No. 09-U-65 (2009); where a party engages in surface bargaining, *American Federation of Government Employees, Local 383 v. D.C. Dep’t of Disability Services*, Slip Op. No. 1284 at p. 2, PERB Case No. 09-U-56 (June 21, 2012); and where an agency refuses to implement an arbitration award where there is no genuine dispute over the terms of the award, *Int’l Brotherhood of Police Officers, Local 446 v. D.C. Health & Hospitals Public Benefit Corp.*, 47 D.C. Reg. 7184, Slip Op. No. 622 at p. 4, PERB Case No. 99-U-30 (2000).

The facts of this case present a case of first impression before the Board. MPD wholly granted FOP’s step two grievance on May 27, 2010. (Complaint at 4; Answer at 3). Approximately one month later, MPD altered its decision on the grievance from “granted” to “denied, in part.” (Complaint, Exhibit 7). It is true, as Chief Lanier pointed out in her June 21 letter that the parties’ CBA provides for “compensation at the rate of time and one-half for the one day [Sergeant Douglas] worked outside his normal tour of duty.” *Id.* Nonetheless, MPD chose to grant the step two grievance without limitation. (Complaint at 4; Answer at 3). Although the facts of this case present a case of first impression before the Board, MPD’s partial rescission of its initial decision to grant the grievance bears a similarity to other actions in which a party has ignored its duty to bargain in good faith. See *Int’l Brotherhood of Police Officers*, Slip Op. No. 622 (refusal to implement arbitration award where there is no genuine dispute over the terms of the award constitutes a refusal to bargain in good faith). Much like an agency that fails to implement an arbitration award, MPD’s actions in this case constitute a failure to respect the bargaining relationship between itself and FOP, and a failure to adhere to its statutory duty to bargain in good faith. Therefore, FOP’s Unfair Labor Practice Complaint is granted.

C. Remedies

FOP requests an order from the Board:

- a. Finding that MPD engaged in an unfair labor practice in violation of D.C. Code § 1-617.04(a)(1) and (5);

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- b. Ordering MPD to cease and desist from engaging in an unfair labor practice in violation of D.C. Code § 1-617.04(a)(1) and (5);
- c. Compelling MPD to conspicuously post no less than two (2) notices of their violations and the Board's Order in each MPD building;
- d. Compelling MPD to schedule training for the command staff of the Court Liaison Division regarding the CBA's scheduling provisions;
- e. Compelling the Director of the Court Liaison Division to issue a letter of apology to Sergeant Douglas concerning scheduling;
- f. Compelling MPD to pay FOP's costs associated with the proceeding; and
- g. Ordering such other relief and remedies as the Board deems appropriate.

(Complaint at 7-8). D.C. Code § 1-617.13(a) enumerates the remedies available to the Board, including, but not limited to, orders which "compel bargaining in good faith," "compel a labor organization or the District to desist from conduct prohibited under this subchapter," and "direct compliance with the provisions of this subchapter." In accordance with the CMPA, the Board will issue an order compelling MPD to desist from violating D.C. Code § 1-617.04(a)(1) and (5) by unilaterally changing the classification of Sergeant Douglas' grievance from "granted" to "denied, in part," and to bargain in good faith with FOP. While FOP has cited no cases supporting its request that the Board compel MPD employees to schedule training sessions or write a letter of apology, the Board's order that MPD desist from its failure to bargain in good faith encompasses a directive that MPD abide by the terms of the grievance it granted on May 27, 2010. Additionally, the Board will order MPD to post two copies of a notice in each MPD building.

D.C. Code § 1-617.13(d) provides that the Board "shall have the authority to require the payment of reasonable costs incurred by a party to a dispute from the other party or parties as the Board may determine." The Board addressed the criteria for determining whether costs should be awarded in *AFSCME, D.C. Council 20, Local 2776 v. District of Columbia Department of Finance and Revenue*, 73 D.C. Reg. 5658, Slip Op. No. 245 at pp. 4-5, PERB Case No. 98-U-02 (2000):

First, any such award of costs necessarily assumes that the party to whom the payment is to be made was successful in at least a significant part of the case, and that the costs in question are attributable to that part. Second, it is clear on the fact of the statute that it is only those costs that are "reasonable" that may be ordered reimbursed... Last, and this is the [crux] of the matter, we believe such an award must be shown to be in the interest of justice.

Just what characteristics of a case will warrant the finding that an award of costs will be in the interest of justice cannot be exhaustively catalogued... What we can say here is that among the situation in which such an award is appropriate are those in which the losing party's claim or position was wholly without merit, those in which the successfully challenged action was undertaken

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in bad faith, and those in which a reasonably foreseeable result of the successfully challenged conduct is the undermining of the union among the employees for whom it is the exclusive representative.

In the instant case, FOP established that an unfair labor practice was committed. Nonetheless, this is a case of first impression, as the Board is finding for the first time that unilaterally changing a grievance classification from "granted" to "denied, in part" constitutes a failure to bargain in good faith. MPD could not have known the outcome of its decision to change the grievance classification. Therefore, this is not a situation in which "the successfully challenged action was undertaken in bad faith." *AFSCME*, Slip Op. No. 245 at p. 5. As a result, an award of costs is not warranted in the interest of justice, and FOP's request for reasonable costs is denied. See *Teamsters Local 639 v. D.C. Public Schools*, 59 D.C. Reg. 6162, Slip Op. No. 1021 at p. 9, PERB Case No. 08-U-42 (2010).

ORDER

IT IS HEREBY ORDERED THAT:

1. Complainant Fraternal Order of Police/Metropolitan Police Dep't Labor Committee's Unfair Labor Practice Complaint is granted.
2. Respondent D.C. Metropolitan Police Department will cease and desist violating D.C. Code § 1-617.04(a)(1) and (5) by unilaterally changing the classification of a grievance after the grievance has been granted;
3. Respondent shall conspicuously post within ten (10) days from the issuance of this Decision and Order two copies of the attached Notice where notices to bargaining unit members are normally posted in each of Respondent's buildings. The Notices shall remain posted for thirty (30) consecutive days;
4. Respondent shall notify the Public Employee Relations Board, in writing, within fourteen (14) days from the issuance of this Decision and Order that the Notices have been posted accordingly;
5. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

May 28, 2013

CERTIFICATE OF SERVICE

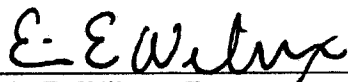
This is to certify that the attached Decision and Order in PERB Case No. 11-U-01 was transmitted via U.S. Mail and e-mail to the following parties on this the 28th day of May, 2013.

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Attorney-Advisor

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
National Association of)	
Government Employees)	
Local R3-06,		)	PERB Case No. 13-N-03
)	
Petitioner,		)	Opinion No. 1389
)	
and)	
)	
District of Columbia)	
Water and Sewer Authority)	
)	
Respondent.)	
_____)	

DECISION AND ORDER

I. Statement of the Case

On February 11, 2013, the National Association of Government Employees, Local R3-06 (“NAGE” or “Union”) filed a Negotiability Appeal (“Appeal”), pursuant to Board Rule 532. NAGE and the District of Columbia Water and Sewer Authority’s (“WASA” or “Agency” or “Authority”) are currently negotiating a successor Collective Bargaining Agreement (“CBA”) on working conditions. NAGE filed its Appeal in response to WASA’s written communication of non-negotiability, concerning two provisions in the proposed contract, which NAGE received on January 11, 2013. (Appeal at 2-3).

NAGE requests that the Board order WASA to commence negotiations on Article 57 “Discipline” and Article 59 “Expedited Grievance and Arbitration Procession,”¹ asserting that the topics found in the Articles “are subject to mandatory bargaining under the D.C. Code and

¹ Article 57 and Article 59 will be referred to collectively as “the Articles.”

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PERB precedent.” (Appeal at 1).

On February 26, 2013, WASA filed a Response to NAGE’s Appeal, asserting that it has no duty to bargain over disciplinary procedures for at-will employees. (Response at 2).

II. Discussion

NAGE asserts that WASA “submitted its initial contract proposal on November 16, 2012, which merely stated ‘[i]n accordance with the Public Employees Relations Board opinion in case number 99-U-04, employees in the NAGE bargaining unit are designated as at-will employees, All disciplinary actions are at management’s discretion and are not subject to appeal.’” (Appeal at 3) (citing *National Association of Government Employees, Local R3-06 v. D.C. Water and Sewer Authority*, 47 D.C. Reg. 7551 Slip Op. No. 635, PERB Case No. 99-U-04 (2000) (“*NAGE and D.C. WASA*”). In addition, as an exhibit to its Appeal, NAGE submitted communication from WASA that the Agency refused to bargain over Article 57 “Discipline” and Article 59 “Expedited Grievance and Arbitration Procession.” (Appeal at 3-4). NAGE asserts that, on January 11, 2013, WASA sent the following communication:

The Authority rejects the Union’s proposal on Article 57 Discipline that it received via electronic mail on January 10, 2013 and reiterates its position both Article 57 Discipline and Article 59 Expedited Grievance and Arbitration Procedures are non-negotiable in their entirety in accordance with PERB Opinion in 99-U-04.

(Exhibit E to Appeal). NAGE claims that, prior to January 11, 2013, WASA never asserted that the Articles were non-negotiable. (Appeal at 4-5).

WASA disputes that January 11, 2013, was the first time that it raised the issue that the Articles were non-negotiable. (Response at 4). WASA asserts that, on December 5, 2012, it presented to NAGE notice that WASA “considered both the disciplinary article and the expedited grievant arbitration article non-negotiable.” *Id.* WASA, notwithstanding, does not dispute that, on January 11, 2013, it “indicated the same upon receipt of the Union’s proposed disciplinary article.” *Id.*

A. NAGE’s position:

In support of its position that the Articles are negotiable, NAGE argues that D.C. Code § 1-617.08(b) mandates that “any issue not specifically listed under management rights is deemed negotiable.” (Appeal at 2). NAGE asserts that WASA’s reliance on Slip Op. No. 635 in declaring the Articles at issue non-negotiable is improper. *Id.* (citing *NAGE and D.C. WASA*, PERB Case No. 99-U-04). NAGE argues that Slip Opinion No. 635 requires WASA to bargain over the Articles. (Appeal at 3). NAGE cites the Board’s ruling:

The WASA-CFO’s status as an at-will employer[,] did not relieve him of all bargaining obligations imposed under the Comprehensive Merit

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Personnel Act (CMPA)...Specifically, the Hearing Examiner determined that, except for matters directly relating to the termination of financial employees, WASA remains subject to the bargaining obligations of the CMPA.

NAGE and D.C. WASA, Slip Op. No. 635 at 4 (adopting the Hearing Examiner's report).

Additionally, NAGE argues that WASA has waived its ability to raise non-negotiability over the Articles. (Appeal at 4-5). NAGE asserts that WASA waived non-negotiability over Article 57 "Discipline" when it did not strike the provision all together in its November 16, 2012, substantive proposal. (Appeal at 4). As for Article 59 "Expedited Grievance and Arbitration Procession," NAGE argues that WASA continues to bargain over the Grievance and Arbitration Procedures Article, "which is inextricably linked to the expedited grievance and procedures issues." (Appeal at 5). Therefore, NAGE concludes that WASA has waived any argument of non-negotiability regarding that Article. *Id.*

B. WASA's position

WASA argues that the District of Columbia Court of Appeals ("DCCA") held that Section 152 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 ("OCRAA") converted employees reporting to the District of Columbia's Chief Financial Officer's to that of "at-will." (Response at 3)(citing *Leonard v. District of Columbia*, 794 A.2d 618 (D.C. 2002)). WASA claims, "Since the 1997 Memorandum of Understanding between the Authority and the District of Columbia's Chief Financial Officer transferred some of these same positions to the Authority, the union members assigned to the 'financial cluster' of positions at the Authority have likewise been removed from the protection of the CMPA with regard to disciplinary matters." (Response at 3). WASA concludes that the "at-will" status of the employees precludes any negotiations over disciplinary or termination procedures. (Response at 3-4). WASA argues that *National Association of Government Employees, Local R3-06 v. D.C. Water and Sewer Authority*, 47 D.C. Reg. 7551 Slip Op. No. 635, PERB Case No. 99-U-04 (2000), supports its position that the Agency "only has a duty to bargain with the Union over working conditions that are unrelated to the discipline/termination of these employees." (Response at 4). WASA concedes "the possibility that procedural issues that do not impact the Authority's right to manage at-will employees according to their status could be subject to negotiation." (Response at 5). Notwithstanding, WASA, argues that "[t]he Union's proposed discipline article goes far beyond negotiating over procedural matters," and that the Union's proposal conflicts with the DCCA's ruling in *Leonard v. District of Columbia*, 794 A.2d 618 (D.C. 2002). *Id.*

As for Article 59 "Expedited Grievance and Arbitration Procedures," WASA argues that it is only used for discipline taken pursuant to Article 57. (Response at 6). WASA claims the at-will status of the employees allows WASA to terminate employees in the "financial cluster" "for cause or no cause. *Id.* WASA argues that "[a]ny grievance/arbitration procedure imposed upon the Authority impermissibly limits its ability to exercise that right and renders the at-will status moot." *Id.*

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In response to NAGE's waiver argument, WASA argues that it is "not barred from asserting its management right to terminate at-will employees despite having held prior negotiations with the Union over disciplinary procedures for at-will employees." *Id.* In support of its argument, WASA asserts that D.C. Code § 1-617.08(a-1), as amended in April 2005, negates NAGE's waiver argument. *Id.* WASA argues that the Board's ruling in *AFGE, Local 631 v. D.C. Water and Sewer*, Slip Opinion No. 877, bars NAGE's waiver argument in the instant case. (Response at 7).

III. Analysis

The Board has the authority to consider the negotiability of the proposals pursuant to Board Rules 532.1 and 532.4.

A. Waiver issue

Regarding NAGE's waiver argument, the Board has found that D.C. Code § 1-617.08(a-1)(Supp. 2005) "does nothing more than codify the Board's prior holding that management rights are permissive subjects of bargaining." *See District of Columbia Fire and Emergency Medical Services Department and American Federation of Government Employees, Local 3721*, 54 D.C. Reg. 3167, Slip Op. No. 874 at p. 9, PERB Case No. 06-N-01 (2007) ("*FEMS and AFGE*"). Specifically, the Board has interpreted the amendment as follows:

- (1) if management has waived a management right in the *past* (by bargaining over that right) this does not mean that it has waived that right (or any other management right) in any subsequent negotiations;
- (2) management may not repudiate any previous agreement concerning management rights during the term of the agreement;
- (3) nothing in the statute prevents management from bargaining over management rights listed in the statute if it so chooses; and
- (4) if management waives a management right *currently* by bargaining over it, this does not mean that it has waived that right (or any other management right) in future negotiations.

American Federation of Government Employees, Local 631 and D.C. Department of Public Works and D.C. Office of Property Management, Slip Op. No. 965, PERB Case No. 08-N-02 (2009)(citing *FEMS and AFGE*, Slip Op. No. 874 at pgs. 8-9). The Board finds that the pleadings do not contain sufficient information to determine whether WASA has waived a management right by currently bargaining over the disputed Articles. The Board orders the Parties to brief this issue, including any relevant case law and PERB precedent.

B. Substantive negotiability

As for the substantive negotiability of the Articles, in *UDCFA/NEA v. UDC*, the Board adopted the Supreme Court standard concerning subjects for bargaining that was established and

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defined in *National Labor Relations Board v. Borg-Warner Corp.*, 356 U.S. 342 (1975). 29 D.C. Reg. 2975, Slip Op. No. 43 at p. 2, PERB Case No. 82-N-01 (1982). "Under this standard, the three categories of bargaining subjects are as follows: (1) mandatory subjects-over which the parties must bargain; (2) permissive subjects, over which the parties may bargain; and (3) illegal subjects, over which the parties may not legally bargain." *D.C. Nurses Association v. D.C. Department of Mental Health*, 59 D.C. Reg. 10776, Slip Op. No. 1285 at p. 4, PERB Case No. 12-N-01 (2012).

D.C. Code § 1-617.08(b) provides that "all matters shall be deemed negotiable, except those that are proscribed by this subchapter." The Board has held that this language creates a presumption of negotiability. *International Association of Firefighters, Local 36 v. D.C. Department of Fire and Emergency Medical Services*, 51 D.C. Reg. 4185, Slip Op. No. 742, PERB Case No. 04-N-02 (2004). In *Washington Teachers' Union v. District of Columbia Public Schools*, the Board stated, "[I]n view of specific rights reserved solely to management under this same provision, i.e. D.C. Code § 1-617.08(a), the Board must be careful in assessing proffered broad interpretations of either subsection (a) or (b)." 46 D.C. Reg. 8090, Slip Op. No. 450 at p.4, PERB Case No. 95-N-01 (1999). The Board held that D.C. Code § 1-617.08 (a)(2) provides as a sole management prerogative the right to "suspend, demote, discharge, or take other disciplinary action against employees for cause." *Id.* at 11. However, the Board also held that *procedural* matters concerning discipline are negotiable. *See id.* at 12.

Pursuant to the Board's precedent in *National Association of Government Employees, Local R3-06 v. D.C. Water and Sewer Authority*, 47 D.C. Reg. 7551 Slip Op. No. 635, PERB Case No. 99-U-04 (2000), procedures regarding termination that would negate the "at-will" status of employees would not be negotiable, while other procedural issues for discipline of "at-will" employees may be negotiable.

Given the Board precedent noted above, and the state of the pleadings submitted by the parties, there is insufficient information upon which to make a ruling as a matter of law. Therefore, pursuant to Board Rule 532.4 (b), the Board requests that the Parties submit briefs in support of their respective positions on the negotiability of the Articles. In their briefs, the Parties should state their position and provide any legal authority, including any relevant case law and Board precedent in support of their position. They should address the issue of whether the proposed disciplinary procedures and expedited grievance and arbitration procedures would affect disciplinary actions other than termination, as well as affect any other non-disciplinary issue. Further, the parties will address the issue of whether the at-will status of the employees precludes negotiations of all issues affecting such employees by the Articles; and if not, which issues may be negotiated.

As the Parties assert that they are in the midst of negotiations, the Board orders the Parties to attend mediation prior to submission of their briefs.

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Page 6 of 6

ORDER

IT IS HEREBY ORDERED THAT:

1. The Parties will be first submitted to the Board's mediation program to allow the Parties the opportunity to reach a settlement by negotiating with one another with the assistance of a Board appointed mediator.
2. The Parties will be contacted to schedule the mandatory mediation within seven (7) days of the issuance of this Decision and Order.
3. Should the Parties not reach a settlement agreement during mediation, the Parties will be required to submit their briefs within fifteen (15) days of the conclusion of mediation.
4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

May 28, 2013

CERTIFICATE OF SERVICE

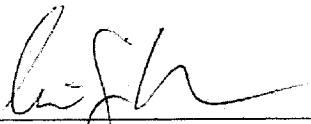
This is to certify that the attached Decision and Order in PERB Case 13-N-03 was transmitted via LexisNexis File & Serve to the following parties on this the 29th day of May, 2013.

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Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

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In the Matter of:)
)
District of Columbia)
Metropolitan Police Department)
)
Petitioner,)
)
and)
)
Fraternal Order of Police/)
Metropolitan Police Department)
Labor Committee)
(on behalf of Charles Sims))
)
Respondent.)
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PERB Case No. 12-A-07

Opinion No. 1390

DECISION AND ORDER

I. Statement of the Case

On July 18, 2012, the District of Columbia Metropolitan Police Department (“MPD” or “Agency”) filed an Arbitration Review Request (“Request”) of an Arbitration Award (“Award”) by Arbitrator Robert T. Simmelkjaer (“Arbitrator”). MPD concurrently filed a “Motion for an Extension of Time to Submit a Statement of the Reasons for Appealing the Opinion and Award of the Arbitrator.” The Executive Director sent MPD a deficiency notice and provided MPD with ten (10) days to cure deficiencies in its Request. MPD timely filed a “Brief in Support of the Arbitration Review Request” (“Request Brief”), in which MPD cured the deficiencies contained in its original Request. The Fraternal Order of Police/Metropolitan Police Department Labor Committee (“FOP” or “Union”) filed an Opposition to MPD’s Arbitration Review Request (“Opposition”).

MPD seeks review of the Award, which overturned the termination of the Charles Sims (“Grievant”). In its Request, MPD asserts that the Award is contrary to law and public policy and that the Arbitrator exceeded his jurisdiction. (Request at 2).

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II. The Award

The Grievant was a ten-year veteran of MPD, when the events that led to the arbitration occurred. (Award at 8). On March 23, 2004, the Grievant and his cousin, Maurice White (“Officer White”), celebrated Officer White’s graduation from the police academy with two female acquaintances, Melissa Martin and Crystal Nickens. *Id.* The four went to a Washington, D.C., nightclub. *Id.* Outside of the nightclub, a confrontation occurred, involving two unidentifiable male individuals. *Id.* Subsequently, a bouncer escorted the Grievant to his car. *Id.* The four proceeded to a local pizzeria. *Id.* A fight occurred at the pizzeria, involving Rosina Memolo, Ms. Martin, Ms. Nickens, Omar Irving, and Officer White receiving lacerations and/or stab wounds. *Id.* It was uncontested that, on May 5, 2005, MPD requested the United States Attorney’s Office’s (“USAO”) to review the Grievant’s actions arising from the March 23, 2004, incident for possible prosecution. (Award at 22). On June 16, 2005, USAO informed MPD of its decision not to prosecute the Grievant. (Award at 25).

On October 21, 2005, the Grievant was served with a Notice of Proposed Adverse Action (“NPAA”). (Award at 2). The NPAA proposed the Grievant’s removal for 3 charges: (1) Neglect of Duty, (2) Willful Failure to Report a Criminal Violation, and (3) Conduct Unbecoming of an Officer. *Id.* On January 10, 2006, an Adverse Action Panel hearing was held. (Award at 4). The Grievant pled not guilty to the charges. *Id.* The Adverse Action Panel recommended the Grievant’s termination. *Id.* On February 22, 2006, Officer Sims received a Final Notice of Adverse Action. (Award at 5). After reviewing the record, former Assistant Chief Shannon Cockett concurred with the Adverse Action Panel’s finding of guilt and ordered the Grievant’s removal. *Id.* On March 8, 2006, the Grievant appealed the Final Notice to former Chief of Police Charles H. Ramsey, who denied the Grievant’s appeal. *Id.*

On April 18, 2006, the Union, on behalf of the Grievant, filed a demand for arbitration. *Id.* Pursuant to the Parties’ collective bargaining agreement (“CBA”), the Arbitrator conducted a “record only review.” *Id.* The Agency and the Union both submitted briefs to the Arbitrator. *Id.* In addition, the Union submitted a reply brief. *Id.*

The issues presented to the Arbitrator were:

- 1) Whether the [Metropolitan Police] Department violated the 90-day Rule as set forth under D.C. Code § 5-1031.
- 2) Whether the evidence presented by the [Metropolitan Police] Department was sufficient to support the alleged charges.
- 3) Whether termination is an appropriate penalty.

(Award at 7). The Arbitrator determined that the standard of review was: “whether the Agency’s factual findings were supported by substantial evidence.” (Award at 8).

FOP asserted that MPD had exceeded the 90-Day Rule under D.C. Code § 5-1031, barring MPD from imposing discipline on the Grievant. (Award at 10). In support of its argument, FOP argued that the ruling in *Finch v. District of Columbia*, 894 A.2d 419 (D.C. 2006), supported application of D.C. Code § 5-1031 to MPD’s disciplinary action. (Award at

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10). FOP contended that MPD waited 265 business days after the effective date of the statute (September 30, 2004) to serve the Grievant with the Notice of Proposed Adverse Action, which it argued was excessive, because MPD had known of the incident since March 23, 2004. (Award at 12). Based on the record, the Union asserted that MPD “could have completed and finalized its investigation concerning this matter as early as April 2005.” (Award at 13). FOP argued that, even allowing a tolling period for the time that the Grievant’s case was under USAO’s review, MPD still allowed 227 business days to elapse prior to serving the Grievant with the Notice of Proposed Adverse Action. *Id.*

FOP contended that “[a]t the time of the incident, the MPD had procedures in place to ensure investigations were complete(d) within ninety calendar days.” (Award at 14). Additionally, FOP argued that MPD violated General Order PER 120.23: “all investigations shall be complete at least ninety (90) calendar days after receiving the complaint, criminal declination, or conclusion of a criminal proceeding.” *Id.* The Union disputed MPD’s contention that the initiation of discipline was tolled until the USAO served its letter on MPD stating that it would not prosecute the Grievant. *Id.* The Union argued that there was no evidence in the record that a criminal investigation was conducted by MPD’s Internal Affairs Division or by USAO, prior to May 5, 2005. (Award at 15). Further, the Union argued that MPD’s proposed discipline against the Grievant by an additional one hundred (100) business days (excepting the days of prosecutorial review by USAO) to an initial ninety (90) day period exceeded the reasonable grace period provided in *Finch* to MPD to adjust to the new statute of limitations found in D.C. Code § 5-1031. (Award at 17).

MPD maintained that from March 23, 2004, until June 20, 2005, the Grievant was under a criminal investigation, which tolled the 90-Day Rule. (Award at 18). MPD argued that it did not exceed the 90-Day Rule, because only eighty-six (86) business days had elapsed after the USAO declined prosecuting the Grievant. *Id.* MPD compared the 90-Day Rule to repealed D.C. Code § 1-617.1(b-1) (“45-Day Rule”) for establishing when a criminal investigation ends. (Award at 19). MPD relied upon *District of Columbia v. District of Columbia Office of Employee Appeals*, 883 A.2d 124 (D.C. 2005), which states: “the ‘conclusion of a criminal investigation’ must involve action taken by an entity with prosecutorial authority—that is, the authority to review evidence, and to either charge an individual with commission of a criminal offense, or decide that charges should not be filed.” (Award at 20). MPD argued that the criminal investigation of the Grievant clearly concluded on June 20, 2005, and that the 90-Day Rule was tolled until that day, making the Grievant’s proposed discipline timely. *Id.*

The Arbitrator found:

Considering the evidence in its entirety, the Arbitrator is persuaded that the MPD violated the 90-day rule, D.C. Code 5-1031, when it did not timely institute an adverse action against Officer Charles Sims within 90 business days of March 23, 2004, excluding the 30 business day time period when Officer Sims was the subject of a criminal investigation by the Office of the United States Attorney for the District of Columbia.

Id. The Arbitrator stated, “It is undisputed that the 90-day rule requires the MPD to commence

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an adverse action against an employee within ninety (90) business days 'after the date that the [MPD] knew or should have known of the act or occurrence allegedly constituting cause.'" *Id.* The Arbitrator acknowledged that D.C. Code § 5-1031 states, "[i]f the act or occurrence allegedly constituting cause is the subject of a criminal investigation by the Metropolitan Police Department, the Office of the United States Attorney for the District of Columbia," the 90-day period may be tolled. (Award at 21). The Arbitrator, however, stated:

Whereas the MPD has argued that "the Employee's conduct was the subject of a criminal investigation beginning on March 23, 2004, the day the stabbing occurred, and that the criminal investigation concluded on June 20, 2005, when the Department learned that USAO would not prosecute," the Arbitrator is not persuaded that Officer Sims was the subject of a criminal investigation either by MPD or USAO during this entire period.

Id. The Arbitrator observed that "the record evidence indicates that Officer Sims was not personally the subject of the criminal investigation commenced by MPD but rather an investigation began regarding the 'subjects and/or perpetrators' involved in the stabbing incident against Ms. Memolo." *Id.* The Arbitrator considered the Report of Investigation from MPD's Office of Internal Affairs, prepared by Agent Diana Rodriguez, which confirmed that AUSA Wade "expressed her desire to present Officer Sims as a witness instead of a target." (Award at 21-22). The Arbitrator noted that the Grievant was subpoenaed for a witness conference on October 19, 2004, to prepare for his testimony before the Grand Jury on October 28, 2004. (Award at 22).

MPD argued that the incident underlying the Grievant's misconduct need not be under "active review" by either MPD or USAO to toll the 90-Day Rule. *Id.* The Arbitrator rejected MPD's argument, because the Arbitrator found "no record evidence to support the assertion that Officer Sims was the subject of a criminal investigation before May 5, 2005." *Id.* Further, the Arbitrator observed:

[a]lthough the MPD alludes to the Office of Internal Affairs report where it states, 'As a result of the ongoing criminal investigation...Officer Sims was placed on non-contact duty status pending further investigation...' the record evidence indicates that Officer Sims was not the subject or target of a criminal investigation during this period.

Id.

Additionally, MPD argued that FOP had waived the right to arbitrate, because MPD was unaware of the issues to be arbitrated until it received the Grievant's arbitration brief. (Award at 27-28). MPD argued that FOP's appeal of the Grievant's termination to the Chief of Police was vague and did not identify any issue with specificity. (Award at 27). MPD argued that this violated Article 19, E.5 of the Parties' CBA. *Id.* FOP argued that its challenge of the law (90-Day Rule), evidence, and penalty determination all appeared in the FOP's Appeal to the Chief of Police. (Award at 29). After consideration of the Parties' arguments and consideration of the contract, the Arbitrator found that MPD had adequate notice of the issues. (Award at 33). In addition, the Arbitrator ruled that the 90-Day Rule was a jurisdictional question that could be

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raised *de novo*. *Id.*

The Arbitrator ruled that the 90-Day Rule was properly arbitrable, and that MPD was untimely in proposing discipline against the Grievant, violating D.C. Code § 5-1031. (Award at 32-33). The Arbitrator did not rule on the sufficiency of evidence or the merits of the case. (Award at 34).

As a remedy, the Arbitrator ordered that the disciplinary matter be dismissed against the Grievant. *Id.* Further, the Arbitrator set aside MPD's penalty recommendation and ordered the Grievant be reinstated to his former position with full back pay and lost job benefits. *Id.* In addition, the Arbitrator ordered that the Grievant's personnel file be expunged to reflect rescission of the Grievant's termination. *Id.* The Arbitrator retained jurisdiction to address any issues with the remedy portion of the Award and to consider the Union's application for attorney's fees. *Id.*

III. Discussion

The CMPA authorizes the Board to modify or set aside an arbitration award in three limited circumstances: (1) if an arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means. D.C. Code § 1-605.02(6) (2001 ed.).

MPD argues: (1) the Award is contrary to law and public policy, and (2) the Arbitrator was without authority to grant the Award. (Request at 2, Request Brief at 7). FOP argues that the Award is not contrary to law or public policy on its face, and that MPD merely disagrees with the Arbitrator's findings and conclusions. (Opposition at 4).

A. Law and public policy

MPD argues that the Award is contrary to law and public policy, because the Arbitrator concluded that MPD violated D.C. Code § 5-1031. (Request Brief at 10-11).

MPD argues that the record demonstrated that "Grievant was under criminal investigation by the [Metropolitan Police] Department and the USAO." (Request Brief at 8). In addition, MPD argues that "[n]owhere in the statute [D.C. Code § 5-1031] or any court decisions is there any suggestion that a matter has to be under 'active' review by either the [Metropolitan Police] Department or USAO." (Request Brief at 8). MPD argues that "[a]ll of the facts in the record support the conclusion that the [Metropolitan Police] Department did not violate the 90-Day Rule." (Request Brief at 9).

The statute at issue, D.C. Code § 5-1031, provides as follows:

- (a) Except as provided in subsection (b) of this section, no corrective or adverse action against any sworn member or civilian employee of the Fire and Emergency Medical Services Department or the Metropolitan Police Department shall be commenced more than 90 days, not including

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Saturdays, Sundays, or legal holidays, after the date that the Fire and Emergency medical Services Department or the Metropolitan Police Department knew or should have known of the act or occurrence allegedly constituting cause.

(b) If the act or occurrence allegedly constituting cause is the subject of a criminal investigation by the Metropolitan Police Department, the Office of the United States Attorney for the District of Columbia, or the Office of Corporation Counsel, or an investigation by the Office of Police Complaints, the 90-day period for commencing a corrective or adverse action under subsection (a) of this section shall be tolled until the conclusion of the investigation.

D.C. Code § 5-1031, also known as the 90-Day Rule, became effective on September 30, 2004. The effective date of the statute was after the incident leading to the disciplinary charges against the Grievant, but prior to the MPD's Notice of proposed removal.

MPD argues that the Union's reliance on *Finch v. District of Columbia*, 894 A.2d 419 (D.C. 2006), is misplaced, because subsection (b) of D.C. Code § 5-1031 is controlling. (Request Brief 7-8). *Finch* states that prior to the passage of D.C. Code § 5-1031 there was no limit on the time in which MPD could impose disciplinary actions. 894 A.2d 419, 420. Therefore, D.C. Code § 5-1031 was passed and the 90-Day Rule was instituted. *Id.* *Finch* held that the District of Columbia would be afforded a reasonable period of time after the effective date of D.C. Code § 5-1031 in which to impose discipline, even if it knew (or should have known) of actions for more than ninety (90) days, but was within a reasonable period of time after the passage of D.C. Code § 5-1031. *Id.* at 422. The Court stated that a reasonable grace period would be ninety days after the passage of the 90-Day Rule to institute discipline against employees whose potential infractions it had known for more than ninety days: "We similarly conclude that a grace period of at least ninety days would be reasonable in this situation. Because MPD commenced disciplinary action well within that period, discipline could not be precluded by the newly-enacted statute of limitations." *Id.* FOP argues that *Finch* is controlling for the Award, and that the Arbitrator concluded that MPD had violated D.C. Code § 5-1031. (Opposition at 6).

MPD argues that the Arbitrator's application of D.C. Code § 5-1031(b) improperly tolled the 90-Day Rule for only thirty (30) days while under the USAO's review. (Request Brief at 9). MPD claims that 90-Day Rule was tolled from the time of the incident on March 23, 2004, until the USAO declined to prosecute the Grievant. *Id.* MPD argues, "[t]here is no bright line establishing when a criminal investigation ends." *Id.* As a persuasive argument, MPD relies upon *District of Columbia v. District of Columbia Office of Employee Appeals*, 883 A.2d 124 (D.C. 2005) ("*OEA*"), for determining when a criminal investigation concluded and when discipline could be timely commenced. (Request Brief at 9). In *OEA*, the District of Columbia Court of Appeals ("*DCCA*") ruled on the statutory language of "conclusion of a criminal investigation" for the now repealed D.C. Code § 1-617.1(b-1). 883 A.2d at 127-128. The 45-Day Rule under D.C. Code § 1-617.1 required discipline be proposed within forty-five (45) business days after an agency knew or should have known of the act or occurrence giving rise to discipline. *Id.* at 127. The 45-Day Rule was tolled until the "conclusion of a criminal

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investigation.” *Id.* The DCCA found that OEA and the Superior Court erred in concluding the criminal investigation at issue had ended upon the release of an Inspector General’s Report, because the prosecuting authority (Attorney General) had not yet made a decision on whether or not to prosecute. *Id.* at 128. Further, in a footnote, the DCCA stated, “Although a prolonged period of inactivity by the United States Attorney may signify the end of an investigation, we disagree with the OEA and the trial court that the criminal investigation concluded in this case merely because the record is void of evidence that any further action was taken between May 22 [release of the Inspector General’s Report] and July 18 [the date on which an arrest warrant was issued for the employee].” *Id.* at 128, footnote 5. MPD asserts that *OEA* is dispositive of the language “conclusion of a criminal investigation” in D.C. Code § 5-1031(b). (Request Brief at 9).

MPD, however, previously presented this argument to the Arbitrator, who rejected it. (Award at 20). The Arbitrator reconciled *Finch* and *OEA*, because *Finch* did not address a tolling issue for criminal investigations. (Award at 24). Further, the Arbitrator rejected MPD’s argument that *OEA*:

stands for the proposition that the 90-day rule can be ‘reset’ following the decision of the USAO on June 16, 2005[,] not to prosecute when the MPD, following the occurrence allegedly constituting cause on March 23, 2004, delayed its internal investigation with respect to Officer Sims until a request for prosecutorial review was made to USAO on May 5, 2005 and failed to issue its Notice of Proposed Adverse Action until October 21, 2005.

(Award at 25). The Arbitrator found that the record evidence established that the Grievant was a subject of a criminal investigation only during the time the Grievant’s case was presented to the USAO in 2005. *Id.* Consequently, the Arbitrator limited the tolling of the 90-Day Rule to those thirty (30) days. *Id.*

It appears that MPD does not dispute the applicability of the 90-Day Rule, however, MPD argues:

The record demonstrates that Grievant’s conduct was the subject of a criminal investigation beginning on March 23, 2004, the day the stabbing occurred, and that the criminal investigation concluded on June 20, 2005, when the Department learned that USAO would not prosecute Grievant for events related to the stabbing. The Department commenced the adverse action 86 business days later when it served Grievant with the Proposed Notice on October 21, 2005. Therefore, the Department did not violate the 90-Day Rule.

(Request Brief at 8) (citations omitted). MPD’s argues the time period in which the Arbitrator tolled the 90-Day Rule was improper, and asserts that the Award on its face contrary to law and public policy. (Request at 2, Request Brief at 7).

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FOP argues that MPD actually disputes the Arbitrator's factual-finding of the length of time of the criminal investigation. (Opposition at 7). MPD argues that the Grievant was the subject of a criminal investigation, beginning on March 23, 2004. (Request Brief at 8). The Arbitrator found that there was "no record evidence to support the assertion that Officer Sims was the subject of a criminal investigation before May 5, 2005." (Award at 22). Based on the record before him, the Arbitrator found that there was only evidence that a criminal investigation was conducted for thirty (30) days while the USAO reviewed the Grievant's case from May 5, 2005, until June 16, 2005. (Award at 25). Pursuant to D.C. Code § 5-1031(b), the Arbitrator found that only thirty days were tolled. (Award at 27). Further, the Arbitrator stated, "the Arbitrator can find no interpretation of the 90-day rule or case law that warrants such an expansive construction." *Id.* Consequently, the Arbitrator found that MPD failed to timely serve the Grievant with its Notice of Proposed Adverse Action. *Id.*

The Board has long held that by agreeing to submit the settlement of a grievance to arbitration, it is the Arbitrator's interpretation, not the Board's, for which the parties have bargained. *See University of the District of Columbia and University of the District of Columbia Faculty Association*, 39 D.C. Reg. 9628, Slip Op. No. 320, PERB Case No. 92-A-04 (1992). In addition, the Board has found that by submitting a matter to arbitration, "the parties agree to be bound by the Arbitrator's interpretation of the parties' agreement, related rules and regulations, as well as the evidentiary findings on which the decision is based." *District of Columbia Metro. Police Dep't v. Fraternal Order of Police/Metro. Police Dep't Labor Comm.*, 47 D.C. Reg. 7217, Slip Op. No. 633 at p. 3, PERB Case No. 00-A-04 (2000); *District of Columbia Metro. Police Dep't and Fraternal of Police, Metro. Police Dep't Labor Comm. (Grievance of Angela Fisher)*, 51 D.C. Reg. 4173, Slip Op. No. 738 PERB Case No. 02-A-07 (2004). The "Board will not substitute its own interpretation or that of the Agency for that of the duly designated arbitrator." *District of Columbia Department of Corrections and International Brotherhood of Teamsters, Local Union 246*, 34 D.C. Reg. 3616, Slip Op. No. 157, PERB Case No. 87-A-02 (1987).

The Board's review of an arbitration award on the basis of public policy is an "extremely narrow" exception to the rule that reviewing bodies must defer to an arbitrator's ruling. "[T]he exception is designed to be narrow so as to limit potentially intrusive judicial review of arbitration awards under the guise of public policy." *Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee*, 59 D.C. Reg. 3959, Slip Op. No. 925. PERB Case No. 08-A-01 (2012) (quoting *American Postal Workers Union, AFL-CIO v. United States Postal Service*, 789 F. 2d 1, 8 (D.C. Cir. 1986)). A petitioner must demonstrate that an arbitration award "compels" the violation of an explicit, well defined, public policy grounded in law and or legal precedent. *See United Paperworks Int'l Union, AFL-CIO v. Misco, Inc.*, 484 U.S. 29 (1987). Moreover, the violation must be so significant that the law or public policy "mandates that the Arbitrator arrive at a different result." *Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee*, 47 D.C. Reg. 717, Slip Op. No. 633, PERB Case No. 00-A-04 (2000). Further, the petitioning party has the burden to specify "applicable law and definite public policy that mandates that the Arbitrator arrive at a different result." *Id.* *See, e.g., D.C. Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee*, Slip Op. No. 1015, PERB Case No. 09-A-06 (2010).

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In the present case, the Board finds that MPD's Request is merely a dispute of the Arbitrator's evidentiary findings and conclusions. MPD's reliance on *OEA* is not persuasive, as the DCCA's decision governed a different statute than the one at issue. Furthermore, *OEA* only discusses when a criminal investigation can be said to have concluded. 883 A.2d 124, 128 (D.C. 2005). Conversely, MPD's Request appears to dispute the Arbitrator's findings that there was no evidence of a criminal investigation *prior* to May 5, 2005. (Request Brief at 8). MPD's argument is based on when the criminal investigation *began*, not when it *concluded*, as *OEA* discusses. MPD's Request constitutes only a disagreement with the Arbitrator's evidentiary findings of the length of the criminal investigation of the Grievant. "The Board will not second guess credibility determinations, nor will it overturn an arbitrator's findings on the basis of a disagreement with the arbitrator's determination." *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. D.C. Metropolitan Police Department*, 59 D.C. Reg. 9798, Slip Op. No. 1271, PERB Case No. 10-A-20 (2012). See also *Metro. Police Dep't and Fraternal Order of Police/Metro, Police Dep't Labor Comm.*, 31 D.C. Reg. 4159, Slip Op. No. 85, PERB Case No. 84-A0-05 (1984); *FOP/DOC Labor Comm. v. Dep't of Corrections*, 52 D.C. Reg. 2496, Slip Op. No. 722, PERB Case Nos. 01-U-21, 01-U-28, 01-U-32 (2005).

MPD submitted itself to arbitration and to the Arbitrator's interpretation of the contract and relevant laws, as well as the Arbitrator's factual findings. MPD has not asserted any law or public policy that would require the Arbitrator to have arrived at a different result. Therefore, the Board denies MPD's Arbitration Review Request on the basis that the Award is contrary to law and public policy.

B. Arbitrator's grant of authority

MPD argues that the Arbitrator was without authority to grant the Award. (Request at 2, Request Brief at 7). The Board has used the following test to determine whether an Arbitrator has exceeded his jurisdiction and was without authority to render an award: "whether the Award draws its essence from the collective bargaining agreement." *Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee (on Behalf of Kenneth Johnson)*, 59 D.C. Reg. 3959, Slip Op. No. 925, PERB Case No. 08-A-01 (2012) (quoting *D.C. Public Schools v. AFSCME, District Council 20*, 34 D.C. Reg. 3610, Slip Op. No. 156, PERB Case No. 86-A-05 (1987)). The U.S. Court of Appeals for the Sixth Circuit in *Michigan Family Resources, Inc. v. Service Employees International Union Local 517M*, has explained what it means for an award to "draw its essence" from a collective bargaining agreement by stating the following standard:

[1] Did the arbitrator act 'outside his authority' by resolving a dispute not committed to arbitration?; [2] Did the arbitrator commit fraud, have a conflict of interest or otherwise act dishonestly in issuing the award?"; "[a]nd [3] [I]n resolving any legal or factual disputes in the case, was the arbitrator arguably construing or applying the contract"? So long as the arbitrator does not offend any of these requirements, the request for judicial intervention should be resisted even though the arbitrator made "serious," "improvident" or "silly" errors in resolving the merits of the dispute.

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475 F.3d 746, 753 (6th Cir. 2007). See *Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee (on Behalf of Kenneth Johnson)*, 59 D.C. Reg. 3959, Slip Op. No. 925, PERB Case No. 08-A-01 (2012).

MPD has asserted no facts or legal argument to support its assertion that the Arbitrator was without authority to issue the Award. The Board finds nothing in the record to suggest that fraud, a conflict of interest, or dishonesty affected the Arbitrator's decision or the arbitral process. Additionally, there is nothing in the Award to show that "the arbitrator's decision on the merits was so untethered from the agreement that it casts doubt on whether he was engaged in interpretation, as opposed to the implementation of his 'own brand of industrial justice.'" *Michigan Family Resources*, 475 F.3d at 754. No one disputes that the collective bargaining agreement committed this grievance to arbitration. Furthermore, the Arbitrator was mutually selected by the Parties to resolve the dispute, he was presented with the issue of whether MPD violate D.C. Code § 5-1031, and both Parties had an opportunity to argue the issue. (Award at 7). Based on the record and relevant law, the Arbitrator found that MPD violated the 90-Day Rule, D.C. Code § 5-1031, which was clearly well within his granted jurisdiction to do. See *Michigan Family Resources*, 475 F.3d at 754. Hence, the Board rejects the argument that the Arbitrator exceeded his authority.

IV. Conclusion

The Board finds that the Award is not on its face contrary to law or public policy, nor did the Arbitrator exceed his jurisdiction. Therefore, MPD's Arbitration Review Request is denied.

ORDER

IT IS HEREBY ORDERED THAT:

1. The District of Columbia Metropolitan Police Department's Arbitration Review Request is denied.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

May 28, 2013

CERTIFICATE OF SERVICE

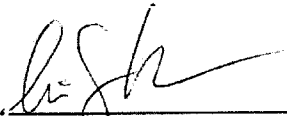
This is to certify that the attached Decision and Order for PERB Case No. 12-A-07 was transmitted to the following parties via LexisNexis File & Serve on this the 29th day of May, 2013.

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Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:)
)
 Fraternal Order of Police/Metropolitan)
 Police Department Labor Committee,)
)
 Complainant,)
)
 v.)
)
 District of Columbia)
 Metropolitan Police Department,)
)
 and)
)
 Cathy Lanier, Chief of Police for the)
 Metropolitan Police Department,)
)
 and)
)
 Linda Nischan, Lieutenant for the)
 Metropolitan Police Department,)
)
 and)
)
 Terrence Ryan, General Counsel for the)
 Metropolitan Police Department,)
)
 and)
)
 Anna McClanahan, of the Metropolitan Police)
 Department,)
)
 Respondents.)

PERB Case Nos. 09-U-52
09-U-53

Opinion No. 1391

Decision and Order

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Page 2

DECISION AND ORDER

I. Statement of the Case

Complainant Fraternal Order of Police/Metropolitan Police Department Labor Committee, (“Complainant” or “FOP” or “Union”) filed two (2) Unfair Labor Practice Complaints (“Complaints”) (later consolidated) against the District of Columbia Metropolitan Police Department (“Respondent” or “MPD” or “Department”) and four (4) other individual respondents. FOP alleged that MPD and the individual respondents engaged in unfair labor practices when they restrained, coerced, and interfered with two (2) FOP representatives’ protected union activities by interfering with the representatives’ 40 hour-a-week union assignments, failing to bargain in good faith about changes to the terms and conditions of those assignments, requiring the two (2) representatives to participate in training that was not required, placing them on non-contact status and revoking their police powers when they failed to complete said training, and requiring them to complete the training in order to have their police powers reinstated. (Respondents’ Exceptions, at 2-3); and (Complainant’s Opposition, at 3-4).

FOP also filed Motions for Preliminary Relief and to consolidate the cases. See Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, 59 D.C. Reg. 5957, Slip Op. No. 999, PERB Case 09-U-52 (2009); and Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, 59 D.C. Reg. 5969, Slip Op. No. 1000, PERB Case 09-U-53 (2009). On or about December 23, 2009, the Board denied FOP’s Motions for Preliminary Relief, granted MPD’s Motions to Consolidate the cases, and referred the consolidated cases to Hearing Examiner for Disposition. *Id.*

The Hearing Examiner found in favor of FOP and recommended various orders. (Report, at 29-30). Thereafter, MPD filed Exceptions (“Respondents’ Exceptions”) to the Hearing Examiner’s findings, to which FOP filed an Opposition to those Exceptions (“Complainant’s Opposition”).

II. Background

Case 09-U-52 alleges that MPD violated D.C. Code §1-617.04(a)(1) by: 1) interfering, restraining, or coercing FOP Executive Steward Delroy Burton’s (“Steward Burton”) exercise of rights guaranteed by the Comprehensive Merit Personnel Act (“CMPA”); and 2) violating Article 12, section 14 of the parties’ collective bargaining agreement (“CBA”). (Complaint at p. 8-9, PERB Case No. 09-U-52). The Board provided a detailed summary of the specific

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allegations in FOP's Complaint in Slip Opinion 999, in which the Board denied FOP's Motion for Preliminary Judgment. *Id.*, at 3-7.

Case 09-U-53 alleges that MPD violated D.C. Code §1-617.04(a)(1) by: 1) interfering, restraining, or coercing FOP Chairman Kristopher Baumann's ("Chairman Baumann") exercise of rights guaranteed by the CMPA; and 2) violating Article 12, section 14 of the parties' CBA. (Complaint at p. 8-9, PERB Case No. 09-U-53). The Board provided a detailed summary of the specific allegations in FOP's Complaint in Slip Opinion 1000, in which the Board denied FOP's Motion for Preliminary Judgment. *Id.*, at 3-6.

The Board, in Slip Opinions 999 and 1000, granted MPD's motions to consolidate the two (2) cases and referred the matter to a Hearing Examiner for disposition. *FOP v. MPD, supra*, Slip Op. No. 999 at p. 10, PERB Case 09-U-52; and *FOP v. MPD, supra*, Slip Op. No. 1000 at p. 10, PERB Case 09-U-53. The resulting Hearing was held at the PERB's offices on April 14, 2010. (Report, at 3). The Hearing Examiner issued her Report and Recommendations ("Report") on September 28, 2010. *Id.*, at 1 and 30.

A. The Hearing Examiner's Report

In the Report, the Hearing Examiner rejected MPD's argument that the CMPA does not give the PERB jurisdiction over individuals acting in their official capacity. (Report, at n. 2-4). The Hearing Examiner noted that D.C. Code §1-617.04(a) prohibits "not only the Department, but also its *agents and representatives*, from committing unfair labor practices." *Id.*, at n. 4 (emphasis in original). The Hearing Examiner reasoned that "[s]ince the individuals named as Respondents in the instant case clearly are agents or representatives of the Department, they are subject to the Board's jurisdiction." *Id.*

The Hearing Examiner then summarized the parties' arguments and the chronological record of events, after which she narrowed the issues of the cases down to two (2) "threshold" legal questions: 1) whether the PERB has jurisdiction over the cases, and 2) if so, whether MPD, motivated by anti-union animus, "retaliated against Steward Burton and Chairman Baumann for the [*sic*] union activism by placing them on no-contact status and revoking their police powers, thereby interfering, restraining or coercing them in the exercise of rights guaranteed them under [D.C. Code §1-617.04(a)(1)] of the CMPA." (Report, at 13).

Addressing the question of Jurisdiction, the Hearing Examiner rejected MPD's argument that the PERB lacks jurisdiction because FOP's allegations arose out of Articles 9 and 12 of the parties' CBA, and are therefore purely contractual. *Id.*, at 14. MPD argued that the PERB lacks jurisdiction to resolve the contractual cases "even when that same violation offends the

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CMPA.” *Id.*, at 14. MPD relied on *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, et al.*, 59 D.C. Reg. 6039, Slip Op. No. 1007 at p. 8, PERB Case No. 08-U-41 (2009), which holds that: 1) “where the parties have agreed to allow their negotiated agreement to establish the obligations that govern the very acts and conduct alleged in the complaint as statutory violations of the CMPA, the Board lacks jurisdiction over the complaint allegation”; and 2) if the Board must interpret a contractual obligation in order to determine whether or not a non-contractual, statutory violation has been committed, the Board will defer the matter to the parties’ grievance and arbitration procedures. *Id.* MPD further reasoned “the PERB is without jurisdiction to consider this matter since [Articles 9 and 12] govern the ‘very acts and conduct alleged in the complaint.’” *Id.*

The Hearing Examiner found that PERB has jurisdiction over FOP’s allegations arising under Article 9 of the parties’ CBA. *Id.* The Hearing Examiner contended that “the terms of that provision are unambiguous and require no interpretation.” *Id.*; and *FOP v. MPD, supra*, Slip Op. No. 1007 at p. 8, PERB Case No. 08-U-41. In addition, the Hearing Examiner found that when MPD unilaterally began requiring officers assigned to full-time union positions to complete 32 in-service training hours each year, it violated an established past practice that exempted full-time union officers from said training. *Id.*, at 4-10, and 14-15 (citing *District Council 20, American Federation of State, County, and Municipal Employees, Locals 1200, 2776, 2401 and 2087 v. District of Columbia Government, et al.*, 46 D.C. Reg. 6513, Slip Op. No. 590 at p. 9, PERB Case No. 97-U-15A (1999)). The Hearing Examiner reasoned that it is “well settled that a past practice becomes an unwritten term and condition of employment that is not [limited] by related statutory rights.” *Id.*, at 15 (citing *District Council 20, AFSCME, Locals 1200, 2776, 2401 and 2087 v. D.C. Gov’t, et al., supra*, Slip Op. No. 590 at p. 9, PERB Case No. 97-U-15A). The Hearing Examiner contended that employers are obligated to “observe these unwritten terms” and that making “unilateral changes [to such terms ... violates the employer’s] duty to bargain, thereby constituting an unfair labor practice under the CMPA.” The Hearing Examiner concluded that, “[c]onsequently, the PERB retains jurisdiction over [FOP’s allegations under Article 9 of the parties’ CBA].” *Id.*

The Hearing Examiner found that PERB also has jurisdiction over FOP’s allegations arising under Article 12 despite the provisions of Article 4, which governs management rights. *Id.*, at 15-16. The Hearing Examiner stated that “the Department’s argument [that Article 4 empowers it to engage in the very acts alleged] does not address the pivotal issue in this case: that is, whether the Department’s primary motive in placing the Union leaders on non-contact status and revoking their police powers was to retaliate against them for their union activities.” *Id.* (citing *Office of the District of Columbia Controller v. Frost*, 638 A.2d 657 at 665-66 (D.C. 1994) (holding that the PERB is the exclusive forum for claims of reprisal involving District of

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Columbia government agencies). The Hearing Examiner reasoned that, “[g]iven this ruling, it follows that PERB retains jurisdiction over this matter.” *Id.*

MPD contended that “its management right to ‘direct employees of the agencies’ to ‘maintain efficiency of the District government operations entrusted to them’ is a reserved management right guaranteed both by [D.C. Code §1.617.08 (governing management rights)] and [Article 4 of the CBA].” *Id.* MPD cited a string of Federal Labor Management Relations Act (“FLRA”) cases in support of its positions. *Id.* The Hearing Examiner stated that because there is no PERB precedent on this question, she would “consider case law established by other labor authorities such as the FLRA.” *Id.*, at n. 17 (citing *District of Columbia Department of Consumer and Regulatory Affairs v. American Federation of Government Workers, Local 2725*, 59 D.C. Reg. 5392, Slip Op. No. 978 at p. 4, PERB Case 09-A-01 (2009) (internal citations omitted)).

The Hearing Examiner noted that the FLRA cases MPD cited instruct that “the assignment of job-related training during duty hours constitutes an assignment of work.” *Id.* (citing *National Treasury Employees Union and U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms*, 45 F.L.R.A. 339 at 357 (1992) (internal citations omitted)). The Hearing Examiner noted that MPD cited other cases “which provide that Union officials are not exempt from such training.” *Id.*, at 16-17 (citing *National Treasury Employees Union and Internal Revenue Service*, 17 F.L.R.A. 379 at 381 (1985) (internal citations omitted)). The Hearing Examiner stated that “FLRA precedent also supports the Department’s contention that the right to assign work encompasses decisions as to the type of training to be assigned and the frequency and duration of that training.” *Id.*, at 17 (citing *International Plate Printers, Die Stampers and Engravers Union of North America, AFL-CIO, Local 2 and Department of the Treasury, Bureau of Engraving and Printing, Washington D.C.*, 25 F.L.R.A. 113 at 127 (1987) (internal citations omitted)). Relying on these cases, the Hearing Examiner stated that MPD “correctly contend[s] that these precedents support its position that its General Order¹, supplemented by Teletypes setting the dates and topics [of classes] such as ASP/AED/CPR², to be covered in the 2008 trainings, constituted job-related training within the compass of its management rights mandate.” *Id.* MPD argued that, in light of these precedents, “placing Chairman Baumann and Steward Burton on non-contact status and revoking their [police powers were] not actions taken pursuant to Article 12, section 14 as the FOP contends,” but rather the actions were taken “in furtherance of [MPD’s] right to ensure that all employees, including FOP officials[,] attend mandatory in-service training.” *Id.*

¹ General Order 201.30, issued on July 27, 2001, requiring that sworn officers attend 40 hours (later reduced to 32) of mandatory yearly training. (Report, at 5).

² ASP = Extendable Baton; AED = Automated External Defibrillations; and CPR = Cardiopulmonary Resuscitation. (Report, at 6-7).

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The Hearing Examiner stated that while “MPD clearly is on firm ground in maintaining that it is obligated to provide annual training for employees, ... neither [D.C. Code §5-107.02]³ nor the 2001 [General Order] mentions the type of program that should be offered nor where it could be taken.” *Id.* The Hearing Examiner argued that none of the cases MPD cited addressed “the precise problem here: that is, how to reconcile management’s non-negotiable right to require training for all employees with Article 9 stating unequivocally that the Union Chairman and his designee, the Steward, “shall be entitled to use up to ... 40 hours each week for the purpose of carrying out ... [their] representational responsibilities....” *Id.*, at 17-18 (emphases in original). The Hearing Examiner continued, “[n]or do the [cited cases] address the question of how to reconcile an agency’s ostensibly non-negotiable right to assign work (or to ‘direct employees as authorized by [D.C. Code §1-617.08]) with a past practice that exempts the Chairman and Executive Steward from attending in-service training.” *Id.* at 18.

The Hearing Examiner found that MPD was not entitled to invoke its management rights to justify its unilateral termination of bargaining discussions with FOP over these issues in December 2009. *Id.*, at 18-19. Relying on *District of Columbia Fire and Emergency Medical Services Department and American Federation of Government Employees, Local 3721*, 54 D.C. Reg. 3167, Slip Op. No. 874 at 8-9, PERB Case No. 06-N-01 (2007), in which “the Board offered [a] balanced synthesis⁴ of [the application of D.C. Code §1.617.08(a-1)]⁵ to management rights,” the Hearing Examiner reasoned that when MPD agreed to bargain with FOP over the implementation and effects of its mandatory in-service training program, and when it invited FOP to submit proposals, and finally when it submitted its own counter-proposal, “the Department waived its right to claim defend [sic] its termination of bargaining by asserting its management rights.” *Id.* The Hearing Examiner concluded that, “for all of [these] reasons ... the PERB has Jurisdiction over this matter.” *Id.*

Addressing the second “threshold” question of whether MPD, motivated by anti-union animus, retaliated against FOP by placing Steward Burton and Chairman Baumann on non-

³ “The Department shall implement a program of continuing education for its sworn members, which shall consist of a minimum of 32 hours of training each year.”

⁴ “[T]he Board makes the following observations regarding management rights under the 2005 amendment: (1) if management has waived a management right in the *past* (by bargaining over that right) this does not mean that it has waived that right (or any other management right) in any subsequent negotiations; (2) management may not repudiate any previous agreement concerning management rights during the term of the agreement; (3) nothing in the statute prevents management from bargaining over management rights listed in the statute if it so chooses; and (4) if management waives a management right currently by bargaining over it, this does not mean that it has waived that right (or any other management right) in future negotiations. The Board finds that D.C. Code §1-617.08(a-1) (Supp. 2005), as clarified by the legislative history, does nothing more than codify the Board’s prior holdings with respect to management rights’ permissive subjects of bargaining.” *D.C. Fire and Emergency Medical Services Dep’t and AFGE, Local 3721, supra*, Slip Op. No. 874 at 8-9, PERB Case No. 06-N-01.

⁵ “An act, exercise, or agreement of the respective personnel authorities (management) shall not be interpreted in any manner as a waiver of the sole management rights contained in subsection (a) of this section.”

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contact status and revoking their police powers in violation of the CMPA, the Hearing Examiner applied the burden-shifting analysis adopted by the National Labor Relations Board in *Wright Line and Bernard R. Lamoureux*, 251 N.L.R.B. 150 (1980). *Id.*, at 19-20 (citing *Charles Bagenstone and Dr. Joseph Borowski v. District of Columbia Public Schools*, 38 D.C. Reg. 4154, Slip Op. No. 270 at p. 8, PERB Case Nos. 88-U-33 and 88-U-34 (1991)). The Hearing Examiner explained the test as follows:

In accordance with the *Wright Line* analytic framework, the Complainant bears the burden of presenting sufficient evidence to establish a *prima facie* case showing that the department knew of the Chairman's and Steward's protected union activities and that the Respondents were motivated by union animus to take retaliatory actions that adversely affected the FOP leaders. Once such evidence has been adduced, the burden shifts to the Respondents to demonstrate that its conduct has a legitimate purpose and that it would have treated the FOP Chairman and Executive Steward in the same manner even in the absence of their protected conduct. *Id.*, at 20.

Applying this test, the Hearing Examiner stated that FOP "clearly has no difficulty in showing that the Chairman and Steward were deeply engaged in union activities that were well known to the MPD's senior officials." *Id.* Furthermore, the Hearing Examiner found that "FOP also presented sufficient evidence of the Respondents' animus that allegedly led to a series of actions," which the Hearing Examiner summarized as: 1) MPD's issuance of a PD Form 62E ("PD 62E")⁶ to Chairman Baumann in 2008, despite the findings of MPD's own internal investigative reports⁷ which stated that the Chairman and Steward had not been required to attend in-training programs between 2000-2006, and which recommended that no action be taken against them; 2) MPD's unilateral imposition of a new "performance plan for Union personnel that required the FOP officials' attendance at all [in-service] training programs, obliged the Union to submit reports regarding the number of representational activities undertaken each week, authorized the Labor and Employment Relations Unit [{"LERU"}] to oversee the Union officials' compliance with the performance requirements" and eliminated "exceeds expectations" ratings from the plans, which ratings are often required for promotions; 3) MPD's denial of

⁶ Performance Management System Documentation Form, similar to a written warning.

⁷ Three (3) reports: the first was a Memorandum, dated July 7, 2008, from Lieutenant Linda S. Nischan to MPD General Counsel Terrence D. Ryan, containing MPD's Final Investigative Report concerning Chairman Baumann's failure to complete his 2007 annual in-service training requirements; the second was a Memorandum, dated November 5, 2009, from Lieutenant Linda S. Nischan to MPD General Counsel Terrence D. Ryan through MPD Acting Director Mark Viehmeyer, containing MPD's Final Investigative Report concerning Steward Burton's failure to attend the 2008 ASP/AED/CPR portions of MPD's in-service training program; and the third was a Memorandum, dated November 5, 2009, from Lieutenant Linda S. Nischan to MPD General Counsel Terrence D. Ryan through MPD Acting Director Mark Viehmeyer, containing MPD's Final Investigative Report concerning Chairman Baumann's failure to attend the 2008 ASP/AED/CPR portions of MPD's in-service training program.

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certain union officials' 2009 requests for leaves of absence to attend "conferences where training programs pertinent to union responsibilities were offered" despite having approved similar requests previously; 4) MPD's unilateral termination of bargaining discussions with FOP when FOP filed an unfair labor practice complaint against MPD after the parties' first meeting on December 3, 2009; 5) MPD's filing of a complaint against FOP in June 2009 alleging that since 2006, Steward Burton and Chairman Baumann had engaged "in a pattern and practice of filing an excessive number of frivolous unfair labor practice complaints" against MPD; 6) MPD's finding that of the 136 officers who had not completed their 2008 in-service training requirements, only Steward Burton and Chairman Baumann had failed to complete their ASP/AED/CPR training requirements; 7) MPD's receipt of a request by FOP to investigate why Chief Cathy Lanier ("Chief Lanier") failed to attend a training program despite having previously registered for it; 8) MPD's decision, "without merit," to place only the Chairman and Steward on non-contact status and revoke their police powers for failing to complete the required ASP/AED/CPR trainings; and 9) MPD's revocation of a prior-granted authorization for Steward Burton and Chairman Baumann to address District 1 officers on a certain date after the Chairman and Steward informed MPD that they could not attend a training session being held on that same date; as well as the findings of MPD's internal investigative reports from November 5, 2009, which concluded that MPD was "not authorized to focus solely on the officers who failed to complete only the [ASP/AED/CPR] training requirements of the in-service training or [to] take the unprecedented action of placing them on non-contact status and revoking their police powers." *Id.*, at 21-22. Based on this summary, the Hearing Examiner concluded that FOP "presented sufficient evidence to support a *prima facie* case that the MPD was motivated by anti-union animus [and that it took] retaliatory actions against the FOP Chairman and Steward in reprisal for their union activism." *Id.*, at 22.

The Hearing Examiner rejected MPD's claim that requiring Steward Burton and Chairman Baumann to comply with newly-composed performance plans and having them report to the General Counsel of LERU were proactive exercises of MPD's management rights in accordance with Article 4 of the CBA. *Id.* The Hearing Examiner found that MPD failed to comply with Article 27, which "plainly states that 'the existing ... Performance Rating Plan shall remain in effect unless the Department provides the Union with notice of any proposed change(s).'" *Id.* The Hearing Examiner questioned MPD's decision to have LERU's General Counsel evaluate the Chairman and Steward because the General Counsel was someone who "was very likely to oppose the union in litigation." *Id.* Moreover, the Hearing Examiner found that conducting performance evaluations of officers assigned to full-time union positions is analogous to conducting "surveillance of their union duties," which is a "well-settled violation of [D.C. Code §1.617.04(a)]." *Id.*, at 22-23 (citing *Consolidated Edison Co. of New York, Inc. et al. v. National Labor Relations Board, et al.*, 305 U.S. 197 (1938)).

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The Hearing Examiner found that MPD's focus "on records that identified only four [(4)] officers who had not attended training in three [(3)] specific areas in order to justify subjecting them to extraordinary disciplinary measures," and its decision to sanction only the Chairman and Steward provided sufficient cause to conclude that MPD's actions were motivated by an anti-union animus. *Id.*, at 23. The Hearing Examiner reasoned, "[t]here is no way to justify these actions other than to recognize that they were reprisals fueled by [anti-union] animus and intended to curtail the "Chairman's and Steward's protected rights." *Id.* Per the *Wright Line* test, the Hearing Examiner then shifted the burden to MPD to present legitimate business purposes for its actions. *Id.*

The Hearing Examiner conceded that MPD had a legitimate business purpose in requiring that its officers "receive training in programs that relate to the very duties they may be called upon to perform," but further noted that "neither [D.C. Code §5-107.02] nor the General Order mention the type of programs that should be given, nor when they should be taken." *Id.*, at 24.

The Hearing Examiner again noted that the FLRA cases MPD cited did not address how to reconcile management's right to assign work with the Chairman's and Steward's rights "to pursue their representational responsibilities for up to 40 hours each week." *Id.*, at 25. The Hearing Examiner noted that none of the cases MPD cited involved a past practice "that entitled union officials to decide when and if they would participate in such training." *Id.* The Hearing Examiner concluded that "the relevant facts recited in [the FLRA] cases [MPD cited] differ significantly from those in the instant case and therefore, are not persuasive." *Id.* The Hearing Examiner stated that while she believed MPD's interest in providing training to its police officers was "undoubtedly genuine," MPD's "professed need to include two [(2)] specific officers in a 3,500 police force in that training who are not directly involved in traditional police work would be more convincing if there was less evidence of an intent to retaliate against them for their aggressive defense of the FOP's protected rights". *Id.*

The Hearing Examiner rejected MPD's justifications for placing the Chairman and Steward on non-contact status and revoking their police powers stating that MPD's arguments were "lacking in merit." *Id.* The Hearing Examiner found that the paper trail presented by the parties at the hearing demonstrated MPD had a "keen interest in pinpointing the Chairman's and Steward's failure to attend training." *Id.* The Hearing Examiner found that of the 136 officers who had not completed their 2009 in-service training requirements, MPD "cherry-picked only those who had not attended ASP/AED/CPR training." *Id.* The Hearing Examiner found that it "was not coincidental that only [four (4)] names appeared on [that shorter "cherry-picked"] list—Chairman Baumann, Steward Burton[,] and two [(2)] others whose names were mistakenly on the list, but suffered no sanctions." *Id.*, at 25-26. In support of these findings, the Hearing Examiner relied on MPD's own internal investigative reports which found MPD had no authority to segregate the ASP/AED/CPR portions of the training requirements or to revoke the police

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powers of the union leaders who failed to complete them, and that MPD acted “arbitrarily” when it did so. *Id.* Although MPD claimed that the decisions to discipline were made solely by Assistant Chief of Police, William Robinson (“A.C. Robinson”) and were not sanctioned by MPD management, the Hearing Examiner found that, “as a senior official with the MPD, A.C. Robinson’s actions are attributable to the Department.” *Id.*, at 23. Further, the Hearing Examiner found that because A.C. Robinson emailed an outline of his intended actions to Chief Lanier and other senior Department officials prior to implementing them, to which no Department officials voiced any objections, the Department could not reasonably claim it was not aware of the actions or that it did not sanction them. *Id.*, at 23 and 26.

The Hearing Examiner found that the acts of revoking the Chairman’s and Steward’s police powers and stripping them of their service weapons were unprecedented and unjustified. *Id.*, at 26-27. The Hearing Examiner noted that MPD Assistant Chief of Police Alfred Durham (“A.C. Durham”) testified that this instance “was the only time in his 21 years with the MPD that he knew of anyone who had their police powers revoked for failing to attend in-service training.” *Id.*, at 26. The Hearing Examiner noted that Article 12 of the parties’ CBA reserves the placing of officers on non-contact status “for those ‘pending investigation of the use of deadly force...’” and further provides that “when an officer is placed [on] non-contact status, he or she shall not automatically be forbidden to carry his authorized weapon unless one [(1)] of four [(4)] potentially threatening conditions was present.” *Id.*, at 26-27 (quoting Joint Exhibit 12). The Hearing Examiner found that Chairman and Steward “met none of these conditions” and that “MPD did not comply with the conditions that would justify appropriating the union officials’ service revolvers.” *Id.*, at 27. The Hearing Examiner found that MPD’s reliance on the internal security provisions of Article 4 rather than Article 12 to justify stripping the Chairman and Steward of their service weapons was “misplaced” because MPD failed to present any evidence “to suggest that Chairman Baumann and Steward Burton posed a threat of any kind.” *Id.* The Hearing Examiner contended that even if, *arguendo*, MPD had been justified in stripping the Chairman and Steward of their weapons, MPD still offered no “legitimate reason to explain the confiscation of the Chairman’s and Steward’s badges, identification cards and numeric plates on their caps.” *Id.*, at 27-28.

The Hearing Examiner rejected MPD’s argument that it had a right to direct the full-time union officials to attend training because MPD’s own internal investigative reports found that it had been MPD’s past practice to exempt the union officials from such training. *Id.*, at 28. The Hearing Examiner noted that the evidence showed that approximately 65 other officers had failed to complete their in-service training requirements, but none except the union officials were placed on non-contact status or subjected to the revocation of their police powers. *Id.* The Hearing Examiner noted that none of the MPD officials who testified could identify what in-service training classes had been attended or completed “by police lieutenants and other

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management officials.” *Id.* Based on these findings, the Hearing Examiner concluded that the Chairman and Steward were “stigmatized for conduct that was ignored” in other officers and management officials. *Id.* The Hearing Examiner reasoned that MPD’s “disparate treatment of the FOP leaders undermines the Department’s claim that its actions were taken for legitimate reasons” and instead “compels the conclusion that the Department’s retaliatory treatment of the Chairman and Chief Steward was motivated by [anti-union] animus.” *Id.*

The Hearing Examiner concluded that, “[b]ased on the record as a whole, ...the predominant motive for the Respondents’ unprecedented and unilateral actions in its treatment of the Union officials [was to] retaliate for their assertive activism on behalf of the FOP and its members” and that MPD “would not have pursued the same course ... in the absence of the union activity.” *Id.* The Hearing Examiner found that FOP met its burden of proving, by a preponderance of the evidence, that the MPD “engaged in retaliatory conduct in an effort to interfere, restrain or coerce FOP Chairman Baumann and Executive Steward Burton in exercising their protected rights, thereby violating [CMPA section 1.617.04(a)].” *Id.*, at 29. The Hearing Examiner further found that by taking these “unprecedented, unilateral and unjustified actions against the Union’s elected leaders, Respondents sent an *in terrorem* [*sic*] message to the FOP members that the exercise of protected rights was disfavored and in this way, interfered, restrained and coerced them in violation of [CMPA section 1.617.04(a)].” *Id.* The Hearing Examiner noted that all of the findings in her report were “[b]ased on the entire record in this proceeding, including oral and documentary evidence, my observation of the witnesses’ demeanor[*sic*], and the parties’ able post-hearing briefs.” *Id.*, at 3.

The Hearing Examiner recommended that PERB order the MPD and its agents and representatives to: 1) cease and desist from interfering with, restraining or coercing Chairman Baumann and Steward Burton in the exercise of their protected rights; 2) cease and desist from taking retaliatory actions against Chairman Baumann and Steward Burton; 3) expunge the negative items from Chairman Baumann’s and Steward Burton’s personnel files related to their absence from the 2008 in-service training programs, as well as anything related to their having been placed on non-contact status and/or the revocation of their police powers; 4) cease requiring Chairman Baumann and Steward Burton to attend in-service training for the balance of the parties’ CBA without first bargaining with FOP about the implementation and effects of their attendance; 5) pay FOP’s reasonable costs associated with the consolidated proceeding; and 6) notify PERB of the steps it is taking to implement the Board’s order within thirty (30) days of receiving the Board’s order. *Id.*, at 29.

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B. MPD's Exceptions

MPD challenged the Hearing Examiner's findings "that PERB has jurisdiction over the individual respondents, that PERB has jurisdiction over the consolidated complaints, that [FOP] made a *prima facie* case of retaliation, and her award of costs." (Respondents' Exceptions, at 1).

MPD argued that the PERB does not have jurisdiction over the individual respondents in these matters because "it is a basic tenet of agency law that the actions of an agent within the scope of his employment are imputed to the principal," and it is "redundant and unnecessary to also sue the individual agents in their official capacities." *Id.* (citing *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 37 D.C. Reg. 2704, Slip Op. No. 242 at p. 4, PERB Case No. 89-U-07 (1990)). MPD contended that because the Hearing Examiner found that the individual respondents "were acting as officials of the Metropolitan Police Department," the Hearing Examiner's finding should be rejected. *Id.*, at 4-5.

In response to the Hearing Examiner's finding that PERB has subject matter jurisdiction over these cases, MPD primarily took issue with the Hearing Examiner's findings that "the Department had waived its management right to direct employees to attend training and that the subject of these consolidated complaints was not covered by the parties' labor agreement." *Id.*, at 5.

MPD contended that it had the express right to operate the Department, direct its employees, and maintain the efficiency of the Department under both the CMPA and the CBA. *Id.* (citing D.C. Code §1-617.08 and Article 4 of the CBA). MPD noted that D.C. Code §1-617.08(a-1) emphasizes that an "act, exercise, or agreement of the respective personnel authorities shall not be interpreted in any manner as a waiver of the sole management rights contained in subsection (a)." *Id.*

As it did at the Hearing, MPD relied on FLRA precedent to support its contentions that: 1) requiring the union officials to fulfill training requirements constituted an assignment of work in accordance with its non-negotiable management rights; 2) it was well within its rights to narrow the training requirements down to just the ASP/AED/CPR classes; and 3) as police officers first, the union officials were not exempt from such requirements. *Id.*, at 6-9 (citing *Nat'l Treasury Employees Union and ATF*, *supra*, 45 F.L.R.A. 339 at 357; *Int'l. Plate Printers, Die Stampers and Engravers Union and Dep't. of the Treasury, Bureau of Engraving and Printing*, *supra*, 25 F.L.R.A. 113 at 127; *Nat'l Treasury Employees Union and IRS*, *supra*, 17 F.L.R.A. 379 at 381); and *National Association of Agriculture Employees and United States Department of Agriculture, Animal and Plant Inspection Service, Washington, D.C.*, 48 F.L.R.A. 1323 at 1327 (1994) (internal citations omitted); see also D.C. Code §5-115.03; and 6A DCMR §

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200.4 (“[m]embers of the force shall be held to be always on duty...; shall always be subject to orders from the proper authorities...; and [being] off duty shall not [...relieve] them from the responsibility of taking proper police action in any matter coming to their attention requiring that action”). MPD reasoned that these precedents are “clear” and that “union officials cannot refuse to accept a work [or training] assignment” because the assignments stemmed from management’s non-negotiable rights regardless of FOP’s “demands for bargaining both proceeding and subsequent to the events in this case.” *Id.*, at 8.

MPD argued that the Hearing Examiner’s finding that MPD waived its right to assert its management rights when it agreed to engage in impact and effects bargaining was “wrong as a matter of law.” *Id.*, at 9-10. MPD reasoned that although it was “legally obligated to bargain the impact and effects of the exercise of a management right,” the “portion of [*D.C. Fire and Emergency Medical Services Dep’t. and AFGE, Local 3721, supra*, Slip Op. No. 874 at 8-9, PERB Case No. 06-N-01] cited by [the Hearing Examiner] had nothing to do with impact and effects bargaining [*sic*] but instead governs bargaining over substantive management rights.” *Id.*, at 10. MPD argued that “[t]his distinction is crucial since there is no evidence anywhere in the record... that the Department agreed to bargain over its substantive right to direct employees, including union officials, to attend statutorily-required training.” *Id.* MPD asserted that it agreed “to impact and effects bargaining *only*” and that it was careful not to engage in any discussions concerning its substantive rights to direct its employees. *Id.* (emphasis in original, internal citations omitted). MPD concluded that “[a]s such, [the Hearing Examiner’s] conclusion that the Department waived this management right must be rejected.” *Id.*, at 10-11.

MPD argued that PERB lacks jurisdiction over this matter because the allegations stem from Articles 9 and 12 of the parties’ CBA, and “[i]t is well settled that PERB does not have jurisdiction over alleged contractual violations, even if those contractual violations also constitute violations of the CMPA.” *Id.*, at 11 (citing *FOP v. MPD, et al., supra*, Slip Op. No. 1007 at p. 8, PERB Case No. 08-U-41). MPD contended that despite finding that the parties’ CBA was “unambiguous” and “required no interpretation[,]” the Hearing Examiner erroneously engaged in “extra-judicial interpretation[s]” of the contract to reach her conclusions. *Id.*, at 11-12.

MPD argued that the Hearing Examiner emphasized only the contractual provisions she found to be most relevant and ignored other parts that MPD contended were equally important. *Id.*, at 12. Specifically, MPD claimed that the Hearing Examiner focused on “shall be entitled” and “each week for” in Article 9, but ignored the “up to” clause that indicates the union officials might sometimes, as they did with their semi-annual firearms in-service training requirements, dedicate less than 40 hours a week to their union responsibilities and therefore have sufficient time to attend their other mandatory in-service training classes. *Id.* Similarly, MPD argued the Hearing Examiner “failed to mention the portion of [Article 12] that provides a member may

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continue to carry his or her weapon ‘if he/she so requests.’” *Id.* MPD did not allege that the union officials made such requests, or that the requests would have been granted if they had. *Id.*, at 12-13. Rather, MPD contended that the Hearing Examiner erred when she failed to mention the existence of this provision in her findings and when she failed to discover whether the union officials had availed themselves of the option it afforded. *Id.* Further, MPD argued that the Hearing Examiner failed to consider two (2) of its exhibits⁸ showing its past treatment of other officers in similar situations. *Id.*, at 13.

MPD asserted that, based on these arguments, the Hearing Examiner’s “recommendation that the Board has jurisdiction over these matters and her interpretations of the parties’ CBA should be rejected.” *Id.*

In regard to the Hearing Examiner’s finding that FOP established a *prima facie* case of retaliation, MPD presented counterarguments to the nine (9) items the Hearing Examiner listed in her summary of the evidence FOP presented at the Hearing to demonstrate MPD’s history of animus against the union officials. *Id.*, at 13-16.

First, MPD contended that the Hearing Examiner erred because it issued a PD 62E only to Chairman Baumann, and not to Steward Burton as the Hearing Examiner stated. *Id.*, at 13-14. Furthermore, MPD asserted that the Hearing Examiner’s statement that the term “PD Form 62E” appears in the discipline section of the parties’ CBA was inaccurate and that the term does not appear anywhere in the CBA. *Id.*, at 14. As such, MPD asserted that issuing a PD 62E to Chairman Baumann for failing to complete his 2007 in-service training requirements was within its rights to manage employee performance, and that as such, “cannot constitute evidence of animus.” *Id.*

MPD contended that amending the union officials’ performance plans was within its management rights and therefore cannot be evidence of anti-union animus. *Id.* In regard to the Hearing Examiner’s statement that MPD’s denial of the union officials’ requests to attend a conference in 2009 constituted evidence of anti-union animus, MPD asserted that there was “no citation to any evidence in the record to support this conclusion,” and that “[w]ithout more information or analysis from the Examiner, this factor cannot be considered evidence of animus.” *Id.* Further, MPD averred that there was no basis for the Hearing Examiner to rely on MPD’s June 2009 Complaint against the FOP as evidence of animus because it was well within

⁸ Joint Exhibit 61 is a grievance filed by Officer Charles Fultz (“Officer Fultz”) on October 31, 2006, alleging that MPD violated Article 12 of the CBA when it stripped Officer Fultz of his service weapon when he was placed on non-contact status despite his request that he be allowed to retain it.

Joint Exhibit 62 is MPD’s response to Officer Fultz’s grievance, in which the department stated that it had no record of Officer Fultz’s request to retain his weapon while on non-contact status and that he should direct his request to the Chief of Police.

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MPD's right to file the complaint, and because the facts and allegations of that case are not at issue in the instant matter. *Id.*, at 15.

MPD argued that the Hearing Examiner's reliance on events that occurred after the Complaints were filed should be rejected. *Id.*, at 14-16. For example, MPD argued that the Hearing Examiner's reliance on MPD's discontinuance of bargaining discussions in December 2009 should be rejected because "the referenced events occurred some [five (5)] months *after* the events giving rise to these consolidated cases, and therefore cannot be considered evidence of animus relevant to the events complained of in July 2009." *Id.*, at 14-15 (emphasis in original). Similarly, MPD stated that its withdrawal of the Chairman's and Steward's authorization to speak to District 1 officers on a certain date occurred in December 2009, and likewise cannot be considered evidence of animus relevant to the allegations raised in July 2009. *Id.*, at 16. MPD also urged PERB to reject the Hearing Examiner's reliance on MPD's investigative reports, which found fault in MPD's actions concerning the Chairman and Steward, on the basis that the reports were issued after the filing of FOP's Complaints and "cannot retroactively be applied as evidence of animus." *Id.*

MPD argued that the Hearing Examiner "provides no analysis or explanation as to why the Department's decision to revoke the police powers of the only two [(2)] members on the entire Department who failed to complete the [ASP/AED/CPR] training[s] by the deadline constitutes evidence of animus." *Id.*, at 15. MPD objected to the Hearing Examiner's reliance on Steward Burton's letter asking MPD to investigate why Chief Lanier failed to attend a training class because "she again provides no explanation of the relevance of this letter or how Executive Steward Burton's decision to deliver this letter to Lieutenant Nischan had any bearing whatsoever on animus." *Id.*

In regard to the Hearing Examiner's reliance on MPD's revocation of the Chairman's and Steward's police powers as evidences of animus, MPD argued that "[revoking] a member's police powers is well within management's right and whether or not it was done for improper reasons is the ultimate issue in the case and cannot be characterized as evidence of animus." *Id.*, at 15-16. Based on all of these reasons, MPD asserted that the Hearing Examiner's finding that FOP established a *prima facie* case of retaliation should be rejected. *Id.*, at 16.

Last, MPD excepted to the Hearing Examiner's recommendation to award costs and argued that the Hearing Examiner's findings failed to establish that MPD's claims or positions were "wholly without merit" and "undertaken in bad faith" such that it was in the "interest of justice" to award costs, as required by *AFSCME, District of Columbia Council 20, Local 2776 v. District of Columbia Department of Finance and Revenue*, 37 D.C. Reg. 5658, Slip Op. No. 245, PERB Case No. 89-U-02 (1990). *Id.*, at 16-17.

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C. FOP's Response to MPD's Exceptions

In its opposition brief to MPD's exceptions, FOP urged PERB to sustain the Hearing Examiner's finding that PERB has jurisdiction over the individually named Respondents. (Complainant's Opposition, at 4-6) (citing *FOP v. MPD*, *supra*, Slip Op. No. 1007 at p. 8, PERB Case No. 08-U-41; and *Fraternal Order of Police/Metropolitan Police Department Labor Committee, et al. v. District of Columbia Metropolitan Police Department, et al.*, 32 D.C. Reg. 4530, Slip Op. No. 116, PERB Case No. 84-U-02 (1985)).

FOP argued that the Hearing Examiner's waiver analysis under *D.C. Fire and Emergency Medical Services Dep't. and AFGE, Local 3721*, *supra*, Slip Op. No. 874 at 8-9, PERB Case No. 06-N-01 was distinguishable from the cases cited by MPD because it did not constitute a finding of an unfair labor practice, but was instead applied to reject MPD's defenses, and "to support [the Hearing Examiner's] conclusion that ... there was retaliatory interference [under the *Wright Line* framework]." *Id.*, at 6-7. FOP noted that MPD conceded it had an obligation to engage in impact and effects bargaining, and asserted the Hearing Examiner properly found that MPD did not fulfill that obligation. *Id.*

In response to MPD's assertion that it did not waive its substantive right to direct the union officials to participate in specific trainings, FOP contended the Hearing Examiner correctly found that when MPD invited FOP to submit proposals and then presented a counterproposal, it began the bargaining process and was thereafter required to continue in that process in good faith. *Id.*, at 12. As a result, MPD could not then in good faith unilaterally terminate the bargaining process by asserting its management rights. *Id.* (citing *D.C. Fire and Emergency Medical Services Dep't. and AFGE*, *supra*, Slip Op. No. 874, PERB Case No. 06-N-01). In addition, FOP argued it was "not material" that the bargaining in question was impact and effects bargaining as opposed to bargaining over substantive rights. *Id.*, at 12, and 15-17.

FOP asserted that the non-binding FLRA cases MPD cited did not support its positions. *Id.*, at 7-8. FOP further stated that the record and PERB precedent support the Hearing Examiner's finding that MPD improperly violated an established past practice when it directed the Chairman and Steward to complete their in-service training requirements. *Id.*, at 8-10, and 13-15 (citing Hearing Transcript, at 26-28, 89, 92-93, 97-98, and 174-175).

Further, FOP argued that MPD's reliance on D.C. Code §5-107.02 was misplaced because said statute does not specifically direct how the training is to be completed and does not mandate enforcement. *Id.*, at 10-11. Further, FOP contended that MPD did not comply with the statute for approximately five (5) to six (6) years after it was enacted and the classes MPD offered were not uniform and varied from year to year. *Id.* FOP reasoned that MPD's assertion that the Chairman and Steward are police officers first and therefore must complete all of their

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in-service training requirements “is not even supported by the MPD’s actual implementation of its training requirements and demonstrates the arbitrary nature in which the MPD has imposed training requirements on FOP leadership as an act of interference and retaliation, rather than a properly executed management right.” *Id.*, at 11.

FOP asserted that MPD’s argument that the parties’ CBA empowered MPD to engage in the very acts and conduct alleged in the Complaints as violations of the CMPA was misplaced. *Id.*, at 17-18 (citing *FOP v. MPD, supra*, Slip Op. No. 1007, PERB Case No. 08-U-41). FOP averred that the CBA did not empower MPD to engage in the alleged “conduct” of deliberately interfering with the union officials’ protected representational rights by requiring them to participate in training and then subjecting them to unprecedented discipline and retaliation for failing to complete that training, all of which the Hearing Examiner found were improper. *Id.* FOP argued that MPD’s assertion that the Hearing Examiner improperly “interpreted” the parties CBA to justify her conclusions was improper because the Hearing Examiner only looked to the provisions to determine if MPD’s conduct could be justified by the CBA, not to determine if MPD committed a statutory violation. *Id.*, at 18.

Next, FOP argued that the Board should uphold the Hearing Examiner’s finding that FOP established a *prima facie* case of retaliation. *Id.*, at 19. FOP asserted that MPD’s exceptions were nothing than mere “disagreements” with the Hearing Examiner’s findings that were “amply supported by the record.” *Id.*, at 19-20.

In regard to MPD’s contention that the Hearing Examiner erred in stating that PD 62E’s had been issued to the both the Chairman and Steward, FOP averred that on page 6 of the Report, the Hearing Examiner correctly stated that only Chairman Baumann received the PD 62E. *Id.*, at 20. In response to MPD’s argument that the Hearing Examiner erred in equating PD 62E’s with “discipline,” FOP noted MPD’s concession during the Hearing that “it attaches PD 62E forms to later investigations, and thus it serves as a precursor to discipline.” *Id.* (citing Hearing Transcript, at 212-214). FOP noted that the Hearing Examiner made it clear that she only cited this occurrence “to provide context and insight into MPD’s subsequent actions against the Chairman and Steward.” *Id.*, at 20-21 (quoting Report, at f. 21).

In regard to the Hearing Examiner’s reliance on MPD’s issuance of amended performance plans to the Chairman and Steward as evidence of animus, FOP reiterated that the plans were amended unilaterally and without bargaining input from FOP, in violation of an established past practice. *Id.*, at 21. FOP noted that because the amended plans were only issued to members assigned to union leadership positions, the Hearing Examiner’s reliance on such as evidence of animus was proper. *Id.*

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In response to MPD's contention that there was nothing in the record to support the Hearing Examiner's reliance on MPD's denial of the Chairman's and Steward's requests to attend a conference as evidence of animus, FOP conceded that Hearing Examiner misunderstood that MPD did not deny the union leaders' requests to attend the conference, but rather refused to count the conference as a substitute for attending in-service training. *Id.*, at 21-22. FOP stated that, based on past practice, the union officials considered the conference to be "approved training" that "counted toward any training requirement"—an assumption FOP said was affirmed by A.C. Durham's testimony that attending the conference could satisfy certain training requirements if approved. *Id.*, at 22 (citing Hearing Transcript, at 208-209). FOP contended that despite the Hearing Examiner's "imprecise wording," "a review of the record demonstrates the obvious nature of the finding and the evidence in support of the finding." *Id.*

In response to MPD's argument that the Hearing Examiner could not rely on MPD's withdrawal from bargaining discussions in December 2009 as evidence of animus because it occurred after the Complaints were filed, FOP averred that the Hearing Examiner properly relied on the withdrawal as a "continuation" of MPD's failure to bargain in good faith. *Id.*, at 22-23. Moreover, FOP contended that evidence of MPD's withdrawal was "presented at the hearing without objection by the Respondents and that it had asked MPD to bargain over this issue in October 2008, well before the Complaints were filed. *Id.* (citing Hearing Transcript, at 27-28).

In regard to MPD's arguments that the Hearing Examiner erred in relying on other evidence and events that occurred or became available after the initial Complaints were filed, FOP likewise averred that the Hearing Examiner was justified in weighing these items as evidences of MPD's continued anti-union animus. *Id.*, at 24-25.

In response to MPD's argument that the Hearing Examiner wrongly relied on MPD's June 2009 unfair labor practice complaint against FOP as evidence of animus, FOP contended that "[t]he Hearing Examiner can take administrative notice of the complaint and its facial invalidity and frivolous nature." *Id.*, at 23. FOP argued that that complaint itself was "a transparent attempt to suppress the FOP's exercise of its statutory rights rather than a legitimate exercise of a statutory right." *Id.*

In response to MPD's assertion that the Hearing Officer failed to show how revoking the Chairman's and Steward's police powers constituted evidence of animus, FOP argued that the Hearing Examiner presented more than enough reasoning and evidence to support her conclusions. *Id.*, at 23. FOP asserted the Hearing Examiner properly reasoned that it was suspicious that out of 136 officers who failed to complete their training requirements, only the Chairman and Steward "were investigated, placed on non-contact status, and [had their] police powers revoked." *Id.* FOP noted that the Hearing Examiner properly relied on MPD's own internal investigative reports, which found that "there was no basis for [A.C. Robinson's]

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decision to segregate the [ASP/AED/CPR requirements] from the rest of the 2008 PDT requirements, or his decision to [investigate and revoke the police powers of] members who failed to attend the [ASP/AED/CPR] portion of the training.” *Id.* (quoting FOP Joint Exhibit 43 at p. 16). FOP stated that all of this evidences “of [anti-union] animus is in the record and supports the Hearing Examiner’s findings.” *Id.*

In response to MPD’s contention that the Hearing Examiner failed to explain how FOP’s request to have MPD investigate Chief Lanier’s training records was relevant to the question of animus, FOP stated it was the timing that was suspicious because MPD launched its investigation of the Chairman and Steward shortly after FOP requested the investigation. *Id.*, at 23-24. FOP argued that evidence of this suspicious timing was presented at the hearing and in the post-hearing briefs and “is directly relevant and supportive of retaliation and animus under the [*Wright Line*] case framework.” *Id.* (citing Hearing Transcript, at 40-41; and Joint Exhibit 23).

Addressing MPD’s argument that placing the Chairman and Steward on non-contact status and revoking their police powers when they failed to complete their in-service training requirements were appropriate exercises of its non-negotiable police powers, FOP countered that the parties’ CBA provides that MPD can only take these actions under certain circumstances. *Id.*, at 24. FOP asserted that:

Specifically, to place a member on non-contact status, one of the following must have occurred: (1) the member being indicted by a Grand Jury; (2) the member being found guilty by a trial board and recommended for termination; (3) the Board of Surgeons recommending the revocation due to mental illness, and emotional or psychological condition, or physical disability; or (4) suspension of a member for a reason of alleged activities carrying demonstrated or potential threat to public safety or disciplinary suspensions. *Id.* (citing FOP Joint Exhibit 1; and Hearing Transcript, at 43).

FOP argued that “[i]t was plainly obvious from the evidence presented that none of these factors applied and that the MPD was acting outside its authority in placing Chairman Baumann and Executive Steward Burton on non-contact status....” *Id.*

Finally, FOP argued that the Hearing Examiner’s award of costs⁹ should be upheld because “Respondents failed to prevail on any issue and as such their defense is wholly without merit...” given the Hearing Examiner’s finding that MPD “failed to present a legitimate reason

⁹ FOP asserts that its reasonable costs in these matters total \$946.30, which includes \$501.40 for transcripts, and \$444.90 in filing and service fees. (Complainant’s Opposition, at 25).

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to justify sanctioning Chairman Baumann and Chief Steward Burton for abstaining from in-service training.” *Id.*, at 25-26.

III. Discussion

The Board will affirm a Hearing Examiner's findings if the findings are reasonable, supported by the record, and consistent with Board precedent. See *American Federation of Government Employees, Local 872 v. District of Columbia Water and Sewer Authority*, __ D.C. Reg. ___, Slip Op. No. 702, PERB Case No. 00-U-12 (2003) and *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 59 D.C. Reg. 11371, Slip Op. No. 1302 at 18, PERB Case Nos. 07-U-49, 08-U-13, 08-U-16 (2012). Determinations concerning the admissibility, relevance, and weight of evidence are reserved to the Hearing Examiner. *Hoggard v. District of Columbia Public Schools*, 46 D.C. Reg. 4837, Slip Op. No. 496 at 3, PERB Case No. 95-U-20 (1996) (citing *University of the District of Columbia Faculty Association/NEA v. University of the District of Columbia*, 39 D.C. Reg. 6238, Slip Op. No. 285, PERB Case No. 86-U-16 (1992); and *Charles Bagenstose, et al. v. District of Columbia Public Schools*, 38 D.C. Reg. 4154, Slip Op. No. 270, PERB Case Nos. 88-U-33 and 88-U-34 (1991)). Merely disagreeing with a Hearing Examiner's findings and/or challenging the Examiner's findings with competing evidence do not constitute proper exceptions if the record contains evidence supporting the Hearing Examiner's conclusions. *Id.* (citing *Clarence Mack v. District of Columbia Department of Corrections*, 43 D.C. Reg. 5136, Slip Op. No. 467, PERB Case No. 95-U-14 (1996) and *American Federation of Government Employees, Local 872 v. District of Columbia Department of Public Works*, 38 D.C. Reg. 6693, Slip Op. No. 266, PERB Case Nos. 89-U-15, 89-U-16, 89-U-18 and 90-U-04 (1991)).

Based on the foregoing, the Board adopts the Hearing Examiner's Report in part and rejects it in part, as detailed below.

A. Jurisdiction over Individual Respondents

The Board's position regarding the naming of individual respondents is clear. Suits against District officials acting in their official capacities should be treated as suits against the District. *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 59 D.C. Reg. 6579, Slip Op. No. 1118 at p. 4-5, PERB Case No. 08-U-19 (2011). The D.C. Superior Court recently upheld the Board's dismissal of such respondents in *Fraternal Order of Police/Metropolitan Police Department*

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Labor Committee v. District of Columbia Public Employee Relations Board, Civ. Case No. 2011 CA 007396 P(MPA) (D.C. Super. Ct. Jan 9, 2013). While the Board recognizes that the FOP filed these actions prior to the decisions in the aforementioned cases, it has long been a basic tenet of agency law that the actions of an agent acting within the scope of his or her employment are imputed to his principal. *FOP v. MPD, supra*, Slip Op. No. 242 at p. 4, PERB Case No. 89-U-07. It is clear the Hearing Examiner understood this principle based on her finding that, “[a]s a senior official with the MPD, [A.C. Robinson’s decisions and actions concerning the Chairman and Steward] are attributable to the Department.” (Report, at 23).

Because the Hearing Examiner’s finding regarding the individually named Respondents was not reasonable, supported by the record, or consistent with Board precedent, the Board rejects that finding. *AFGE, Local 872 v. D.C. WASA, supra*, Slip Op. No. 702, PERB Case No. 00-U-12; and *FOP v. MPD, supra*, Slip Op. No. 1302 at 18, PERB Case Nos. 07-U-49, 08-U-13, 08-U-16. The individually named Respondents are therefore hereby dismissed from the Complaints. *Id.*

B. Subject Matter Jurisdiction

The Board “distinguishes between those obligations that are statutorily imposed under the CMPA and those that are contractually agreed upon between the parties.” *American Federation of Government Employees, Local 2741 v. District of Columbia Department of Recreation and Parks*, 50 D.C. Reg. 5049, Slip Op. No. 697, PERB Case No. 00-U-22 (2002) (citing *American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2921, AFL-CIO v. District of Columbia Public Schools*, 42 D.C. Reg. 5685, Slip Op. No. 339, PERB Case No. 92-U-08 (1992)). In instances where the parties have agreed to allow their negotiated agreement to establish the obligations that govern the very acts and conduct alleged in the complaint as statutory violations of the CMPA, the Board lacks jurisdiction over the complaint. *FOP v. MPD, et al., supra*, Slip Op. No. 1007 at p. 8, PERB Case No. 08-U-41. Furthermore, if the Board must interpret a contractual obligation in order to determine whether or not a non-contractual, statutory violation has been committed, the Board will defer the matter to the parties’ grievance and arbitration procedures. *Id.* In making these determinations, the Board examines the record of the particular matter to determine if the facts concern a violation of the CMPA, notwithstanding the characterization of the dispute in the complaint or the parties’ disagreement over the application of the CBA. *American Federation of Government Employees, Local Union No. 3721 v. District of Columbia Fire Department*, 39 D.C. Reg. 8599, Slip Op. No. 287 at n. 5, PERB Case No. 90-U-11 (1991).

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The Board rejects the assertion MPD made at the Hearing and in its Exceptions that “[i]t is well settled that PERB does not have jurisdiction over alleged contractual violations, *even if those contractual violations also constitute violations of the CMPA.*” (Report, at 14; and Respondents’ Exceptions, at 11) (emphasis added). Indeed, if the record demonstrates that the allegations *do*, in fact, concern violations of the CMPA, then the Board unquestionably has jurisdiction over those allegations. *AFGE, Local 2741 v. D.C. Dep’t of Recreation and Parks, supra*, Slip Op. No. 697 at p. 6, PERB Case No. 00-U-22.

Here, the Board finds that the Hearing Examiner’s conclusion that the PERB has jurisdiction over FOP’s allegations arising under Article 9 was proper. (Report, at 14-15). The Board agrees with the Hearing Examiner’s conclusion that the provision entitling the Chairman and Steward to dedicate up to 40 hours a week to their representational duties was “unambiguous” and “required no interpretation.” *Id.*, at 14. Furthermore, the record—particularly MPD’s internal investigative reports—supports the Hearing Examiner’s finding that a past practice had been established that exempted the Chairman and Steward from the Department’s annual training requirements. *Id.*, at 4-10, 14-15. As an unwritten term and condition of the union officials’ employment, MPD was required to observe this past practice and could not make unilateral changes to it without first engaging in the bargaining process. *Id.* It follows therefore that the Hearing Examiner’s conclusion that MPD’s failure to honor these written and unwritten terms constituted violations of the CMPA that PERB has jurisdiction to adjudicate, was reasonable, supported by the record, and consistent with Board precedent. *AFGE, Local 872 v. D.C. WASA, supra*, Slip Op. No. 702, PERB Case No. 00-U-12.

Similarly, the Board finds that the Hearing Examiner properly rejected MPD’s arguments that the PERB lacks jurisdiction over FOP’s allegations arising under Article 12. (Report, at 15-19, and 26-27). The Board agrees with FOP that the Hearing Examiner’s waiver analysis was not in error. (Complainant’s Opposition, at 12). In its Exceptions, MPD asserted that the Hearing Examiner found MPD had waived its substantive right to assign work or direct employees to training. (Respondent’s Exceptions, at 10). However, that is not what the Hearing Examiner said. (Report, at 16-17). Indeed, the Hearing Examiner expressly stated that MPD was on “firm ground” in its assertions that assigning work and training were valid exercises of the Department’s “non-negotiable management rights.” *Id.* However, the Hearing Examiner reasoned that, under *D.C. Fire and Emergency Medical Services Dep’t. and AFGE, Local 3721, supra*, Slip Op. No. 874 at 8-9, PERB Case No. 06-N-01, MPD could not invoke its management rights to justify its unilateral termination of impact and effects bargaining once it engaged in that process. *Id.*, at 18-19. The Board agrees with FOP that when MPD invited FOP to submit proposals and then presented a counterproposal, it began the bargaining process and was thereafter required to continue in that process in good faith. (Complainant’s Opposition, at 12).

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The Board further agrees with FOP that it was “not material” that the bargaining in question was impact and effects bargaining as opposed to bargaining over substantive rights. *Id.*, at 12, and 15-17.

In addition, the Board agrees with the Hearing Examiner that although MPD had the authority under its management rights to direct work and training, that could not overcome the facts that 1) neither D.C. Code § 5-107.02 nor the General Order specified the types of programs that should be offered or where they could be taken; 2) none of the authority MPD cited explained how to reconcile management’s right to assign work with the CBA’s provision entitling the union officials to dedicate up to 40 hours a week to their union responsibilities, or how to reconcile management’s rights with an established past practice exempting the union officials from having to complete the employer’s annual training requirements; 3) “the PERB is the only forum in which claims of reprisal involving District of Columbia government agencies can be resolved”; and 4) the disciplinary sanctions MPD issued against the Chairman and Steward were “unprecedented and unjustified” and therefore violated the CMPA. *Id.*, at 15-19, and 26-27.

In addition, the Board rejects MPD’s argument that the Hearing Examiner extra-judicially interpreted the CBA in order to reach her conclusions. (Respondents’ Exceptions, at 11-13). As stated previously, issues concerning the value of evidence in a case are reserved to the Hearing Examiner. *Hoggard, supra*. Merely disagreeing with a Hearing Examiner’s findings and/or challenging the Examiner’s findings with competing evidence do not constitute proper exceptions if the record contains evidence supporting the Hearing Examiner’s conclusions. *Id.* Here, the Hearing Examiner’s conclusions regarding PERB’s subject-matter jurisdiction in these cases were supported by the record and consistent with Board precedent. (See Report, at 15-19, and 26-27). MPD’s assertions that the Hearing Examiner erroneously emphasized some parts of Articles 9 and 12, but ignored others, constituted nothing more than “competing evidence” and were therefore not proper exceptions. *Hoggard, supra*.

Lastly, the Board rejects MPD’s argument that Joint Exhibits 61 and 62 show its past treatment of other officers in “similar situations.” (Respondents’ Exceptions, at 13). While the Exhibits show that MPD had placed one (1) officer on non-contact status, revoked his police powers, and stripped him of his service weapon, the Exhibits do not indicate that the reason for said sanctions was because the officer had failed to complete his in-service training requirements. (Joint Exhibits 61 and 62). Rather, the officer’s only concern in filing the Grievance was that MPD wrongly stripped him of his service weapon despite his request that he be allowed to retain it while on non-contact status. *Id.* It is telling that the officer did not question whether it was proper for the Department to place him on non-contact status. *Id.* As such, the Board finds that MPD’s Exhibits did not present a “similar situation” to the facts of the instant cases and that, as a result, the Hearing Examiner did not err in rejecting them.

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All other arguments raised by MPD in its Exceptions concerning the question of jurisdiction were repeats of the same contentions it raised in the Hearing and were therefore not proper exceptions. *AFGE, Local 872 v. D.C. WASA, supra*, Slip Op. No. 702, PERB Case No. 00-U-12; *FOP v. MPD, supra*, Slip Op. No. 1302 at 18, PERB Case Nos. 07-U-49, 08-U-13, 08-U-16; and *Hoggard, supra*.

The Board finds that the Hearing Examiner's conclusion that the PERB has subject-matter jurisdiction over these cases was reasonable, supported by the record, and consistent with Board precedent. *Id.* The Board therefore adopts said conclusion. *Id.*

C. Retaliation

To establish a *prima facie* case of retaliation, FOP must have shown that 1) the Chairman and Steward engaged in protected union activities; 2) MPD knew about the Chairman's and Steward's protected union activities; 3) MPD exhibited anti-union animus or retaliatory animus; and 4) as a result, MPD took adverse employment actions against the Chairman and Steward. *American Federation of Government Employees, Local 2978 v. District of Columbia Office of the Chief Medical Examiner*, 60 D.C. Reg. 5801, Slip Op. No. 1348 (Amended) at p. 4, PERB Case No. 09-U-62 (2013) (citing *Doctors Council of the District of Columbia v. District of Columbia Commission on Mental Health Services*, 47 D.C. Reg. 7568, Slip Op. No. 636 at p. 3, PERB Case No. 99-U-06 (2000); and *District of Columbia Nurses Association v. District of Columbia Health and Hospitals Public Benefit Corporation*, 46 D.C. Reg. 6271, Slip Op. No. 583, PERB Case No. 98-U-07 (1999)). Furthermore, MPD's employment decisions must have been analyzed according to the totality of the circumstances, including the history of anti-union animus, the timing of the employment action, and disparate treatment. *Id.*

The Board finds that the Hearing Examiner's conclusion that the Chairman and Steward had been "deeply engaged" in protected union activities "that were well known to the MPD's senior officials" was adequately supported by the record and not generally disputed by MPD. (Report, at 20 and 22); and *AFGE, Local 2978 v. D.C. Office of the Chief Medical Examiner, supra*, Slip Op. No. 1348 (Amended) at p. 4, PERB Case No. 09-U-62. The Hearing Examiner's findings that FOP had "presented sufficient evidence" to demonstrate a history of MPD's anti-union animus and that "MPD was motivated by anti-union animus [when it took] retaliatory actions against the FOP Chairman and Chief Steward in reprisal for the union activism" were, in the totality of the circumstances, likewise adequately supported by the record. *Id.*; and *AFGE, Local 872 v. D.C. WASA, supra*, Slip Op. No. 702, PERB Case No. 00-U-12.

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The Board generally rejects MPD's itemized Exceptions to the Hearing Examiner's summary of FOP's arguments demonstrating MPD's history of animus against the union. (Respondents' Exceptions, at 13-16).

Specifically, the Board rejects MPD's contention that the Hearing Examiner erred in relying on MPD's issuance of a PD Form 62E to the Chairman as evidence of animus because, while the Hearing Examiner did erringly note in the analysis section of her Report that PD Form 62E's were issued to both the Chairman and Steward, she correctly noted in the findings section of the Report that the Form was issued only to the Chairman. (Report, at 6 and 20). Further, the Board finds that the Hearing Examiner did not err in equating PD 62E's with "discipline" because the record demonstrates that MPD conceded "it attaches PD 62 E forms to later investigations, and thus it serves as a precursor to discipline." (Complainant's Opposition, at 20) (citing Hearing Transcript, at 212-214). The Board notes that the Hearing Examiner made it clear that she only mentioned this occurrence "to provide context and insight into MPD's subsequent actions against the Chairman and Steward." *Id.*, at 20-21 (quoting Report, at f. 21).

The Board finds that the Hearing Examiner properly relied on MPD's issuance of amended performance plans to the Chairman and Steward as evidence of animus because the record demonstrated that despite Article 27's express provision that "the existing ... Performance Rating Plan shall remain in effect unless the Department provides the Union with notice of any proposed change(s)," MPD unilaterally changed the plans without first notifying the union of the changes or engaging in the bargaining process, and then only issued the altered plans to members in union leadership positions. (Report, at 21); and (Complainant's Opposition, at 20).

In regard to MPD's contention that there was nothing in the record to support the Hearing Examiner's statement that MPD denied the Chairman's and Steward's requests to attend a conference, the Board agrees that the Hearing Examiner's statement was in error because the union officials' requests were not denied. (Complainant's Opposition, at 22). Rather, MPD refused to apply the union officials' attendance at the conference toward the fulfillment of their annual training requirements. *Id.* (citing Hearing Transcript, 208-209). Notwithstanding, the Board finds that this error is not fatal to the Hearing Examiner's overall finding that, under the totality of the circumstances, the record demonstrated MPD's history of animus against the union officials. *AFGE, Local 2978 v. D.C. Office of the Chief Medical Examiner, supra*, Slip Op. No. 1348 (Amended) at p. 4, PERB Case No. 09-U-62.

The Board finds that the Hearing Examiner's reliance on MPD's withdrawal from bargaining discussions in December 2009, MPD's withdrawal of the Chairman's and Steward's authorizations to speak to District 1 officers, and MPD's internal investigative reports as evidence of animus was proper despite the fact that each occurred or came to light after the

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Complaints had been filed. (See Report, at 21; and Respondents' Exceptions, at 14-15). Issues concerning the value of evidence are reserved to the Hearing Examiner. *Hoggard, supra*. The Hearing Examiner here rightly considered evidence across a broad spectrum of time in her analysis of whether a history of animus existed because none of these events or items, in themselves, were held as statutory violations, but simply demonstrations of MPD's ongoing animus against FOP. *Id.* Additionally, the record shows that evidence of these events and items were "presented at the hearing without objection by the Respondents." (Complainant's Opposition, at 22-23) (citing Hearing Transcript, at 27-28).

The Board rejects MPD's argument that the Hearing Examiner erred when she relied on MPD's filing of an unfair labor practice complaint against FOP in June 2009 as evidence of animus. (Respondents' Exceptions, at 15). Again, issues concerning the value of evidence are reserved to the Hearing Examiner. *Hoggard, supra*. Here, the Hearing Examiner did not state that MPD was prohibited from filing the Complaint, but rather that such was simply another example of MPD's animus against FOP. (Complainant's Opposition, at 23)

The Board rejects MPD's assertion that the Hearing Examiner failed to provide any analysis or explanation as to why its decision to revoke the police powers of only the union officers constituted evidence of animus. (Respondents' Exceptions, at 15). Indeed, based on 1) the Hearing Examiner's reasoning that, of the 136 officers who failed to complete their training requirements, only the Chairman and Steward "were investigated, placed on non-contact status, and [had their] police powers revoked," 2) the Hearing Examiner's reliance on the findings of MPD's own internal investigative reports, which found that "there was no basis for A.C. Robinson's decision to segregate the [ASP/AED/CPR requirements] out of the rest of the 2008 PDT requirements, or his decision to [investigate and revoke the police powers of] members who failed to attend the [ASP/AED/CPR] portion of the training....," and 3) the Hearing Examiner's numerous findings that MPD never addressed in its Exceptions, the Board finds that the Hearing Examiner provided more than enough analysis and explanation to support her conclusions. (Complainant's Opposition, at 23) (citing Joint Exhibit 43 at p. 16); and (Report, at 22-28).

The Board rejects MPD's exception to the relevance of FOP's request that MPD investigate Chief Lanier's training records. (Respondents' Exceptions, at 15). The Board agrees with FOP that this claim speaks to the timing requirement under the *Wright Line* test because the record shows that MPD launched its investigation of the Chairman and Steward shortly after FOP delivered its request. (Complainant's Opposition, at 23-24) (citing Hearing Transcript, at 40-41; and Joint Exhibit 23).

Lastly, the Board rejects MPD's argument that its actions against the Chairman and Steward were appropriate exercises of its non-negotiable management rights. (Respondents' Exceptions, at 15-16). The Board rejects this exception as nothing more than a mere

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disagreement with the Hearing Examiner's findings. *Hoggard, supra*. Furthermore, the Board agrees with the Hearing Examiner and FOP that "it was plainly obvious from the evidence presented [at the Hearing] that none of [the CBA's justifications for revoking an officer's police powers and/or stripping him of his service weapon] applied [to the Chairman and Steward in this instance] and that the MPD was acting outside its authority...." (Report, at 26-29); and (Complainant's Opposition, at 24) (citing Joint Exhibit 1; and Hearing Transcript, at 43).

MPD did not present any other arguments beyond those addressed herein in its Exceptions to counter the Hearing Examiner's finding that it failed to present any legitimate reasons under *Wright Line*'s burden shifting framework to justify its actions and/or legitimately explain why only the union officials were placed on non-contact status, had their police powers revoked, and were stripped of their service weapons and badges. (Respondents' Exceptions, at 16).

Therefore, the Board finds that the Hearing Examiner's conclusions, in accordance with the *Wright Line* framework, that MPD violated D.C. Code §1.617.04(a) by engaging "in retaliatory conduct in an effort to interfere, restrain or coerce FOP Chairman Baumann and Executive Steward Burton in [the exercise] of their protected rights," and by sending an *in terrorem* message to the FOP members "that the exercise of protected rights was disfavored," were reasonable, supported by the record, and consistent with Board precedent. (Report, at 29); and *AFGE, Local 872 v. D.C. WASA, supra*, Slip Op. No. 702, PERB Case No. 00-U-12. The Board therefore adopts said conclusions except where noted herein.

IV. Remedy

The Hearing Examiner recommended that PERB order the MPD and its agents and representatives to: 1) cease and desist from interfering with, restraining or coercing Chairman Baumann and Steward Burton in the exercise of their protected rights; 2) cease and desist from taking retaliatory actions against Chairman Baumann and Steward Burton; 3) expunge the negative items from Chairman Baumann's and Steward Burton's personnel files related to their absence from the 2008 in-service training programs, as well as anything related to their having been placed on non-contact status and/or the revocation of their police powers; 4) cease requiring Chairman Baumann and Steward Burton to attend in-service training for the balance of the parties' CBA without first bargaining with FOP about the implementation and effects of their attendance; 5) pay FOP's reasonable costs associated with the consolidated proceeding; and 6) notify PERB of the steps it is taking to implement the Board's order within thirty (30) days of receiving the Board's order. (Report, at 29).

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The Board finds it reasonable to order MPD to 1) cease and desist from interfering with, restraining or coercing any union officials in the exercise of their protected rights; 2) cease and desist from taking retaliatory actions against any union officials; 3) expunge the negative items from Chairman Baumann's and Steward Burton's personnel files related to their absence from the 2008 in-service training programs, as well as anything related to their having been placed on non-contact status and/or the revocation of their police powers; 4) cease requiring the FOP Chairman and Steward to attend in-service training for the balance of the parties' CBA without first bargaining with FOP about the implementation and effects of said attendance; and 5) notify PERB of the steps it is taking to implement the Board's order within thirty (30) days of the service of said order.

In addition, the Board rejects MPD's exception to the Hearing Examiner's recommendation that FOP be awarded its reasonable costs in these matters. (Respondents' Exceptions, at 16-17).

D.C. Code § 1-617.13 authorizes the Board "to require the payment of reasonable costs incurred by a party to a dispute from the other party or parties as the Board may determine." The circumstances under which the Board warrants an award of costs were articulated in *AFSCME, D.C. Council 20, Local 2776 v. D.C. Dep't of Finance and Revenue, supra*, Slip Op. No. 245 at p. 4-5, PERB Case No. 89-U-02, in which the Board stated:

[A]ny such award of costs necessarily assumes that the party to whom the payment is to be made was successful in at least a significant part of the case, and that the costs in question are attributable to that part. Second, it is clear on the face of the statute that it is only those costs that are "reasonable" that may be ordered reimbursed . . . Last, and this is the [crux] of the matter, we believe such an award must be shown to be in the interest of justice.

Just what characteristics of a case will warrant the finding that an award of costs will be in the interest of justice cannot be exhaustively catalogued . . . What we can say here is that among the situations in which such an award is appropriate are those in which the losing party's claim or position was wholly without merit, those in which the successfully challenged action was undertaken in bad faith, and those in which a reasonably foreseeable result of the successfully challenged conduct is the undermining of the union among the employees for whom it is the exclusive bargaining representative.

MPD argued that the Hearing Examiner failed to establish that its positions were "wholly without merit" and "undertaken in bad faith" such that it was in the "interest of justice" to award costs. (Respondents' Exceptions, at 16-17) (citing *AFSCME, D.C. Council 20, Local 2776 v.*

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D.C. Dep't of Finance and Revenue, supra, Slip Op. No. 245 at p. 4-5, PERB Case No. 89-U-02). The Board disagrees. The Hearing Examiner found that MPD's revocation of the Chairman's and Steward's police powers and its confiscation of their service weapons were "unprecedented and unjustified." (Report, at 26-27). In addition, the Hearing Examiner noted that MPD's "explanations for taking these actions were without merit." *Id.*, at 21, and 25. The Hearing Examiner further found that taking these actions constituted "retaliatory conduct in an effort to interfere, restrain or coerce FOP Chairman Baumann and Executive Steward Burton in [the exercise] of their protected rights," and sent an *in terrorem* message to the FOP members "that the exercise of protected rights was disfavored," in violation of D.C. Code § 1-617.04(a). Each of these is consistent with the showing of "an interest of justice" as outlined in *AFSCME, D.C. Council 20, Local 2776 v. D.C. Dep't of Finance and Revenue, supra*, Slip Op. No. 245 at p. 4-5, PERB Case No. 89-U-02. Therefore, the Board finds that the Hearing Examiner's recommendation to award costs was reasonable, supported by the record, and consistent with Board precedent. *AFGE, Local 872 v. D.C. WASA, supra*, Slip Op. No. 702, PERB Case No. 00-U-12. Therefore, FOP should be awarded its reasonable costs in these matters.

Last, the Board notes that the Hearing Examiner did not recommend that MPD post a notice acknowledging its violations of the CMPA, as detailed herein, though FOP requested such a remedy in both of its Complaints. The Board finds it reasonable to order MPD to post notices acknowledging its violations of the CMPA. When a violation of the CMPA has been found, the Board's order is intended to have a "therapeutic as well as a remedial effect" and is further to provide for the "protection of rights and obligations." *American Federation of Government Employees, Local 2725 v. District of Columbia Department of Health*, Slip Op. No. 1003 at p. 5, PERB Case 09-U-65 (2009) (quoting *National Association of Government Employees, Local R3-06 v. District of Columbia Water and Sewer Authority* 47 D.C. Reg. 7551, Slip Op. No. 635 at p. 15-16, PERB Case No. 99-U-04 (2000)). It is this end, the protection of employees' rights, that "underlies [the Board's] remedy requiring the posting of a notice to all employees" that details the violations that were committed and the remedies afforded as a result of those violations. *Id.* (quoting *Charles Bagenstose v. District of Columbia Public Schools*, 41 D.C. Reg. 1493, Slip Op. No. 283 at p. 3, PERB Case No. 88-U-33 (1991)). Posting a notice will enable bargaining unit employees to know that their rights under the CMPA are fully protected. *Id.* It will likewise discourage the Agency from committing any future violations. *Id.*

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ORDER

IT IS HEREBY ORDERED THAT:

1. The individually named Respondents, Cathy Lanier, Linda Nischan, Terrence Ryan, and Anna McClanahan, are hereby dismissed from the Complaints.
2. The District of Columbia Metropolitan Police Department ("Respondent" or "MPD" or "Agency") shall cease and desist from interfering with, restraining or coercing any union officials in the exercise of their protected rights.
3. MPD shall cease and desist from taking retaliatory actions against any union officials.
4. MPD shall expunge the negative items from Chairman Baumann's and Steward Burton's personnel files related to their absence from the 2008 in-service training programs, as well as anything related to their having been placed on non-contact status and/or the revocation of their police powers.
5. MPD shall cease requiring the FOP Chairman and Steward to attend in-service training for the balance of the parties' CBA without first bargaining with FOP about the implementation and effects of said attendance.
6. MPD shall pay FOP's reasonable costs in these matters.
7. If MPD has any cause to dispute FOP's assertion that \$946.30 is the total amount of its reasonable costs in these matters, then MPD shall, within fourteen (14) days of the service of this order, submit to the Public Employee Relations Board ("PERB" or "Board") a written statement detailing its reasons for said dispute. Said statement shall be filed along with any and all supporting documentation. FOP may file with PERB a response to MPD's statement within fourteen (14) days of the service of said statement.
8. MPD shall conspicuously post, within ten (10) days of the service of this Decision and Order, two (2) copies of the attached Notice in every MPD facility where notices to bargaining-unit employees are customarily posted. Said Notices shall remain posted for thirty (30) consecutive days.
9. Within fourteen (14) days of the service of this Decision and Order, MPD shall notify the Board, in writing, that the Notice has been posted as ordered.

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10. Within thirty (30) days of the service of this Decision and Order, MPD shall notify the PERB of the steps it is taking to implement this Order.
11. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

May 28, 2013

CERTIFICATE OF SERVICE

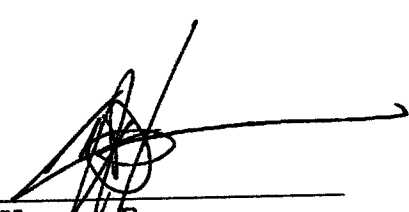
This is to certify that the attached Decision and Order in PERB Case Nos. 09-U-52 and 09-U-53, Slip Op. No. 1391, was transmitted via U.S. Mail and e-mail to the following parties on this the 4th day of June, 2013.

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Public Employee Relations Board



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NOTICE

TO ALL EMPLOYEES OF THE DISTRICT OF COLUMBIA METROPOLITAN POLICE DEPARTMENT ("MPD"), THIS OFFICIAL NOTICE IS POSTED BY ORDER OF THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 1391, PERB CASE NOS. 09-U-52 and 09-U-53 (May 28, 2013).

WE HEREBY NOTIFY our employees that the District of Columbia Public Employee Relations Board has found that we violated the law and has ordered MPD to post this notice.

THE MPD violated D.C. Code § 1-617.04(a) by engaging in retaliatory conduct in an effort to interfere, restrain or coerce the FOP Chairman and Executive Steward in the exercise of their protected rights, and, in so doing, interfered, restrained and coerced FOP's members by sending an *in terrorem* message that the exercise of protected rights was disfavored.

District of Columbia Metropolitan Police Department

Date: _____ By: _____

This Notice must remain posted for thirty (30) consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board, located at: 1100 4th Street, SW, Suite E630; Washington, D.C. 20024, Telephone: (202) 727-1822.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

May 28, 2013

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:)	
)	
Fraternal Order of Police/Metropolitan Police Department Labor Committee,)	
)	
Complainant,	)	PERB Case No. 11-U-25
)	
v.	)	Opinion No. 1392
)	
District of Columbia Metropolitan Police Department ¹,	)	Decision and Order
)	
Respondent.)	
)	

DECISION AND ORDER

I. Statement of the Case

Complainant Fraternal Order of Police/Metropolitan Police Department Labor Committee, (“Complainant” or “FOP” or “Union”) filed an Unfair Labor Practice Complaint (“Complaint”) against the District of Columbia Metropolitan Police Department (“Respondent” or “MPD” or “Department”), alleging MPD committed an unfair labor practice when it denied FOP’s attorney’s request to strike certain information from an officer’s Notice of Proposed

¹ The Executive Director has removed the names of the individual respondents from the caption, consistent with the Board’s precedent requiring individual respondents named in their official capacities be removed from complaints for the reason that suits against District officials in their official capacities should be treated as suits against the District. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 59 D.C. Reg. 6579, Slip Op. No. 1118 at p. 4-5, PERB Case No. 08-U-19 (2011). The D.C. Superior Court upheld the Board’s dismissal of said respondents in *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Public Employee Relations Board*, Civ. Case No. 2011 CA 007396 P(MPA) (D.C. Super. Ct. Jan 9, 2013).

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Adverse Action letter (“Notice letter”) prior to the officer’s hearing before an Adverse Action Panel (“Panel”). (Complaint at 3-4).

Specifically, FOP alleges that MPD’s denial of its attorney’s request constituted interferences with the union member’s right to seek legal assistance through the union, and with the FOP attorney’s representation of the union member, in violation of D.C. Code §§ 1-617.04(a)(1)² and 1-617.06(a)(2)³ of the Comprehensive Merit Personnel Act (“CMPA”). *Id.*

In its Answer, MPD admitted that it denied FOP’s attorney’s request to strike the information from the Notice letter, but denied FOP’s legal conclusion that doing so violated the CMPA. (Answer, at 2-4). In addition, MPD raised the affirmative defense that the Board lacks jurisdiction over this matter because FOP’s allegations are contractual, and should therefore be resolved via the grievance and arbitration procedures established in the parties’ Collective Bargaining Agreement (“CBA”). *Id.*, at 4.

II. Background

On May 14, 2010, Officer Micheaux Bishop (“Officer Bishop”) was served with a Notice letter stating that the Department intended to terminate her employment based on two (2) allegations of misconduct. (Complaint, at 3; and Attachment 2, at 1 and 5). Specifically, the Department alleged that Officer Bishop violated General Order Series 120.21, Attachment A, Part A-12 (governing conduct unbecoming an officer) by maintaining a close interpersonal relationship with a known drug dealer; and General Order Series 120.21, Attachment A, Part A-25 (governing conduct prejudicial to the reputation and good order of the police force) by disclosing the name of a confidential complainant to the drug dealer and other non-law enforcement persons. *Id.*, Attachment 2, at 1.

In the Notice letter, the Department averred its conclusions were based on the findings of an investigative report (not included in FOP’s Attachments), which stated that Officer Bishop admitted to the alleged misconduct during an Internal Affairs Division (“IAD”) interview, of which she was the subject. *Id.* Furthermore, the Notice letter provided the Department’s analysis of how its proposal to terminate Officer Bishop’s employment met each of the twelve (12) factors articulated in *Curtis Douglas, et al. v Veteran’s Administration, et al.*, 5 M.S.P.R. 280 (1981) (“*Douglas* factors”). *Id.*, at 4; and Attachment 2, at 2-5. Additionally, the Notice letter advised Officer Bishop that she had twenty-one (21) days to submit a written response to

² “The District, its agents, and representatives are prohibited from: (1) Interfering with, restraining, or coercing any employee in the exercise of the rights guaranteed by this subchapter[.]”

³ “All employees shall have the right: (2) To form, join, or assist any labor organization or to refrain from such activity[.]”

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the allegations and, if she so wished, to request a departmental hearing in which her case would be reviewed by a three (3) person Adverse Action Panel. *Id.*, Attachment 2, at 5.

On November 2, 2010, James W. Pressler, Jr., of Pressler & Senftle, P.C. ("Mr. Pressler"), operating as FOP's General Counsel, sent a written request to MPD asking that "discussion and/or analysis of a recommended penalty under the *Douglas* factors be stricken from the [Notice letter]" prior to Officer Bishop's November 10 adverse action hearing before the Panel. *Id.*, at 3-4; and Attachment 3. Mr. Pressler asserted that the Department's inclusion of its *Douglas* factors analysis in the Notice letter was "premature, severely prejudicial, and constitute[d] a violation of [Officer Bishop's] due process rights." *Id.*, Attachment 3 (citing *Douglas, supra*, at 302 (holding that the appropriateness of a particular penalty should be determined (among other considerations) once the alleged conduct and requisite general relationship to the efficiency of the service have been established) (internal citations omitted)). Mr. Pressler contended that the Panel was the body that would determine if Officer Bishop's conduct violated the Orders, and therefore it was inappropriate for the Department to engage in a *Douglas* factors analysis prior to the Panel having made said determination. *Id.* (citing *Parsons v. United States Department of the Air Force*, 707 F.2d 1406, 1409 (U.S. App. D.C. 1983); and *Special Counsel v. Purnell*, 37 M.S.P.R. 184 (1988)). Mr. Pressler further averred that the Department's inclusion of its *Douglas* factors analysis in the Notice letter would taint the objectivity of the Panel and its ability to "seek the truth" of Officer Bishop's case. *Id.* (citing *Adverse Action Panels, Professional Development Bureau*, at 6).

On November 4, 2010, MPD denied Mr. Presser's request, stating: "Panel members should be issued the proposed Notice to ensure they have sufficient information about the hearing." *Id.*, at 4; and Attachment 4. Further, MPD stated, "[y]ou may file a written response to [the] Notice that will be provided to the Panel." *Id.*

FOP filed the instant Complaint on March 1, 2011, alleging that MPD's denial of Mr. Pressler's request interfered with Officer Bishop's union rights, "including but not limited to her right to seek legal assistance through the Union[.]" in violation of D.C. Code §§ 1-617.04(a)(1) and 1-617.06(a)(2). *Id.*, at 4. In addition, FOP alleged that denying the request interfered with "Mr. Pressler's representation of a Union member[.]" also in violation of D.C. Code §§ 1-617.04(a)(1) and 1-617.06(a)(2). *Id.* In its Answer, MPD admitted that it denied Mr. Pressler's request, but denied that doing so interfered with either Officer Bishop's right to seek legal assistance through the union or Mr. Pressler's representation of Officer Bishop. (Answer, at 3-4).

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III. Discussion

Complainants must assert in the pleadings allegations that, if proven, would demonstrate a statutory violation of the CMPA. *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, et al.*, 59 D.C. Reg. 5427, Slip Op. No. 984 at p. 6, PERB Case No. 08-U-09 (2009) (citing *Virginia Dade v. National Association of Government Employees, Service Employees International Union, Local R3-06*, 46 D.C. Reg. 6876, Slip Op. No. 491 at p. 4, PERB Case No. 96-U-22 (1996); and *Gregory Miller v. American Federation of Government Employees, Local 631, AFL-CIO and District of Columbia Department of Public Works*, 48 D.C. Reg. 6560, Slip Op. No. 371, PERB Case Nos. 93-S-02 and 93-U-25 (1994)). In accordance with PERB Rule 520.8, the Board investigates the Complaint to determine whether a proper cause of action has been alleged and whether the complainant has requested proper relief. See *Osekre v. American Federation of State, County, and Municipal Employees Council 20, Local 2401*, 47 D.C. Reg. 7191, Slip Op. No. 623, PERB Case Nos. 99-U-15 and 99-S-04 (1998); and *American Federation of Government Employees, Local 2553 v. District of Columbia Water and Sewer Authority*, 59 D.C. Reg. 7300, Slip Op. No. 1252, PERB Case No. 06-U-35 (2012). Additionally, PERB Rule 520.10 states: “[i]f the investigation reveals that there is no issue of fact to warrant a hearing, the Board may render a decision upon the pleadings or may request briefs and/or oral argument.” *American Federation of Government Employees, AFL-CIO, Local 2978 v. District of Columbia Department of Health*, 60 D.C. Reg. 2551, Slip Op. No. 1356 at p. 7-8, PERB Case No. 09-U-23 (2013). When considering a dismissal, the Board views the contested facts in the light most favorable to the Complainant. *Osekre, supra* (citing *Doctor's Council of District of Columbia General Hospital v. District of Columbia General Hospital*, 49 D.C. Reg. 1237, Slip Op. No. 437, PERB Case No. 95-U-10 (1995); and *JoAnne G. Hicks v. District of Columbia Office of the Deputy Mayor for Finance, Office of the Controller and American Federation of State, County and Municipal Employees, District Council 24*, 40 D.C. Reg. 1751, Slip Op. No. 303, PERB Case No. 91-U-17 (1992)).

In the instant matter, FOP alleges that MPD’s denial of Mr. Pressler’s request violated D.C. Code §§ 1-617.04(a)(1) and 1-617.06(a)(2). Further, the pleadings reveal that the underlying alleged facts—that MPD denied FOP’s request to strike its *Douglas* factors analysis from Officer Bishop’s Notice letter prior to the officer’s hearing before the Panel—are undisputed by the parties, leaving only legal questions to be resolved. (Answer, at 2-3). Therefore, in accordance with PERB Rule 520.10, the Board can properly decide this matter based upon the pleadings. *AFGE, AFL-CIO, Local 2978 v. D.C. DOH, supra*, Slip Op. No. 1356 at p. 8, PERB Case No. 09-U-23.

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The Board finds that PERB is not the appropriate forum to address the legal questions presented by the parties' pleadings. FOP's allegation that MPD committed an unfair labor practice turns on whether it was legally appropriate for MPD to include its own *Douglas* factors analysis in the officer's Notice letter and to then submit that letter to the Panel as evidence. It would not be prudent for the Board to make a determination as to the appropriateness of evidence before a Panel over which PERB has no operative or directive authority. Such a determination is best left to the Panel itself. *See Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, et al.*, 59 D.C. Reg. 14896, Slip Op. No. 1332 at p. 3, PERB Case No. 08-U-35 (2012) (holding that while PERB has exclusive jurisdiction to consider appeals from grievance-arbitration awards, it does not have original jurisdiction over such matters) (internal citations omitted). Therefore, in accordance with Rule 520.10, FOP's Complaint is dismissed⁴. *AFGE, Local 2978 v. D.C. DOH, supra*, Slip Op. No. 1356 at p. 7-8, PERB Case No. 09-U-23; *FOP v. MPD, et al., supra*, Slip Op. No. 984 at p. 6, PERB Case No. 08-U-09; *Osekre, supra*; and *AFGE, Local 2553 v. D.C. WASA, supra*, Slip Op. No. 1252, PERB Case No. 06-U-35.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police / Metropolitan Police Department Labor Committee, D.C. Police Union's Unfair Labor Practice Complaint is dismissed.
2. Pursuant to PERB Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

May 28, 2013

⁴ As a result of the Board's dismissal of this matter, it is not necessary to address MPD's affirmative defense regarding jurisdiction.

CERTIFICATE OF SERVICE

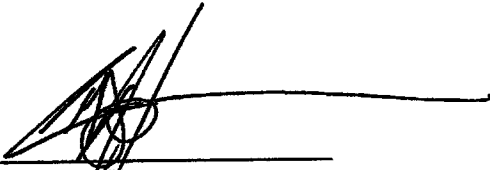
This is to certify that the attached Decision and Order in PERB Case No. 11-U-25, Slip Op. No. 1392, was transmitted via U.S. Mail and e-mail to the following parties on this the 4th day of June, 2013.

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Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:)	
)	
National Association of Government Employees, Local R3-07,)	
)	
Complainant,	)	PERB Case No. 13-U-20
)	
v.	)	Opinion No. 1393
)	
District of Columbia Office of Unified Communications,	)	Motion for Preliminary Relief
)	
Respondent.)	

DECISION AND ORDER

I. Statement of the Case

Complainant National Association of Government Employees, Local R3-07 (“Complainant” or “NAGE” or “union”) filed an Amended Unfair Labor Practice Complaint (“Amended Complaint”) against the District of Columbia Office of Unified Communications (“Respondent” or “OUC” or “Agency”), alleging OUC violated D.C. Code § 1-617.04(a)(1), (2), (3) and (5) (“Comprehensive Merit Personnel Act” or “CMPA”), by “unilaterally imposing a new policy [concerning the official time of union members], for which an established past practice [existed],” in “retaliation” for another unfair labor practice complaint NAGE filed against OUC in September 2012. (Amended Complaint, at 3 and 7). Further, NAGE alleged that OUC violated its duty to bargain in good faith. *Id.*

In addition to its Amended Complaint, NAGE motioned for preliminary relief pursuant to PERB Rule 520.15, arguing that OUC’s violations of the CMPA are “clear-cut and flagrant”, “the effect of [said violations] is widespread”, “the public interest is seriously affected”, and the Board’s ultimate remedy [would] be clearly inadequate.” *Id.*, at 2. Further, NAGE contended that OUC’s “unilateral change [to] the administration of official union time will have serious,

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widespread, and irreparable effect on [its] ability to represent the bargaining unit employees.”
Id.

In its Answer, OUC admitted that it unilaterally implemented changes to the administration of official time, but denied NAGE’s allegations that doing so violated the CMPA. (Answer, at 1-15). Additionally, OUC raised affirmative defenses that: 1) NAGE’s Amended Complaint was not filed within the 120-day window required by PERB Rule 520.4; 2) NAGE’s allegations are based on contractual violations over which PERB lacks jurisdiction to adjudicate; 3) PERB should defer the adjudication of NAGE’s allegations to the parties’ negotiated grievance and arbitration procedures; 4) the parties’ Collective Bargaining Agreement (“CBA”) does not require OUC to bargain over the allocation of official time; 5) the very acts NAGE alleged as violations of the CMPA are allowed by the CBA; and 6) NAGE did not request to bargain the impacts and effects of OUC’s changes to the allocation of official time after OUC provided NAGE with notice of the changes. *Id.*, at 9-15.

In addition, OUC contended that NAGE is not entitled to preliminary relief because NAGE’s request “was not accompanied by [any supporting] affidavits or evidence.” *Id.*, at 9. OUC asserted that rather, NAGE’s Amended Complaint “simply set forth legal conclusions.” *Id.* Additionally, OUC argued that: 1) the wrongdoing alleged in the Amended Complaint is neither “clear-cut nor flagrant” because OUC’s actions “[comply] entirely with the CBA”; 2) “the effect of the alleged wrongdoing affects only a limited number of bargaining unit employees” and is therefore “not widespread”; 3) “for this reason, the public interest is not seriously affected by the alleged wrongdoing”; and 4) NAGE failed “to show any example of interference with PERB’s processes.” *Id.*

II. Background

NAGE alleges that on or about September 28, 2012, it filed an unfair labor practice Complaint¹ against OUC for “assisting another Union in a petition for exclusive recognition.” (Amended Complaint, at 3). NAGE alleges that since then, OUC “has engaged in a course of retaliatory actions, including making many casual references to the local President about changing the administration of the local’s official time.” *Id.* OUC denies this allegation. (Answer, at 2).

NAGE alleges that on or about September 30, 2012, the CBA expired and “the parties began negotiating a successor agreement on working conditions, and executed Ground Rules for the negotiation” which became effective on September 26, 2012. (Amended Complaint, at 3).

¹ PERB Case No. 12-U-37.

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OUC contends the CBA actually expired in 2010, but was “rolled over” for two (2) years in accordance with Article 28(D) of the CBA. (Answer, at 2).

The parties agree that the Ground Rules state the current CBA will remain “in full force and effect” until the new agreement is executed and ratified. (Amended Complaint, at 3 and Exhibit 2); and (Answer, at 2). Furthermore, the parties agree that the CBA does not specify the number of hours union officials can dedicate to union purposes. (Amended Complaint, at 3); and (Answer, at 2). NAGE contends that since 2006, “the number of allotted official hours was determined through practice and informal agreements.” (Amended Complaint, at 2, and Exhibit 4). OUC denies that the number of hours was “agreed upon” by the parties and instead claims that the number of allotted hours was “determined by the [OUC] director, pursuant to her exercise of a management right.” (Answer, at 3-4) (citing Amended Complaint, Exhibit 6). Either way, the parties agree that the guidelines each relied on for official time were: a) “[t]hirty-five hours per week would be applicable for use by [all of the] Union shop stewards and officials”; and b) “[t]he local president would be entitled to an additional and separate allotment of 50% official time.” (Amended Complaint, at 3); and (Answer, at 3-4).

NAGE claims that since 2010, the local president “allocates 20 of the 35 generally applicable hours towards [sic] herself” and that, as a result “of the 50% time and the additional 20 hours, [the local president] is awarded 100% official union time.” (Amended Complaint, at 3-4). NAGE further claims the “remaining fifteen [15] hours are distributed, based on need and availability, to the remaining Union shop stewards and officials.” *Id.* NAGE states that these agreements and practices constituted an accepted past practice that OUC was obligated to continue honoring until a new CBA was agreed upon and executed. *Id.*, at 4-6. OUC denies all of these assertions. (Answer, at 4-6).

NAGE further alleges that on October 16, 2012, an OUC official told NAGE’s local president that OUC intended to change the ways official time was administrated and failed to provide “official notice” of the change. (Amended Complaint, at 4). OUC denied that it failed to notify NAGE of its intent to make the change and argued that the OUC official’s conversation with the local president constituted its official notice to NAGE of its intentions. (Answer, at 4).

NAGE contends that on December 17, 2012, OUC’s director told the local president she intended to reduce the amount of official time allotted to the “entire local” (Amended Complaint, at 4). NAGE further asserts that on February 20, 2013, NAGE “gave damaging testimony directly contesting statements submitted by [OUC’s director] in preparation for her testimony to the D.C. Council.” *Id.*, at 5. NAGE alleges that shortly thereafter, on March 4, 2013, OUC’s director notified the local’s president that, effective March 10, 2013, the administration of official time would be modified as follows:

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- a. Official time will only be granted after an employee reports to roll call/work.
- b. Official time may not be requested during periods of premium pay or during a declared emergency.
- c. Scheduling considerations may not allow for the immediate release of an employee from their assignment. Permission for release will be at the supervisor's discretion; however, permission for release will not be unreasonably delayed.
- d. The Official Time Form will be used in recording employee requests and documenting employee absences.
- e. Accommodations will be made for authorized employees to attend the following standing meetings.
 - i. Contract Negotiations;
 - ii. Mayor LMPC;
 - iii. Comp and Class Meetings. *Id.*²

NAGE avers it sent several correspondences to OUC arguing that, in accordance with the parties' past practices, and pursuant to the Ground Rules, OUC was required to maintain the status quo with regard to official time until a new CBA on working conditions was executed. *Id.*, at 6. NAGE claims OUC responded to these correspondences by offering to meet with NAGE to discuss the changes, but NAGE responded stating it was not requesting to bargain because "bargaining over this issue had already commenced as part of the negotiations over the successor agreement..." *Id.* NAGE claims OUC responded stating that OUC understood NAGE's reply to be a withdrawal of its request to bargain. *Id.*

Additionally, NAGE alleges that approximately half of its officials and stewards are assigned to two (2) of the three (3) daily shifts that earn "premium pay" and are therefore ineligible to claim any official time under the modifications. *Id.*, at 5-7. As a result, NAGE alleges that approximately two-thirds of bargaining unit employees "will be deprived of union representation during their shifts." *Id.*, at 7. Furthermore, NAGE alleges that OUC's unilateral changes will "severely [restrict the Union officials'] ability to attend all meetings, timely prepare grievances, and fulfill all of their representational duties." *Id.*, at 6.

NAGE concluded that: 1) OUC's "silence in response to the Union's assertion that the parties are already engaged in bargaining over changes to this practice is a violation of its duty [to bargain in good faith]"; and 2) OUC's actions are "a flagrant attempt to restrain the Union's

² OUC distributed a memorandum to all OUC employees outlining these modifications on March 7, 2013. (Amended Complaint, at 6 and Exhibit 10); and (Answer at 7).

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ability to represent its membership” and are therefore “in direct violation of [D.C. Code § 1-617.04(a)(1), (2), (3) and (5)]”. *Id.*, at 7.

In its Answer, OUC admits it instituted the changes as alleged, but denies that doing so violated the CMPA. (Answer, at 5-9). OUC avers that making the changes was a legal exercise of its management rights. *Id.*, at 5-7. Further, OUC contends its several meetings and discussions with NAGE, wherein it notified NAGE’s president of its intentions to make the changes, sufficiently satisfied the notice requirements under those rights. *Id.*, at 6. OUC admits NAGE never requested to engage in impact and effects bargaining over the changes. *Id.*, at 7.

OUC denies NAGE’s contention that a past practice governing official time had been established between the parties. *Id.* OUC further denies the changes will restrict the union officials’ abilities to attend meetings, prepare grievances, and fulfill their representational duties. *Id.*, at 8. OUC denies the allegation that half of the union’s officials and stewards work “premium pay shifts” as well as the allegation that two-thirds of bargaining unit employees will be deprived of union representation during their shifts. *Id.*

Last, OUC denies that it failed to respond to NAGE’s claims that bargaining had already commenced. *Id.*, at 8-9. In support of its denial, OUC points to Exhibit 14 in the Amended Complaint, in which an OUC representative expressly stated that NAGE “[was] correct that official time is included in the current negotiations between NAGE and OUC,” but asserted the issue “[had] yet to be discussed.” *Id.* (citing Amended Complaint, Exhibit 14). As such, OUC denies NAGE’s allegations that OUC violated its duty to bargain in good faith and that OUC’s actions constituted “a flagrant attempt to restrain the Union’s ability to represent its membership ... [in violation] of [D.C. Code § 1-617.04(a)(1), (2), (3) and (5)].”

In addition to its admissions and denials of NAGE’s allegations, OUC raised several affirmative defenses.

OUC alleges that NAGE’s Amended Complaint was not filed within the 120-day window required by PERB Rule 520.4. *Id.*, at 9-10. OUC avers that unfair labor practice complaints must be filed within 120 days of the date that the Complainant “knew or should have known of the acts giving rise to the violation.” *Id.* (quoting *American Federation of Government Employees, Local 631 v. District of Columbia Department of Public Works*, 59 D.C. Reg. 10755, Slip Op. No. 1279 at p. 2, PERB Case No. 06-U-39 (2012)). OUC contends NAGE knew or should have known about the alleged violations on October 20, 2012, which required its Complaint to be filed no later than February 17, 2013 (or the next business day). *Id.*

Next, OUC argued NAGE’s allegations are based on contractual violations over which PERB lacks jurisdiction to adjudicate. *Id.*, at 10-11. OUC argued PERB “has previously treated Ground Rules as contractual provisions” and has also held that “where the parties have agreed to

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allow their negotiated agreement to establish the obligations that govern the very acts and conduct alleged in the complaint as statutory violations of the CMPA, the Board lacks jurisdiction over the Complaint allegation.” *Id.* (quoting *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 60 D.C. Reg. 7366, Slip Op. No. 1101 at p. 6, PERB Case No. 08-U-41(a) (2011)). OUC argued the “gravamen” of NAGE’s Complaint is that OUC violated the parties’ Ground Rules by failing to honor a past practice, which had become an implied term of the parties’ CBA. *Id.*, at 11. Therefore, OUC reasoned “PERB case law holds that PERB lacks jurisdiction over the instant matter.” *Id.*

OUC averred that since this matter is based on a contractual question, PERB should defer the adjudication of NAGE’s allegations to the parties’ negotiated grievance and arbitration procedures. *Id.* (citing *American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2921, AFL-CIO v. District of Columbia Public Schools*, 42 D.C. Reg. 5685, Slip Op. No. 339, PERB Case No. 92-U-08 (1992) (holding that if an interpretation of a contractual obligation is necessary and appropriate to a determination of whether a non-contractual statutory violation has been committed, the Board will defer the matter to the parties’ grievance and arbitration procedures). OUC contends that because an interpretation of Article 16 is necessary to determine if there has been a statutory violation of the union members’ “official time,” PERB must defer the matter to the parties’ grievance and arbitration procedures. *Id.*

OUC next averred that the parties’ CBA does not require OUC to bargain over the allocation of official time. *Id.*, at 12. OUC argued PERB has held that an employer does not violate the CMPA where a unilateral change does not involve a mandatory subject of bargaining. *Id.* (citing *University of the District of Columbia Faculty Association v. University of the District of Columbia*, 43 D.C. Reg. 5594, Slip Op. No. 387, PERB Case Nos. 93-U-22 and 93-U-23 (1996)). Further, OUC noted that Section E of Article 28 in the parties’ CBA states that “[a]ll terms and conditions of employment not covered by the terms of this Agreement shall continue to be subject to the Employer’s direction and control...” *Id.* Therefore, based on NAGE’s own assertion in the Amended Complaint that the CBA “does not specify the number of hours to be used for [official time], or the allocation of those hours between local officials”, OUC contended the administration of official time is a management right under OUC’s direction and control. *Id.* (quoting Amended Complaint, at 3). Additionally, OUC reasoned that because NAGE admitted it declined to request impact and effects bargaining over OUC’s directive, then “PERB jurisprudence” dictates that OUC’s unilateral changes to the administration of the allocation of official time cannot be considered violations of the CMPA even when viewing the facts in the light most favorable to NAGE. *Id.*

Additionally, OUC argued that the very acts NAGE alleged as violations of the CMPA were allowed by the CBA. *Id.*, at 12-13. Applying its reasoning that Section E in Article 28

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establishes the administration of official time as a management right, OUC contended the CBA empowered it to engage in the “very acts” that NAGE now alleges were statutory violations. *Id.* at 13-14 (citing *FOP v. MPD, supra*, Slip Op. No. 1101 at p. 6, PERB Case No. 08-U-41(a)). As such, OUC argued PERB does not have jurisdiction to adjudicate said allegations and should defer this matter to the parties’ grievance and arbitration procedures. *Id.*

Further, OUC argued that because NAGE did not request to bargain the impacts and effects of OUC’s changes to the allocation of official time after OUC notified NAGE of its intentions to make the changes, and because Section E in Article 28 establishes the administration of official time as a management right, OUC could not have committed any violation of the CBA or the CMPA. *Id.*, at 14-15 (citing Amended Complaint, Exhibits 8, 11, and 15).

Finally, in response to NAGE’s Motion for Preliminary relief, OUC argued that NAGE is not entitled to preliminary relief because NAGE’s request “was not accompanied by [any supporting] affidavits or evidence”. *Id.*, at 9. Additionally, OUC argued that: 1) the wrongdoing alleged in the Amended Complaint is neither “clear-cut nor flagrant” because OUC has demonstrated that its actions “[comply] entirely with the CBA”; 2) “the effect of the alleged wrongdoing affects only a limited number of bargaining unit employees” and is therefore “not widespread”; 3) “the public interest is not seriously affected by the alleged wrongdoing”; and 4) NAGE failed “to show any example of interference with PERB processes.” *Id.*

III. Discussion

Motions for preliminary relief in unfair labor practice cases are governed by PERB Rule 520.15, which in pertinent part provides:

The Board may order preliminary relief ... where the Board finds that the conduct is clear-cut and flagrant; or the effect of the alleged unfair labor practice is widespread; or the public interest is seriously affected; or the Board's processes are being interfered with, and the Board's ultimate remedy will be clearly inadequate. *American Federation of State, County and Municipal Employees, District Council 20, AFL-CIO, Locals 2091, 2401, 2776, 1808, 877, 709, 2092, 2087, and 1200, et. al. v. District of Columbia Government*, 59 D.C. Reg. 10782, Slip Op. No. 1292, PERB Case No. 10-U-53 (2012).

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Additionally, the Board's authority to grant preliminary relief is discretionary. *Id.* (citing *American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2921, AFL-CIO v. District of Columbia Public Schools, D.C. Council 20, et al. v. District of Columbia Government, et al.*, 42 D.C. Reg. 3430, Slip Op. No. 330, PERB Case No. 92-U-24 (1992)). In determining whether to exercise its discretion under Board Rule 520.15, the Board applies the standard stated in *Automobile Workers v. National Labor Review Board*, 449 F.2d 1046 (D.C. 1971). *Id.* (see also *AFSCME D.C. Council 20, et al., v. D.C. Gov't, et al., supra*, Slip Op. No. 330 at p. 4, PERB Case No. 92-U-24). In *Automobile Workers, supra*, the Court of Appeals held that irreparable harm need not be shown. *Id.* However, the supporting evidence must "establish that there is reasonable cause to believe that the [the applicable statute] has been violated, and that remedial purposes of the law will be served by *pendente lite* relief." *Id.* "In those instances where [the Board] has determined that the standard for exercising its discretion has been met, the [basis] for such relief [has] been restricted to the existence of the prescribed circumstances in the provisions of Board Rule 520.15 set forth above." *Id.* (citing *Clarence Mack, Shirley Simmons, Hazel Lee and Joseph Ott v. Fraternal Order of Police/Department of Corrections Labor Committee, et al.*, 45 D.C. Reg. 4762, Slip Op. No. 516 at p. 3, PERB Case Nos. 97-S-01, 97-S-02 and 95-S-03 (1997)).

Here, the Board finds that NAGE failed to meet the requirements of Board Rule 520.15. While the parties agree that OUC unilaterally changed the administration of official time, several other material disputes of fact remain contested. For instance, the parties disagree about: whether a past practice had been established that OUC was required to honor; whether the power to unilaterally change the official time provisions was a protected management right under the parties' CBA; and the number of NAGE members that will be affected by OUC's restriction on official time being claimed during periods of "premium pay." Based on these contested disputes and others, the Board finds that there is not enough evidence at this stage to determine that OUC's conduct was "clearly and flagrantly" in violation of the statute, as required by Board Rule 520.15. *Id.*

Furthermore, because the number of bargaining unit members who will be affected by OUC's changes to the administration of official time is a materially disputed fact, the Board cannot find that the effect of OUC's alleged wrongdoing is "widespread." *Id.* Similarly, the Board cannot find that the public interest has been seriously affected, or that OUC's actions have interfered with the Board's processes. *Id.* Lastly, the Board finds that NAGE failed to provide enough evidence to demonstrate that its allegations, if true, are such that the remedial purposes of the law would be best served by *pendente lite* relief. *Id.*

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Therefore, based on the forgoing, and in accordance with PERB Rule 520.15, the Board, in its discretion, denies NAGE's motion for preliminary relief. *Id.*

Furthermore, in accordance with the Board's finding that the parties' pleadings present numerous material disputes of fact, and pursuant to PERB Rule 520.9, the Board refers this matter to an unfair labor practice hearing to develop a factual record and make appropriate recommendations. *Id.* (see also PERB Rule 520.8; and *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 59 D.C. Reg. 5957, Slip Op. No. 999, PERB Case 09-U-52 (2009)).

ORDER

IT IS HEREBY ORDERED THAT:

1. The National Association of Government Employees, Local R3-07's request for preliminary relief is denied.
2. The Board's Executive Director shall refer the Unfair Labor Practice Complaint to a Hearing Examiner to develop a factual record and present recommendations in accordance with said record.
3. The Notice of Hearing shall be issued seven (7) days prior to the date of the hearing.
4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

May 28, 2013

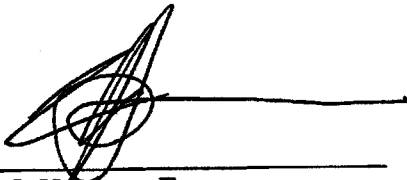
CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 13-U-20, Slip Op. No. 1393, was transmitted via File & ServeXpress and e-mail to the following parties on this the 4th day of June, 2013.

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