VOL. 60 – NO. 35 FRIDAY, AUGUST 16, 2013

District of Columbia REGISTER

HIGHLIGHTS

- DC Council passes Act 20-142, Personal Property Robbery Prevention Emergency Amendment Act of 2013
- DC Council schedules a public oversight roundtable on the District of Columbia Health Benefit Exchange Authority
- Board of Ethics and Government Accountability updates registration requirements for lobbyists
- District Department of Transportation proposes changes to the right of way signage guidelines for commuter, shuttle, sightseeing, and tour buses
- Office of the State Superintendent of Education announces funding availability for the FY 2013 Charter Schools Program
- Board of Ethics and Government Accountability publishes an advisory opinion on discounts offered to District government employees

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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, §§2-50l *et seq.*, as amended.

All documents published in the *D.C. Register* must be submitted in accordance with the applicable provisions of the Rules of the Office of Documents and Administrative Issuances. Documents which are published in the *D.C. Register* include (1)) Acts and resolutions of the Council of the District of Columbia; (2) Notices of proposed Council legislation, Council hearings, and other Council actions; (3) Notices of public hearings; (4) Notices of final, proposed, and emergency rulemaking; (5) Mayor's Orders and information on changes in the structure of the District of Columbia government (6) Notices, Opinions, and Orders of District of Columbia Boards, Commissions and Agencies; (7) Documents having general applicability and notices and information of general public interest.

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The deadline for receiving documents from the District of Columbia Agencies, Boards, Commissions, and Public Charter schools is TUESDAY, NOON of the week of publication. The deadline for receiving documents from the District of Columbia Council is WEDNESDAY, NOON of the week of publication. If an official District government holiday falls on Monday or Friday, the deadline for receiving documents remains the same as outlined above. If an official District government holiday falls on Tuesday, Wednesday or Thursday, the deadline for receiving documents is one day earlier from the deadlines outlined above.

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Legal Effect of Publication - Certification

Except in the case of emergency rules, no rule or document of general applicability and legal effect shall become effective until it is published in the *D.C. Register*. Publication creates a rebuttable legal presumption that a document has been duly issued, prescribed, adopted, or enacted and that the document complies with the requirements of the *District of Columbia Documents Act* and the *District of Columbia Administrative Procedure Act.* The Administrator of the Office of Documents hereby certifies that this issue of the *D.C. Register* contains all documents required to be published under the provisions of the *District of Columbia Documents Act.*

DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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PERIODICAL POSTAGE PAID AT WASHINGTON, D.C.
POSTMASTER: Send address changes to D.C. Register, 441 - 4th Street, N.W., Suite 520 South, Washington, D.C. 20001

CONTENTS

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

D.C. ACTS

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

D.C. ACTS CONT'D

RESOLUTIONS

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

RESOLUTIONS CONT'D

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

COUNCIL HEARINGS

OTHER COUNCIL ACTIONS

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES

PUBLIC HEARINGS

FINAL RULEMAKING

PROPOSED RULEMAKING

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PROPOSED RULEMAKING CONT'D

EMERGENCY RULEMAKING

EMERGENCY AND PROPOSED RULEMAKING

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

NOTICES, OPINIONS, AND ORDERS
MAYOR'S ORDERS

NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES CONT'D

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES CONT'D

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-135

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 31, 2013

To symbolically designate the intersection of 22nd and R Streets, N.W., in Ward 2, as Dimitar Peshev Plaza.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Dimitar Peshev Plaza Designation Act of 2013".

Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a), the Council symbolically designates the intersection of 22nd and R Streets, N.W., in Ward 2, as "Dimitar Peshev Plaza".

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this act, upon its effective date, to the Office of the Surveyor, the Office of the Recorder of Deeds, and the District Department of Transportation.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report 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 act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as

ENROLLED ORIGINAL

provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 31, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-136

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 31, 2013

To amend the Business Improvement Districts Act of 1996 to update the maximum allowable BID tax due to the Capitol Hill Business Improvement District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Capitol Hill Business Improvement District Amendment Act of 2013".

Sec. 2. Section 204(c) of the Business Improvement Districts Act of 1996, effective March 17, 2005 (D.C. Law 15-257; D.C. Official Code § 2-1215.54(c)), is amended as follows:

(a) Paragraph (2) is amended to read as follows:

"(2) Notwithstanding paragraph (1) of this subsection, the total BID tax due for tax year 2013 on a single tax lot or a group of functionally integrated contiguous tax lots under common ownership in the Capitol Hill BID shall not exceed $75,000, with the amount to be allocated among the lots in proportion to their assessed values as determined by the Office of Tax and Revenue.".

(b) A new paragraph (3) is added to read as follows:

"(3) Notwithstanding paragraph (1) of this subsection, the total BID tax due for tax years 2014 and thereafter on a single tax lot or a group of functionally integrated contiguous tax lots under common ownership in the Capitol Hill BID shall not exceed $125,000 in any tax year, with the amount to be allocated among the lots in proportion to their assessed values as determined by the Office of Tax and Revenue.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report 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. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 31, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-137

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 31, 2013

To approve, on an emergency basis, Change Orders No. FY13-001 through No. FY13-009 to Contract No. GM-10-S-0707C-FM for on-call small capital projects between the District of Columbia government and Broughton Construction Company, and to authorize payment to Broughton Construction Company in the aggregate amount of $1,554,151.81 for the goods and services received and to be received under these change orders.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Change Orders No. FY13-001 through No. FY13-009 to Contract GM-10-S-0707C-FM Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. 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), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Change Orders No. FY13-001 through No. FY13-009 to Contract No. GM-10-S-0707C-FM with Broughton Construction Company for on-call small capital projects and authorizes payment in the aggregate amount of $1,554,151.81 for the goods and services received and to be received under these change orders.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal statement of the Office 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. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 31, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-138

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 31, 2013

To approve and authorize payment for, on an emergency basis, Task Order No. 11 for $135,068.88, Task Order No. 12 for $554,222.85, Purchase Order No.PO429848-V2 for $261,328.92, and Task Order No. 13 for $341,097.36, under Human Care Agreement No. DCJZ-2008-H-0004 with National Center on Institutions and Alternatives to provide residential treatment services, educational services, and specialized residential treatment services; Task Order No. 03 for $175,737.60, Task Order No. 04 for $666,338.40 reduced to $552,254.60, Task Order No.05 for $375,566.30, proposed Task Order No. 06 for $178,329.60; Task Order No. 07 for $356,659.20, and Task Order No. 08 for $821,059.20 under Human Care Agreement No. DCJZ-2010-H-0015 with Metropolitan Educational Solutions, LLC, to provide therapeutic family homes; Task Order No. 04 for $487,347.30, Task Order No. 05 for $484,393.68, Task Order No. 06 for $348,357.58, Task Order No. 07 for $537,513.60, and proposed Task Order No. 08 for $971,659.20 under Human Care Agreement No. DCJZ-2010-H-0016 with Universal Healthcare Management Services to provide therapeutic family homes ; Task Order No. 04 for $703,810.08 and proposed Task Order No. 05 for $600,203.52, under Human Care Agreement No. DCJZ-2011-H-0002 with Umbrella Therapeutic Services, Inc., to provide therapeutic family homes ; Task Order No. 03 for $339,840, Purchase Order No. 416118 for $170,880, Task Order No. 04 for $579,840, Task Order No. 05 for $33,280, Task Order No. 06 for $704,880, and proposed Task Order No. 07 for $740,520, under Human Care Agreement No. DCJZ-2011-H-0003 with Extended House, Inc., to provide therapeutic family homes; Task Order No. 02 for $185,772, Task Order No. 03 for $185,772, Task Order No. 04 for $499,726.68, Task Order No. 05 for $481,769.36, Task Order No. 06 for $249,939.36, and proposed Task Order No. 07 for $1,132,301.04, under Human Care Agreement No. DCJZ-2011-H-0010 with Sasha Bruce Youthwork, Inc., to provide family reunification home services; Task Order No. 04 for $514,437, Task Order No. 05 for $523,215, Task Order No. 06 for $194,040, Task Order No. 07 for $370,776.96, and proposed Task Order No. 08 for $662,552.64 under Human Care Agreement No. DCJZ-2011-H-0015 with PCC Stride, Inc., to provide extended family homes; Task Order No. 03 for $402,936, Task Order No. 04 for $174,894, Task Order No. 05 for $341,136, Task Order No. 06 for $397,448, Task Order No. 07 for $570,174, and proposed Task Order No. 08 for $704,596 under Human Care Agreement No. DCJZ-2011-H-0031 with Boys Town of Washington, D.C., Inc., to provide therapeutic family homes; Task Order No. 01 for $222,528, Task Order No. 02 for $663,936, Task Order

ENROLLED ORIGINAL

No. 03 for $225,760, Task Order No. 04 for $222,528, Task Order No. 05 for $461,160, proposed Task Order No. 06 for $918,540, and proposed Task Order No. 07 for $461,160 under Human Care Agreement No. DCJZ-2012-H-0020 with Center City Community Corporation to provide family reunification home services; and Task Order No. 03 for $423,730.44 and proposed Task Order No. 04 in the amount of $587,129.76 under Human Care Agreement No. DCJZ-2011-H-0002-01 with Progressive Life Center, Inc., to provide supervised independent living services.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Omnibus Therapeutic Family Homes, Extended Family Homes, Residential Treatment, and Case Management Services Human Care Agreements Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. 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), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves the following human care agreements, including the stated purchase orders and task orders under the human care agreements, and authorizes payment as stated below:

(1) Task Order No. 11 for $135,068.88, Task Order No. 12 for $554,222.85, Purchase Order No PO429848-V2 for $261,328.92, and Task Order No. 13 for $341,097.36, in the total amount of $1,291,718.01, for residential treatment services, educational services, and specialized residential treatment services received or to be received under Human Care Agreement No. DCJZ-2008-H-0004 for the period from July 1, 2012 through June 30, 2013;

(2) Task Order No. 03 for $175,737.60, Task Order No. 04 for $666,338.40 reduced to $552,254.60, Task Order No. 05 for $375,566.30, Task Order No. 06 for $178,329.60, 07 for $356,659.20, and Task Order No. 08 for $821,059.20, in the total amount of $2,459,606.50, for therapeutic family home services received or to be received under Human Care Agreement No. DCJZ-2010-H-0015 for the period from June 27, 2012, through June 26, 2014;

(3) Task Order No. 04 for $487,347.30 ($92,716.34 was de-obligated), Task Order No. 05 for $484,393.68, Task Order No. 06 for $348,357.58, Task Order No. 07 for $537,513.60, and Task Order No. 08 for $971,659.20, in the total amount of $2,829,271.36, for therapeutic family home services received or to be received under Human Care Agreement No. DCJZ-2010-H-0016 for the period from May 24, 2012, through May 23, 2014;

(4) Task Order No. 04 for $703,810.08 and proposed Task Order No. 05 for $600,203.52, in the total amount of $1,304,013.60, for therapeutic family home services received or to be received under Human Care Agreement No. DCJZ-2011-H-0002 for the period from March 18, 2013, through March 17, 2014;

(5) Task Order No. 03 for $339,840, Purchase Order No. 416118 for $170,880, Task Order No. 04 for $579,840, Task Order No. 05 for $33,280, Task Order No. 06 for $ 704,880, and proposed Task Order No. 07 for $740,520, in the total amount of $2,569,240, for

ENROLLED ORIGINAL

therapeutic family home services received or to be received under Human Care Agreement No. DCJZ-2011-H-0003 for the period from April 6, 2012, through April 5, 2014;

(6) Task Order No. 02 for $185,772, Task Order No. 03 for $185,772, Task Order No. 04 for $499,726.68, Task Order No. 05 for $481,769.36, Task Order No. 06 for $249,939.36, and proposed Task Order No. 07 for $1,132,301.04, in the total amount of $2,735,280.44, for family reunification home services received or to be received under Human Care Agreement No. DCJZ-2011-H-0010 for the period from June 22, 2012, through June 21, 2014;

(7) Task Order No. 04 for $514,437, Task Order No. 05 for $523,215, Task Order No. 06 for $194,040, Task Order No. 07 for $370,776.96, and proposed Task Order No. 08 for $662,552.64, in the total amount of $2,265,021.60, for extended family home services received or to be received under Human Care Agreement No. DCJZ-2011-H-0015 for the contract period from May 23, 2012, through May 22, 2014;

(8) Task Order No. 03 for $402,936, Task Order No. 04 for $174,894, Task Order No. 05 for $341,136, Task Order No. 06 for $397,448, Task Order No. 07 for $570,174, and proposed Task Order No. 08 for $704,596, in the total amount of $2,591,184, for therapeutic family home services received or to be received under Human Care Agreement No. DCJZ-2011-H-0031 for the period from April 21, 2012, through April 20, 2014;

(9) Task Order No. 01 for $222,528, Task Order No. 02 for $663,936, Task Order No. TO3 for $225,760, Task Order No. TO4 for $222,528, Task Order No. 05 for $461,160, proposed Task Order No. 06 for $918,540, and proposed Task Order 07 for $461,160, in the total amount of $3,175,612, for family reunification home services received or to be received under Human Care Agreement No. DCJZ-2012-H-0020 for the period from June 1, 2012 through May 31, 2014; and

(10) Task Order No. 03 for $423,730.44 and proposed Task Order No. 04 for $587,129.76, in the total amount of $1,010,860.20, for supervised independent living services received or to be received under Human Care Agreement No. DCJZ-2011-H-0002-01 for the period from May 1, 2013, through April 30, 2014.

Sec. 3. 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. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 31, 2013

ENROLLED ORIGINAL

AN ACT
D.C. ACT 20-139

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JULY 31, 2013

To partially approve and authorize payment for, on an emergency basis, Task Order Nos. T0107, T01071-A, T01072, and T1101 under Human Care Agreement No. DCPO-2011-H-7203 with Career TEAM, LLC, to provide job placement services; Task Order Nos. T0005, T00051, and T1101 to provide job placement services under Human Care Agreement No. DCPO-2011-H-7803 with Arbor E & T, LLC; Task Order Nos. T1101 and T1101-M01 under Human Care Agreement No. DCPO-2011-H-7201 with America Works of DC to provide work readiness and job placement services; Task Order No. T1101 under Human Care Agreement No. DCPO-2011-H-7802 Maximus Human Services, Inc., to provide job placement services; Task Order Nos. T0106, T1061-A, T-01062, and T1101 under Human Care Agreement DCPO-2011-H-7202 with Maximus Human Services, Inc., to provide work readiness and job placement services; Task Order No. T1101 and Modification No. M01 under Human Care Agreement No. DCPO-2011-H-7207 with KRA Corporation to provide work readiness and job placement services; and Task Order No. T1101 and Modification No. M01 under Human Care Agreement No. DCPO-2011-H-7805 with KRA Corporation to provide job placement services.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Omnibus Work Readiness and Job Placement Services Human Care Agreements Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. 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), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §2-352.02), the Council partially approves the following human care agreements, including the stated task orders and modifications under the human care agreements, and authorizes payment as stated below:

(1) Task Order No. T0107 for $537,265, Task Order No. T01071-A for $335,009 reduced to $105,553, Task Order No. T01072 for $1,192,241, and Task Order No. T1101 for $2,901,077, for job placement services received or to be received by Career TEAM, LLC under Human Care Agreement DCPO-2011-H-7203 for the period of March 1, 2012, through September 30, 2013;

(2) Task Order No. T0005 for $846,530 reduced to $285,934, Task Order No. T00051 for $1,113,298, and Task Order No. T1101 for $1,893,526, for job placement services

ENROLLED ORIGINAL

received or to be received by Arbor E & T, LLC under Human Care Agreement No. DCPO-2011-H-7803 for the period of April 24, 2013, through September 30, 2013;

(3) Task Order No. T1101 for $660,684 and T1101-M01 for $1,321,367, for work readiness and job placement services received and to be received by America Works of DC under Human Care Agreement No. DCPO-2011-H-7201 for the period of March 1, 2013, through September 30, 2013;

(4) Task Order No. 1101 for $1,890,526 for job placement services received and to be received by Maximus Human Services, Inc., under Human Care Agreement No. DCPO-2011-H-7802 for the period of February 12, 2013, through September 30, 2013;

(5) Task Order No. T0106 for $537,265, Task Order No. T1061-A for $251,256, Task Order No. T01062 for $1,350,923, and Task Order No. T1101 for $2,901,077, for work readiness and job placement services received and to be received by Maximus Human Services, Inc., under Human Care Agreement No. DCPO-2011-H-7202 for the period of March 1, 2012, through September 30, 2013;

(6) Task Order No. T1101 for $967,026 and T1101-M01for $1,692,295, for work readiness and job placement services received and to be received by KRA Corporation under Human Care Agreement DCPO-2011-H-7207 for the period of January 27, 2013, through September 30, 2013; and

(7) Task Order No. T1101 for $631,175 and T1101-M01 for $1,262,351, for job placement services received and to be received by KRA Corporation under Human Care Agreement DCPO-2011-H-7805 for the period of January 27, 2013, through September 30, 2013.

Sec. 3. 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. 4. Effective date.

This act shall take effect following approved by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code §1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 31, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-140

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 31, 2013

To amend, on an emergency basis, the District of Columbia Home Rule Act to authorize the Council to establish the rate of pay for the Chief Financial Officer; and to amend the District of Columbia Comprehensive Merit Personnel Act of 1978 to set a new rate of pay.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Chief Financial Officer Compensation Emergency Amendment Act of 2013".

Sec. 2. Section 424(b)(2)(E) of the District of Columbia Home Rule Act, approved April 17, 1995 (109 Stat. 142; D.C. Official Code § 1-204.24b(b)(5)), is amended to read as follows:

"(E) *Pay.* – The Chief Financial Officer shall be paid at an annual rate established by act by the Council that is at least equal to the rate of basic pay payable for level I of the Executive Schedule. An act of the Council that decreases the annual rate shall apply only to terms of the Chief Financial Officer that begin after the effective date of the act establishing the decreased annual rate.".

Sec. 3. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended by adding a new section 1109a to read as follows:

"Sec. 1109a. Compensation – Chief Financial Officer.

"In accordance with section 424(b)(2)(E) of the District of Columbia Home Rule Act, approved April 17, 1995 (109 Stat. 142; D.C. Official Code § 1-204.24b(b)(5)), the Chief Financial Officer shall be paid at an annual rate of up to $250,000.".

Sec. 4. Transmittal to Congress.

The Secretary to the Council shall transmit a copy of this act, upon its effective date, to Congress.

ENROLLED ORIGINAL

Sec. 5. Applicability.

This act shall apply upon enactment of section 2 by Congress.

Sec. 6. 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. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 31, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-141

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 31, 2013

To provide, on an emergency basis, that no refund of recordation tax paid with respect to New Issue Bond Program financings that are funded by an allocation of $400,000 for fiscal year 2013 shall be allowed unless a completed claim for refund is filed with the Recorder of Deeds no later than September 2, 2013.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "New Issue Bond Program Recordation Tax Refund Emergency Act of 2013".

Sec. 2. No refund of recordation tax paid with respect to a security interest instrument exempted pursuant to the New Issue Bond Program Tax Exemption Amendment Act of 2011, effective December 13, 2011 (D.C. Law 19-60; 58 DCR 9169), that is funded by an allocation of $400,000 from the fiscal year 2013 operating margin, as provided by section 7014 of the Fiscal Year 2013 Budget Support Act of 2012, effective September 20, 2012 (D. C. Law 19-168; 59 DCR 8025), shall be allowed unless a completed claim for refund of the tax is filed with the Recorder of Deeds no later than September 2, 2013.

Sec. 3. 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. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 31, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-142

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 31, 2013

To amend, on an emergency basis, Chapter 28 of Title 47 of the District of Columbia Official Code to enable the Mayor to suspend or revoke the business licenses of any business engaged in the buying or selling of stolen items; and to amend section 16-1001.04 of the District of Columbia Municipal Regulations to include, in the account of each transaction by a junk dealer or secondhand dealer, information regarding the title of the good transacted.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Personal Property Robbery Prevention Emergency Amendment Act of 2013".

Sec. 2. Chapter 28 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-2837(d) of the District of Columbia Official Code is repealed.

(b) Section 47-2844 is amended as follows:

(1) Subsection (a) is amended by striking the phrase "The Council of the District of Columbia is" and inserting the phrase "The Council of the District of Columbia and Mayor are".

(2) New subsections (a-2) and (a-3) are added to read as follows:

"(a-2) (1) In addition to the provisions of subsection (a-1) of this section, the Mayor may, notwithstanding § 2-1801.04, take the following actions against any licensee, or agent or employee of a licensee, that with or without the appropriate license required under this chapter, engages in the purchase, sale, exchange, or any other form of a commercial transaction involving used goods or merchandise that are knowingly stolen:

"(A) The Mayor, for the first violation of this subsection:

"(i) Shall issue a civil infraction in the amount of $2,500; and

"(ii) May seal the licensee's premises for up to 96 hours without a prior hearing.

"(B) The Mayor, for the second violation of this subsection:

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"(i) Shall issue a civil infraction fine in the amount of $5,000;

"(ii) May seal the licensee's premises for up to 96 hours without a prior hearing; and

"(iii)(I) Shall, within 30 days of the issuance of a civil infraction, require the licensee to submit a remediation plan approved by the Mayor, in consultation with the Chief of Police, that contains the licensee's plan to prevent any future recurrence of purchasing, selling, exchanging, or otherwise transacting stolen goods and acknowledgement that a subsequent occurrence of engaging in prohibited activities may result in the revocation of all licenses issued to the licensee pursuant to this chapter.

"(II) If the licensee fails to submit a remediation plan in accordance with this sub-subparagraph, or if the Mayor rejects the licensee's remediation plan, the Mayor shall provide written notice to the licensee of the Mayor's intent to suspend all licenses issued to the licensee pursuant to this chapter for an additional 30 days.

"(C) The Mayor, for the third violation of this subsection:

"(i) Shall issue a civil infraction fine in the amount of $10,000;

"(ii) May seal the licensee's premises for up to 96 hours without a prior hearing; and

"(iii) Shall provide written notice to the licensee of the Mayor's intent to permanently revoke all licenses issued to the licensee pursuant to this chapter.

"(2)(A) A violation of this subsection shall be a civil infraction for purposes of Chapter 18 of Title 2. Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this subsection, or the rules issued under authority of this subsection, pursuant to Chapter 18 of Title 2.

"(B) Adjudication of any civil infractions issued pursuant to this subsection shall be pursuant to Chapter 18 of Title 2.

"(C) Summary action taken pursuant to this subsection shall be pursuant to subchapter 1 of Chapter 18 of Title 2.

"(3) In addition to other remedies provided by law, the Office of the Attorney General for the District of Columbia may commence an action in the Civil Branch of the Superior Court of the District of Columbia to compel compliance, abate, enjoin, or prevent violations of this subsection. Plaintiff need not prove irreparable injury or harm to obtain a preliminary or temporary injunction.

"(a-3) The term "knowingly" includes:

"(1) For the purposes of subsections (a-1) and (a-2) of this section, actual notice of a specific violation set forth in subsection (a-1) or (a-2) of this section to the licensee, or agent or employee of the licensee, issued by a District agency notifying the licensee, or agent or employee of the licensee, of the same or similar violation occurring on the licensee's premises. Actual notice to the agent or employee of the licensee constitutes notice to the licensee for the purposes of this section; or

"(2) For the purpose of subsection (a-2) of this section, constructive notice to the

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licensee, or agent or employee of the licensee, resulting from the failure of the licensee, or agent or employee of the licensee, to ascertain the ownership of the used goods or merchandise. Constructive notice to the agent or employee of the licensee constitutes notice to the licensee for the purposes of this section.".

(3) Subsection (b) is amended by striking the phrase "the Council" and inserting the phrase "the Mayor" in its place.

Sec. 3. Section 16-1001.4(f) of the District of Columbia Municipal Regulations (16 DCMR §1001.4(f)) is amended by striking the phrase "purchase or receipt." and inserting the phrase "purchase or receipt, including the title of the goods, article, or other thing purchased or received." in its place.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Personal Property Prevention Amendment Act of 2013, passed on 1st reading on July 10, 2013 (Engrossed version of Bill 20-143) 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 act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 31, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-143

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 31, 2013

To amend, on an emergency basis, the District of Columbia Election Code of 1955 and the Campaign Finance Reform and Conflict of Interest Public Disclosure Amendment Act of 2011 to reflect all elected offices in relevant sections.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Election Code Conforming Emergency Amendment Act of 2013".

Sec. 2. The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:

(a) Section 8 (D.C. Official Code § 1-1001.08) is amended as follows:

(1) The heading is amended by striking the phrase "Delegate, Mayor, Chairman, members of Council" and inserting the phrase "Delegate, Chairman of the Council, members of Council, Mayor, Attorney General," in its place.

(2) Subsection (b)(1) is amended by adding a new subparagraph (D) to read as follows:

"(D) Any candidate for the position of Attorney General shall also meet the qualifications required by section 103 of the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.83), before the day on which the election for Attorney General is to be held.".

(3) Subsection (d) is amended by striking the phrase "Delegate, Mayor, Chairman of the Council, or member of the Council" and inserting the phrase "Delegate, Chairman of the Council, member of the Council, Mayor, or Attorney General" in its place.

(4) Subsection (h) is amended as follows:

(A) Paragraph (1)(A) is amended by striking the phrase "Delegate, Mayor, Chairman of the Council of the District of Columbia and the 4 at-large members of the Council" and inserting the phrase "Delegate, Chairman of the Council, the 4 at-large members of the Council, Mayor, and Attorney General" in its place.

(B) Paragraph (2) is amended by striking the phrase "Delegate, Mayor, Chairman of the Council and member of the Council" and inserting the phrase "Delegate, Chairman of the Council, member of the Council, Mayor, and Attorney General" in its place.

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(5) Subsection (i)(1) is amended by striking the phrase "Delegate, Mayor, Chairman of the Council, or at-large member of the Council" and inserting the phrase "Delegate, Chairman of the Council, at-large member of the Council, Mayor, or Attorney General" in its place.

(6) Subsection (j) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) Strike the phrase "Delegate, Mayor, Chairman of the Council, or member of the Council" and insert the phrase "Delegate, Chairman of the Council, member of the Council, Mayor, or Attorney General" in its place.

(ii) Subparagraph (B) is amended by striking the phrase "Delegate, Mayor, Chairman of the Council, or at-large member of the Council," and inserting the phrase "Delegate, Chairman of the Council, at-large member of the Council, Mayor, or Attorney General," in its place.

(B) Paragraph (3) is amended by striking the phrase "Mayor, Chairman of the Council, member of the Council," and inserting the phrase "Chairman of the Council, member of the Council, Mayor, Attorney General," in its place.

(7) Subsection (k)(3) is amended as follows:

(A) The introductory language is amended by striking the phrase "Delegate and Mayor" and inserting the phrase "Delegate, Mayor, and Attorney General," in its place.

(B) Subparagraph (B) is amended by striking the phrase "pursuant to § 1-1001.10(d); or" and inserting the phrase "pursuant to § 1-1001.10(d), or, in the case of the Attorney General, pursuant to section 435(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-204.35(b)); or" in its place.

(b) Section 10 (D.C. Official Code § 1-1001.10) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (3)(C) is amended by striking the phrase ", primary elections of each political party for the office of Mayor and Chairman" and inserting the phrase "or under section 435(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-204.35(b)), primary elections of each political party for the office of Chairman of the Council, Mayor, and Attorney General" in its place.

(B) Paragraph (4) is amended by striking the phrase "authorized by this Act," and inserting the phrase "authorized by this act or by section 435(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-204.35(b))," in its place.

(2) Subsection (d)(1) is amended by striking the phrase "Delegate, Mayor, member of the Council, member of the Board of Education, or winner of a primary election for the office of Delegate, Mayor, or member of the Council" and inserting the phrase "Delegate, member of the Council, Mayor, Attorney General, member of the Board of Education, or winner of a primary election for the office of Delegate, member of the Council, Mayor, or Attorney General" in its place.

ENROLLED ORIGINAL

(c) Section 11(a)(2) (D.C. Official Code § 1-1001.11(a)(2)) is amended by striking the phrase "Delegate to the House of Representatives, Mayor, Chairman of the Council, member of the Council" and inserting the phrase "Delegate to the House of Representatives, Chairman of the Council, member of the Council, Mayor, Attorney General" in its place.

(d) Section 15 (D.C. Official Code § 1-1001.15) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "No person shall be a candidate for more than 1 office on the Board of Education or the Council or Mayor in any election for the members of the Board of Education or the Council or Mayor, and no person shall be a candidate for more than 1 office on the Council or for the Mayor in any primary election." and inserting the phrase "No person shall be a candidate for more than 1 office on the Board of Education, the Council, the Mayor, or the Attorney General in any election for the members of the Board of Education, the Council, the Mayor, or the Attorney General, and no person shall be a candidate for more than 1 office on the Council, or the Mayor, or the Attorney General in any primary election.".

(2) Subsection (b) is amended by striking the phrase "Mayor, Delegate, Chairman or member of the Council" and inserting the phrase "Delegate, Chairman or member of the Council, Mayor, Attorney General" in its place.

Sec. 3. The Campaign Finance Reform and Conflict of Interest Public Disclosure Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161 *et seq.*), is amended as follows:

(a) Section 226(b) (D.C. Official Code § 1-1162.26(b)) is amended to read as follows:

"(b) Except as provided in subsection (c) of this section, neither the Chairman of the Council, the Mayor, the Attorney General, nor any member of the Chairman of the Council's, the Mayor's, or the Attorney General's immediate family shall accept royalties for works of the Chairman of the Council, the Mayor, or the Attorney General that exceed $10,000 in the aggregate during any calendar year. For the purposes of computing the limit on royalties established under this subsection, a royalty shall be considered received during the calendar year in which the right to receive the royalty accrues.".

(b) Section 304(7) (D.C. Official Code § 1-1163.04(7) is amended as follows:

(1) Strike the phrase "the Mayor, Council," from the introductory language and insert the phrase "the Council, Mayor, Attorney General," in its place.

(2) Strike the phrase "candidates for Mayor, the Chairman and members of the Council," from the introductory language and insert the phrase "candidates for the Chairman of the Council, members of the Council, Mayor, and Attorney General," in its place.

(c) Section 319 (D.C. Official Code § 1-1163.19) is amended as follows:

(1) Subsection (a) is amended by adding a new paragraph (1A) to read as follows:

"(1A) $150,000 for an Attorney General exploratory committee;".

(2) Subsection (b) is amended by adding a new paragraph (1A) to read as follows:

"(1A) $1,500 for an Attorney General exploratory committee;".

(d) Section 333 (D.C. Official Code § 1-1163.33) is amended as follows:

(1) Subsection (a) is amended by adding a new paragraph (3A) to read as follows:

ENROLLED ORIGINAL

"(3A) In the case of a contribution in support of a candidate for Attorney General or for the recall of the Attorney General, $1,500;".

(2) Subsection (b)(1) is amended by striking the phrase "for Mayor, Chairman of the Council, each member of the Council," and inserting the phrase "for Chairman of the Council, each member of the Council, Mayor, Attorney General," in its place.

(e) Section 336(b) (D.C. Official Code § 1-1163.36(b)) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "the Mayor, the Chairman and members of the Council" and inserting the phrase "the Chairman of the Council, members of the Council, the Mayor, the Attorney General" in its place.

(2) Paragraph (2) is amended by striking the phrase "the Mayor, the Chairman and members of the Council" and inserting the phrase "the Chairman of the Council, members of the Council, the Mayor, the Attorney General" in its place.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact 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 act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 31, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-144

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 31, 2013

To amend, on an emergency basis, the Business Improvement Districts Act of 1996 to update the maximum allowable BID tax due to the Capitol Hill Business Improvement District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Capitol Hill Business Improvement District Emergency Amendment Act of 2013".

Sec. 2. Section 204(c) of the Business Improvement Districts Act of 1996, effective March 17, 2005 (D.C. Law 15-257; D.C. Official Code § 2-1215.54(c)), is amended as follows:

(a) Paragraph (2) is amended to read as follows:

"(2) Notwithstanding paragraph (1) of this subsection, the total BID tax due for tax year 2013 on a single tax lot or a group of functionally integrated contiguous tax lots under common ownership in the Capitol Hill BID shall not exceed $75,000, with the amount to be allocated among the lots in proportion to their assessed values as determined by the Office of Tax and Revenue.".

(b) A new paragraph (3) is added to read as follows:

"(3) Notwithstanding paragraph (1) of this subsection, the total BID tax due for tax years 2014 and thereafter on a single tax lot or a group of functionally integrated contiguous tax lots under common ownership in the Capitol Hill BID shall not exceed $125,000 in any tax year, with the amount to be allocated among the lots in proportion to their assessed values as determined by the Office of Tax and Revenue.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Capitol Hill Business Improvement District Amendment Act of 2013, passed on 2nd reading on July 10, 2013 (Enrolled version of Bill 20-92), 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)).

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Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 31, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-145

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 31, 2013

To amend, on an emergency basis, the School Transit Subsidy Act of 1978 to clarify the fares charged, if any, to students to travel to and from school; and to amend the Fiscal Year 2014 Budget Support Emergency Act of 2013 and the Fiscal Year 2014 Budget Support Act of 2013 to repeal contemporaneous revisions to the School Transit Subsidy Act of 1978.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "School Transit Subsidy Emergency Amendment Act of 2013".

Sec. 2. Section 2 of the School Transit Subsidy Act of 1978, effective March 6, 1979 (D.C. Law 2-152; D.C. Official Code § 35-233), is amended as follows:

(a) Subsection (a) is amended to read as follows:

"(a)(1) On regular school days, no student shall be charged a bus fare for regular route transportation within the District during peak and off-peak hours on the Metrobus Transit System and the DC Circulator.

"(2) The fare to be paid by a student on regular school days for regular route transportation during peak and off-peak hours on the Metrorail Transit System within the District shall be as follows:

"(A) $30 dollars for a monthly pass; and

"(B) $9.50 for a 10-trip rail pass;

"(3) The fares listed in paragraph (2) of this subsection shall be modified by the same percentage as future Washington Metropolitan Area Transit Authority fare increases or decreases, rounded to the nearest dime ($.10).".

(b) Subsection (c) is amended to read as follows:

"(c) Reduced fares for students under this section on the Metrobus and Metrorail Transit Systems and the DC Circulator shall be available only to persons who are under 22 years of age and are:

"(1)(A) District residents; and

"(B) Currently enrolled in a regular course of instruction at an elementary or secondary public, parochial, or private school located in the District; or

"(2) Youth in the District's foster care system until they reach 21 years of age.".

ENROLLED ORIGINAL

(c) A new subsection (g) is added to read as follows:

"(g) The District Department of Transportation shall have the authority to issue rules to implement the provisions of this act.".

Sec. 3. Section 10003 of the Fiscal Year 2014 Budget Support Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337), is repealed.

Sec. 4. Section 10003 of the Fiscal Year 2014 Budget Support Act of 2013, passed on 2nd reading on June 26, 2013 (Enrolled version of Bill 20-199), is repealed.

Sec. 5. Applicability.

This act shall apply as of October 1, 2013; provided, that if the inclusion of its fiscal effect in an approved budget and financial plan is certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register before October 1, 2013, this act shall apply as of the date of the certification.

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 31, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-146

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 31, 2013

To amend, on an emergency basis, due to Congressional review, An Act For the retirement of public-school teachers in the District of Columbia to allow for involuntary retirement for all excessed permanent status teachers without regard to whether a teacher chose to reject other options available to him or her.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Teachers' Retirement Congressional Review Emergency Amendment Act of 2013".

Sec. 2. Section 3(b) of An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 876; D.C. Official Code § 38-2021.03(b)), is amended as follows:

(a) The existing text is designated as paragraph (1).

(b) A new paragraph (2) is added to read as follows:

"(2) For the purposes of this subsection, the term:

"(A) "Excessing" means the elimination of a teacher's position at a particular school, when such an elimination is not a reduction in force or abolishment, due to a:

"(i) Decline in student enrollment;

"(ii) Reduction in the local school budget;

"(iii) Closing or consolidation;

"(iv) Restructuring; or

"(v) Change in the local school program.

"(B) "Involuntarily separated" includes the excessing of a permanent status teacher, without regard to whether the teacher chose to reject options available to him or her, such as finding a placement elsewhere in the public schools of the District of Columbia.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Teachers' Retirement Amendment Act of 2013, signed by the Mayor on June 24, 2013 (D.C. Act 20-93; 60 DCR 9837), 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)).

ENROLLED ORIGINAL

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 31, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-147

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2013

To establish, on an emergency basis, the Center for Creative Non-Violence and District Government Task Force to advise the Council and the Mayor regarding the future use of the building and property owned by the District located at 425 2nd Street, N.W., and the future use of property owned by the Center for Creative Non-Violence adjacent to the District property, to establish better shelter space and homeless services, and to explore options for affordable workforce housing and transitional housing for homeless District residents.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "CCNV Task Force Emergency Act of 2013".

Sec. 2. Establishment of the Center for Creative Non-Violence and District Government Task Force.

(a) There is established the Center for Creative Non-Violence and District Government Task Force ("Task Force"). The purpose of the Task Force shall be to develop recommendations for the improvement of the District's services to homeless Center for Creative Non-Violence ("CCNV") residents. The Task Force may consider options regarding the future use of the District-owned property located at 425 2nd Street, N.W. ("District property"), and the property owned by CCNV adjacent to the District property. The Task Force shall explore how the District might establish better shelter space and homeless services and options for affordable workforce housing and transitional housing for homeless District residents.

(b) The Task Force shall meet beginning 30 days from the appointment of the Task Force members.

(c)(1) The Task Force shall be composed as follows:

(A) The Mayor, or his or her designee;

(B) The Chairperson of the Council's Committee on Human Services, who shall also chair the Task Force;

(C) The Director of the Department of General Services, or his or her designee;

(D) The Director of the Department of Human Services, or his or her designee;

ENROLLED ORIGINAL

(E) The Director of the Department of Behavioral Health, or his or her designee;

(F) The First District Commander of the Metropolitan Police Department, or his or her designee.

(G) A representative of CCNV; and

(H) One representative of the Interagency Council on Homelessness.

(2) The Task Force members set forth in paragraph (1)(G) and (H) of this subsection shall be selected by the organization the member will represent:

(d) All appointments to the Task Force shall be made within 30 days of the effective date of this act. Vacancies shall be filled in the same manner as the initial appointment was made.

(e) The Task Force may add additional members to serve as *ex officio* non-voting members as subject matter experts.

(f) The Task Force may establish its own rules of procedure.

(g) No later than 6 months after the appointment of Task Force members pursuant to subsection (c) of this section, the Task Force shall submit its recommendations to the Council and to the Mayor.

(h) This section shall sunset 6 months after the appointment of the Task Force, or upon the Task Force's submission of its report to the Mayor and Council, whichever occurs earlier.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
August 2, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-148

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2013

To establish new private contractor and subcontractor prompt payment laws, to establish time requirements for owners to pay contractors when the contract does not provide for specific dates and times of payment, to establish time requirements for owners to pay contractors when the contract does provide for specific dates and times of payment, to impose an interest penalty and assess reasonable attorney fees on an owner for failure to make prompt payments to a contractor, to establish time requirements for contractors to pay subcontractors, and to impose an interest penalty and assess reasonable attorney fees on a contractor for failure to make prompt payments to a subcontractor.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Private Contractor and Subcontractor Prompt Payment Act of 2013".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Contract" means:

(A) A construction contract that is an agreement of any kind of nature, express or implied, to provide labor or materials, or both, for demolition, building, renovation, alteration, or maintenance of buildings, roadways, and structures; or

(B) A food service contract that is an agreement of any kind of nature, express or implied, for doing work or furnishing materials, or both.

(2) "Contractor" means a person, entity, or business that has a contract with an owner.

(3) "Subcontractor" means:

(A) A person, entity, or business that has a contract with a contractor;

(B) A person, entity, or business that has a contract with a subcontractor; or

(C) A person, entity, or business that performs work on a construction site for a contractor or another subcontractor or that fabricates materials off-site, from plans and specifications unique to the project, for installation on the construction site.

(4) "Owner" means an owner of the property or a tenant; provided, that the tenant enters into contract with a contractor. The term "owner" does not include a District agency as

ENROLLED ORIGINAL

that term is defined in section 2(3) of the District of Columbia Quick Payment Act of 1984, effective March 15, 1985 (D.C. Law 5-164; D.C. Official Code § 2-221.01(3)).

(5) "Undisputed amount" means an amount owed on a contract or a subcontract for which there is no good-faith dispute, including any retainage withheld.

Sec. 3. Prompt payments to contractors.

(a) If a construction contract between an owner and contractor does not provide for specific dates and times of payment, the owner shall pay to the contractor undisputed amounts owed under the terms of the written contract within the earlier of:

(1) 15 days after the day on which the occupancy permit is granted;

(2) 15 days after the day on which the owner or the owner's agent takes possession; or

(3) 15 days after an owner receives a contractor's payment request.

(b) If a food service contract between an owner and contractor does not provide for specific dates and times of payment, the owner shall pay to the contractor undisputed amounts owed under the terms of the written contract within the earlier of:

(1) 15 days after the day on which the owner or the owner's agent takes possession; or

(2) 15 days after an owner receives a contractor's payment request.

(c) If a contract provides for specific dates or times of payment, the owner shall pay to the contractor undisputed amounts owed within 7 days after the date or time specified in the contract.

Sec. 4. Failure to make prompt payments to a contractor.

If an owner fails to make prompt payments to a contractor as required by section 3, the owner shall:

(1) Pay interest of 1.5% per month or any part of a month to the contractor on any undisputed amount not paid on time to the contractor; and

(2) If a contractor prevails in a civil action to collect interest penalties from an owner, the contractor shall be awarded its costs and disbursements, including reasonable attorney's fees, incurred in bringing the action.

Sec. 5. Prompt payments to subcontractors.

(a) If a contract is between a contractor and subcontractor, or between a first-tier subcontractor and a second-tier subcontractor, the contractor or subcontractor shall pay undisputed amounts owed to its subcontractor within 7 days after receipt by the contractor or subcontractor of each payment received for its subcontractors' work or materials.

(b) Notwithstanding subsection (a) of this section, conditions of payment to the subcontractor on receipt by the contractor of payment from the owner may not abrogate or waive the right of the subcontractor to:

ENROLLED ORIGINAL

(1) Claim a mechanics' lien; or

(2) Sue on a contractor's bond.

(c) Any provision of a contract made in violation of subsection (b) of this section is void as against the public policy of the District.

Sec. 6. Failure to make prompt payments to a subcontractor.

If a contractor fails to make prompt payments to a subcontractor as required by section 5, or a first-tier subcontractor fails to make prompt payments to a second-tier subcontractor, the contractor or subcontractor shall:

(1) Pay interest of 1.5% per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor; and

(2) If the subcontractor prevails in a civil action to collect interest penalties from a contractor or first-tier subcontractor, the subcontractor shall be awarded its costs and disbursements, including reasonable attorney's fees, incurred in bringing the action.

Sec. 7. Applicability.

This act shall apply to all contracts entered into on or after October 1, 2013.

Sec. 8. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report 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. 9. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) if the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat, 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
August 2, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-149

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2013

To order the closing of the entire T-shaped public alley in Square 77, S.O. 12-6036, in Ward 2.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of a Public Alley in Square 77, S.O. 12-6036, Act of 2013".

Sec. 2. Pursuant to section 201 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §9-202.01), the Council finds that the T-shaped public alley in Square 77, in Ward 2, as shown on the Surveyor's plat filed under S.O. 12-6036, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor's plat.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this act, upon its effective date, to the Office of the Surveyor and the Office of the Recorder of Deeds.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report 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 act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
August 2, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-150

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 5, 2013

To amend, on an emergency basis, An Act To classify the officers and members of the fire department of the District of Columbia, and for other purposes to clarify "major changes" to the provision of fire protection, fire prevention, or emergency medical services.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fire and Emergency Medical Services Major Changes Emergency Amendment Act of 2013".

Sec. 2. Section 1of An Act To classify the officers and members of the fire department of the District of Columbia, and for other purposes, approved June 20, 1906 (34 Stat. 314; D.C. Official Code § 5-401), is amended by adding a new subsection (b-1) to read as follows:

"(b-1) For the purposes of this section, the term "major changes" does not refer to the ability of the Department to hire or recruit to fill existing vacancies, to expend budgeted operating and capital funding, or to subsequently add those budgeted personnel and apparatus into deployment; provided, that there is no decrease in the existing deployment plan for the Department to provide fire protection, fire prevention, or emergency medical services.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
August 5, 2013

ENROLLED ORIGINAL

A RESOLUTION

20-190

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To declare the existence of an emergency with respect to the need to amend the Washington Metropolitan Area Transit Authority Board of Directors Act of 2012 to change the initial appointment date of Board of Director appointments from July 1, 2013, to January 2, 2014.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Washington Metropolitan Area Transit Authority Board of Directors Emergency Declaration Resolution of 2013".

Sec. 2. Section 2 of the Washington Metropolitan Area Transit Authority Board of Directors Act of 2012, effective April 27, 2013 (D. C. Law 19-286; D.C. Official Code § 9-1108.11), requires that initial appointments to the Board of Directors be done on July 1, 2013. As no appointments have yet been introduced, there is insufficient time to complete the full Council process and meet the current statutory mandate. This emergency will change the initial appointment date from July 1, 2013, to January 2, 2014, in order to allow sufficient time to properly vet appointees to the board.

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 Washington Metropolitan Area Transit Authority Board of Directors Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. The resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-191

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To declare the existence of an emergency with respect to the need to authorize the Mayor and Chairman of the Council to jointly execute one or more quitclaim deeds to transfer property located within the Southwest Waterfront Project Site.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Southwest Waterfront Project Quitclaim Deed Authorization Emergency Declaration Resolution of 2013".

Sec. 2. (a) On July 9, 2012, the President signed H.R. 2297, An Act To promote the development of the Southwest waterfront in the District of Columbia, and for other purposes ("Act"), which authorized the District to transfer ownership of certain property located at the Southwest Waterfront Project Site from the federal government through use of a quitclaim deed.

(b) To do so, however, the law (D.C. Official Code § 6-321.01) requires the Council of the District of Columbia to effectuate the transfer.

(c) The Mayor expects to close with the developer during the summer but, to do so, the Council must provide the necessary authority for the Mayor and Chairman of the Council to jointly execute one or more quitclaim deeds.

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 Southwest Waterfront Project Quitclaim Deed Authorization Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-192

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To declare the existence of an emergency with respect to the need to approve Modification Nos. 1 and 2 to Human Care Agreement No. DCJZ-2010-H-0025 to provide therapeutic family homes services to the District and to authorize payment for the services received under that agreement.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Option Year One Modifications to Human Care Agreement No. DCJZ-2010-H-0025 Disapproval Emergency Declaration Resolution of 2013".

Sec. 2. (a) There exists a need to approve Modification Numbers 1 and 2 to Human Care Agreement No. DCJZ-2010-H-0025 with Beyondvision, Inc., to provide therapeutic family homes services to the District and to authorize payment for the services received under that agreement.

(b) On July 1, 2010, the Office of Contracting and Procurement ("OCP") awarded Human Care Agreement No. DCJZ-2010-H-0025 to Beyondvision, Inc.

(c) During the first option year, OCP issued 2 modifications to Human Care Agreement No. DCJZ-2010-H-0025, totaling $1,072,171.26 .

(d) Council approval is necessary as these modifications increased the agreement by more than $1 million during a 12-month period.

(e) Approval is necessary to allow the continuation of these vital services. Without this approval, Beyondvision, Inc., cannot be paid for services provided in excess of $1,000,000 for the first option year.

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 Option Year One Modifications to Human Care Agreement No. DCJZ-2010-H-0025 Disapproval Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-193

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To declare the existence of an emergency with respect to the need to approve Modification Nos. 3 and 4 to Human Care Agreement No. DCJZ-2010-H-0025 to provide therapeutic family homes services to the District and to authorize payment for the services received under that agreement.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Option Year Two Modifications to Human Care Agreement No. DCJZ-2010-H-0025 Disapproval Emergency Declaration Resolution of 2013".

Sec. 2. (a) There exists a need to approve modification number 3 and modification number 4 to Human Care Agreement No. DCJZ-2010-H-0025 with Beyondvision, Inc., to provide therapeutic family homes services to the District and to authorize payment for the services received under that agreement.

(b) On July 1, 2010, the Office of Contracting and Procurement ("OCP") awarded Human Care Agreement No. DCJZ-2010-H-0025 to Beyondvision, Inc.

(c) During the second option year, OCP issued modification number 3 exercising option year 2 under Human Care Agreement No. DCJZ-2010-H-0025.

(d) OCP now proposes to issue modification number 4 to increase the total not-to-exceed amount to $1,901,419.80.

(e) Council approval is necessary because these modifications increased the agreement by more than $1 million during a 12-month period.

(f) Approval is necessary to allow the continuation of these vital services. Without this approval, Beyondvision, Inc., cannot be paid for services provided in excess of $1 million during the second option year.

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 Option Year Two Modifications to Human Care Agreement No. DCJZ-2010-H-0025 Disapproval Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-194

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To declare the existence of an emergency with respect to the need to approve Contract No. DCHT-2012-C-0025 to provide and administer a point-of-sale pharmacy system and related activities to support the pharmacy programs for eligible District Medicaid and Medicaid waiver beneficiaries and to authorize payment for the services received and to be received under that contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. DCHT-2012-C-0025 Approval and Payment Authorization Emergency Declaration Resolution of 2013".

Sec. 2. (a) There exists an immediate need to approve Contract No. DCHT-2012-C-0025 to authorize payment for the services received and to be received under that contract.

(b) On April 19, 2013, the District entered into a letter contract with Xerox State Healthcare, LLC ("Xerox") through the Office of Contracting and Procurement ("OCP") on behalf of the Department of Health Care Finance to provide and administer a point of sale pharmacy system and related activities to support the pharmacy programs for eligible District Medicaid and Medicaid waiver beneficiaries from April 21, 2013, through June 30, 2013, in an amount not to exceed of $596,781.68.

(c) OCP now desires to definitize Contract No. DCHT-2012-C-0025 with Xerox for the period from April 21, 2013, through February 20, 2014, in the amount of $2,387,126.70.

(d) Council approval is necessary because the value of Contract No. DCHT-2012-C-0025 is more than $1,000,000 during a 12-month period.

(e) Approval is necessary to allow the continuation of these vital services. Without this approval, Xerox 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-0025 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

20-195

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To declare the existence of an emergency with respect to the need to expeditiously adopt the National Law Enforcement Officers Memorial Fund, Inc. Revenue Bonds Project Emergency Approval Resolution of 2013.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "National Law Enforcement Officers Memorial Fund, Inc. Revenue Bonds Project Emergency Declaration Resolution of 2013".

Sec. 2. (a) National Law Enforcement Officers Memorial Fund, Inc. ("Borrower") has requested that the District issue revenue bonds ("Bonds").

(b) The proposed financing will make available funds critically needed to finance, refinance, and reimburse the Borrower to:

(1) Construct, design, furnish, and equip an approximately 53,000 square foot national law enforcement museum, and functionally related and subordinate property, to be located at 444 E Street, N.W., Washington D.C. ("Facility");

(2) Fund any required debt service reserve fund or capitalized interest on the Bonds;

(3) Pay certain working capital expenditures associated with the Facility; and

(4) Pay certain costs of issuance of the Bonds, as well as any bond insurance or credit enhancement.

(c) Due to the current economic uncertainty in the financial markets and the continued fluctuations of interest rates, it is important to expedite the process for the issuance of the Bonds and avoid any delay that could adversely affect the ability of the Borrower to market the Bonds to investors or obtain an interest rate within the range contemplated.

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 National Law Enforcement Officers Memorial Fund, Inc. Revenue Bonds Project Emergency Approval Resolution of 2013 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-196

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To authorize and provide, on an emergency basis, for the issuance, sale, and delivery in an aggregate principal amount not to exceed $110 million of District of Columbia revenue bonds in one or more series, pursuant to a plan of finance, and to authorize and provide for the loan of the proceeds of such bonds to assist the National Law Enforcement Officers Memorial Fund, Inc. in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "National Law Enforcement Officers Memorial Fund, Inc. Revenue Bonds Project Emergency Approval Resolution of 2013".

Sec. 2. Definitions.

For the purpose of this resolution, the term:

(1) "Authorized Delegate" means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor's functions under this resolution pursuant to section 422(6) of the Home Rule Act.

(2) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, pursuant to a plan of finance, authorized to be issued pursuant to this resolution.

(4) "Borrower" means the owner of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be the National Law Enforcement Officers Memorial Fund, Inc., a District of Columbia non-profit corporation organized under the laws of the District of Columbia, and exempt from federal income taxes under 26 U.S.C § 501(a) as an organization described in 26 U.S.C. § 501(c)(3).

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

(6) "Closing Documents" means all documents and agreements other than Financing Documents that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

ENROLLED ORIGINAL

(7) "District" means the District of Columbia.

(8) "Financing Documents" means the documents other than Closing Documents that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document, and any required supplements to any such documents.

(9) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) "Issuance Costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan contemplated thereby, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) "Loan" means the District's lending of proceeds from the sale, in one or more series, pursuant to a plan of finance, of the Bonds to the Borrower.

(12) "Mayor" means the Mayor of the District of Columbia.

(13) "Project" means the financing, refinancing or reimbursing of all or a portion of the Borrower's cost to:

(A) Construct, design, furnish and equip an approximately 53,000 square foot national law enforcement museum, and functionally related and subordinate property, to be located at 444 E Street, N.W., Washington D.C., (Federal Land Reservation #No. 7) ("Facility");

(B) Fund any required debt service reserve fund or capitalized interest on the Bonds;

(C) Pay certain working capital expenditures associated with the Facility; and

(D) Pay certain costs of issuance of the Bonds, as well as any bond insurance or credit enhancement.

Sec. 3. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act provides that the Council may by resolution authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse and to assist in the financing, refinancing, or reimbursing of undertakings in certain areas designated in section 490 and may effect the financing, refinancing, or reimbursement by loans made directly or

indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series, pursuant to a plan of finance, in an aggregate principal amount not to exceed $110 million and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

(3) The Project is located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(4) The Project is an undertaking in the area of recreation, tourism and hospitality facilities within the meaning of section 490 of the Home Rule Act.

(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act, and will assist the Project.

Sec. 4. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this resolution to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, pursuant to a plan of finance, in an aggregate principal amount not to exceed $110 million; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction and assisting in the redemption, repurchase, and remarketing of the Bonds.

Sec. 5. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this resolution in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the Bonds, and the maturity date or dates of the Bonds;

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

(8) The time and place of payment of the Bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this resolution;

(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and

(11) The terms and types of credit enhancement under which the Bonds may be secured.

(b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

(f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series, pursuant to a plan of finance.

Sec. 6. Sale of the Bonds.

(a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters and may authorize the distribution of the documents in connection with the sale of the Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

Sec. 7. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts, and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

Sec. 8. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower. Each of the Financing Documents and each of the Closing Documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds, the other Financing Documents, and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents, including those Financing Documents and Closing Documents to which the District is not a party.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 9. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this resolution.

Sec. 10. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 7.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees, or agents to perform any covenant, undertaking, or obligation under this resolution, the Bonds, the Financing Documents, or the Closing Documents,

nor as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 11. District officials.

(a) Except as otherwise provided in section 10(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance, sale or delivery of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

Sec.12. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec.13. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 14. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

(c) The District, by adopting this resolution or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on the

Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall rely upon the District with respect to these matters.

Sec. 15. Expiration.

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the date of this resolution, the authorization provided in this resolution with respect to the issuance, sale, and delivery of the Bonds shall expire.

Sec. 16. Severability.

If any particular provision of this resolution, or the application thereof to any person or circumstance, is held invalid the remainder of this resolution and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this resolution is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the Bonds, and the validity of the Bonds shall not be adversely affected.

Sec. 17. Compliance with public approval requirement.

This approval shall constitute the approval of the Council as required in section 147(f) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2635; 26 U.S.C. § 147(f), and section 490(k) of the Home Rule Act, for the Project to be financed, refinanced, or reimbursed with the proceeds of the Bonds. This resolution approving the issuance of the Bonds for the Project has been adopted by the Council after a public hearing held at least 14 days after publication of notice in a newspaper of general circulation in the District.

Sec. 18. Transmittal.

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

Sec. 19. 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 Home Rule Act.

Sec. 20. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-197

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To declare the existence of an emergency with respect to the need to approve Change Orders Nos. 019 through 027 to the Contract for Design-Build Services for the Modernization of Anacostia Senior High School between the District of Columbia government and EEC of DC | Forrester Construction Anacostia Senior High School Joint Venture, Contract No. GM-09-M-0511-FM, and to authorize payment to EEC of DC | Forrester Construction Anacostia Senior High School Joint Venture in the aggregate amount of $2,921,117 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. 019 through 027 to Contract No. GM-09-M-0511-FM Approval and Payment Authorization Emergency Declaration Resolution of 2013".

Sec. 2. (a) There exists an immediate need to approve Change Orders Nos. 019 through 027 to Contract No. GM-09-M-0511-FM for design-build services and additional project scope consisting of changes to flooring materials in Phase 2 spaces, new terrazzo flooring in the cafeteria, and new HAZMAT abatement work in the aggregate amount of $2,921,117, and to authorize payment for the goods and services received under these change orders.

(b) The Council of the District of Columbia previously approved EEC of DC | Forrester Construction Anacostia Senior High School Joint Venture, Contract No. GM-09-M-0511-FM (CA 18-197, CA 18-373, and CA 19-144).

(c) Change Order No. 027 will cause the aggregate change orders issued subsequent to Council approval of Change Order No. 018, to EEC of DC | Forrester Construction Anacostia Senior High School Joint Venture, under Contract No. GM-09-M-0511-FM to exceed the $1 million threshold pursuant to D.C. Official Code § 1-204.51.

(d) Approval of Change Orders Nos. 019 through 027 and authorization of payment in the aggregate amount of $2,921,117 to EEC of DC | Forrester Construction Anacostia Senior High School Joint Venture are necessary to compensate the contractor and its subcontractors for work completed at Anacostia 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

ENROLLED ORIGINAL

Orders Nos. 019 through 027 to Contract No. GM-09-M-0511-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

20-198

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To reappoint Mr. William Whitehead Treanor to the Children and Youth Investment Trust Corporation Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Children and Youth Investment Trust Corporation Board of Directors William Whitehead Treanor Reappointment Resolution of 2013".

Sec. 2. The Council of the District of Columbia reappoints:

Mr. William Whitehead Treanor
3745 Oliver Street, N.W.
Washington, D.C. 20015
(Ward 3)

to the Board of Directors of the Children and Youth Investment Trust Corporation, established pursuant to section 2404 of the Children and Youth Initiative Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-38; 46 DCR 6408), for a 2-year term to end May 30, 2015.

Sec. 3. The Secretary to the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, the chairperson of the Board of Directors of the Children and Youth Investment Trust Corporation, and the Office of the Mayor.

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

ENROLLED ORIGINAL

A RESOLUTION

20-199

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To appoint Ms. Jessica A. Sandoval to the Children and Youth Investment Trust Corporation Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Children and Youth Investment Trust Corporation Board of Directors Jessica A. Sandoval Appointment Resolution of 2013".

Sec. 2. The Council of the District of Columbia appoints:

Ms. Jessica A. Sandoval
605 Columbia Road, N.W.
Washington, D.C. 20001
(Ward 1)

to the Board of Directors of the Children and Youth Investment Trust Corporation, established pursuant to section 2404 of the Children and Youth Initiative Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-38; 46 DCR 6408), for a 2-year term to end May 30, 2015.

Sec. 3. The Secretary to the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, the chairperson of the Board of Directors of the Children and Youth Investment Trust Corporation, and the Office of the Mayor.

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

ENROLLED ORIGINAL

A RESOLUTION

20-200

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To appoint Mr. Fred Taylor to the Children and Youth Investment Trust Corporation Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Children and Youth Investment Trust Corporation Board of Directors Fred Taylor Appointment Resolution of 2013".

Sec. 2. The Council of the District of Columbia appoints:

Mr. Fred Taylor
124 S Street, N.W.
Washington, D.C. 20001
(Ward 5)

to the Board of Directors of the Children and Youth Investment Trust Corporation, established pursuant to section 2404 of the Children and Youth Initiative Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-38; 46 DCR 6408), for a 2-year term to end May 30, 2015.

Sec. 3. The Secretary to the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, the chairperson of the Board of Directors of the Children and Youth Investment Trust Corporation, and the Office of the Mayor.

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

ENROLLED ORIGINAL

A RESOLUTION

20-201

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To confirm the reappointment of Ms. Alejandra Y. Castillo as a member of the Board of Trustees of the University of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Trustees of the University of the District of Columbia Alejandra Y. Castillo Confirmation Resolution of 2013".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Ms. Alejandra Y. Castillo
1940 Biltmore Street, N.W.
Washington, D.C. 20009
(Ward 1)

as a member of the Board of Trustees of the University of the District of Columbia, established by section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1424; D.C. Official Code § 38-1202.01), for a term to end May 15, 2018.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-202

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To confirm the reappointment of Dr. Gabriela D. Lemus as a member of the Board of Trustees of the University of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Trustees of the University of the District of Columbia Gabriela D. Lemus Confirmation Resolution of 2013".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Dr. Gabriela D. Lemus
6310 16th Street, N.W.
Washington, D.C. 20011
(Ward 4)

as a member of the Board of Trustees of the University of the District of Columbia, established by section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1424; D.C. Official Code § 38-1202.01), for a term to end May 15, 2018.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-203

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To confirm the reappointment of Major General R. Errol R. Schwartz as a member of the Board of Trustees of the University of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Trustees of the University of the District of Columbia Errol R. Schwartz Confirmation Resolution of 2013".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Major General Errol R. Schwartz
17320 Queen Anne Road
Upper Marlboro, M.D. 20774

as a member of the Board of Trustees of the University of the District of Columbia, established by section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1424; D.C. Official Code § 38-1202.01), for a term to end May 15, 2018.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-204

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To confirm the reappointment of Ms. Elaine A. Crider as a member of the Board of Trustees of the University of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Trustees of the University of the District of Columbia Elaine A. Crider Confirmation Resolution of 2013".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Ms. Elaine A. Crider
501 Trenton Street, S.E.
Washington, D.C. 20032
(Ward 8)

as a member of the Board of Trustees of the University of the District of Columbia, established by section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1424; D.C. Official Code § 38-1202.01), for a term to end May 15, 2018.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-205

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To confirm the reappointment of Mr. George Vradenburg as a member of the Board of Trustees of the University of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Trustees of the University of the District of Columbia George Vradenburg Confirmation Resolution of 2013".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Mr. George Vradenburg
2901 Woodland Drive, N.W.
Washington, D.C. 20008
(Ward 3)

as a member of the Board of Trustees of the University of the District of Columbia, established by section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1424; D.C. Official Code § 38-1202.01), for a term to end May 15, 2018.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-206

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To approve proposed rules of the Alcoholic Beverage Control Board that would amend section 199 of Title 23 of the District of Columbia Municipal Regulations to add a definition of a full-service grocery store.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Full Service Grocery Store Definition Rules Approval Resolution of 2013".

Sec. 2. Pursuant to D.C. Official Code § 25-211(b)(2), on May 30, 2013, the Mayor transmitted to the Council proposed rules of the Alcoholic Beverage Control Board. The proposed rule adds a definition for a full-service grocery store. The Council approves the proposed rules, published at 60 DCR 6230, to amend section 199 of Title 23 of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor and the Chairperson of the Alcoholic Beverage Control Board.

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.

ENROLLED ORIGINAL

A RESOLUTION

20-207

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To approve proposed rules of the Alcoholic Beverage Control Board that make technical amendments to Title 23 of the District of Columbia Municipal Regulations to conform to changes contained in the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012, or any similar succeeding legislation, and other administrative changes not related to the act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Technical Amendment Rules Approval Resolution of 2013".

Sec. 2. Pursuant to D.C. Official Code § 25-211(b)(2), on May 30, 2013, the Mayor transmitted to the Council proposed rules of the Alcoholic Beverage Control Board. The proposed rules make technical amendments to the regulations to conform to changes contained in the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 ("Act"), effective January 14, 2013 (D.C. Act 19-597; 60 DCR 1001), or any similar succeeding legislation, and also includes other administrative changes not related to the Act. The Council approves the proposed rules, published at 60 DCR 5641, to amend Title 23 of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor and the Chairperson of the Alcoholic Beverage Control Board.

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.

ENROLLED ORIGINAL

A RESOLUTION

20-208

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To confirm the Alcoholic Beverage Control Board's reappointment of Mr. Frederick P. Moosally as the Director of the Alcoholic Beverage Regulation Administration.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Director of the Alcoholic Beverage Regulation Administration Frederick P. Moosally Confirmation Resolution of 2013".

Sec. 2. The Council of the District of Columbia confirms the re-appointment of:

Mr. Frederick P. Moosally
4630 48th Street, N.W.
Washington, D.C. 20016
(Ward 3)

as the Director of the Alcoholic Beverage Regulation Administration, in accordance with D.C. Official Code § 25-207(a), for a term to end July 14, 2017.

Sec. 3 The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-209

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 10, 2013

To confirm the appointment of Mr. Stanley Jackson to the Housing Production Trust Fund Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Housing Production Trust Fund Board Stanley Jackson Confirmation Resolution of 2013".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. Stanley Jackson
52 Brandywine Street, S.W.
Washington, D.C. 20032
(Ward 8)

as a member, with significant knowledge of an area related to the production, preservation, and rehabilitation of affordable housing for lower-income households, of the Housing Production Trust Fund Board, established by section 3a of the Housing Production Trust Fund Act of 1988, effective June 8, 1990 (D.C. Law 8-133; D.C. Official Code § 42-2802.01), replacing Vicki Crudup-Davis, for a term to end January 14, 2017.

Sec. 3. The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 20-196, Health Benefit Exchange Authority Establishment Amendment Act of 2013

on

Tuesday, October 22, 2013
11:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces a public hearing of the Committee of the Whole on Bill 20-196, the "Health Benefit Exchange Authority Establishment Amendment Act of 2013." The public hearing will be held Tuesday, October 22, 2013, at 11:00 a.m. in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

Bill 20-196 concerns procurement, which is under the purview of the Committee of the Whole. The stated purpose of Bill 20-196 is to amend the Health Benefit Exchange Authority Establishment Act of 2011 to streamline the procurement process for the Health Benefit Exchange Authority by clarifying that such procurements are not subject to the Procurement Practices Reform Act of 2010. Emergency and temporary versions of this legislation were passed by the Council on May 7, 2013 and subsequently signed by the Mayor. Permanent legislation is necessary to maintain this separate procurement authority for the Exchange after expiration of the temporary legislation in early 2014.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Evan Cash, Committee Director, at ecash@dccouncil.us and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Friday, October 18, 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 October 18, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of Bill 20-196 can be obtained through the Legislative Services Division of the Secretary of the Council's office or at http://dcclims1.dccouncil.us/lims.

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 of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Tuesday, November 5, 2013.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 20-298, Closing of a Public Alley in Square 5452, S.O. 12-03541, Act of 2013

Bill 20-388, Closing of a Public Alley in Square 858, S.O. 12-03336, Act of 2013

on

Thursday, October 3, 2013
11:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces a public hearing of the Committee of the Whole on Bill 20-298, the "Closing of a Public Alley in Square 5452 S.O. 12-03541 Act of 2013," and Bill 20-338, the "Closing of a Public Alley in Square 858, S.O. 12-03336 Act of 2013." The public hearing will be held Thursday, October 3, 2013, at 11:00 a.m. in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The stated purpose of Bill 20-298 is to approve the closing of a portion of the public alley in Square 5452 bounded by F Street, S.E., 33rd Street, S.E., E Street, S.E., and Minnesota Avenue, S.E., in Ward 7. Approval of Bill 20-298 will transfer ownership and responsibility for the closed portion of the public alley to the Potomac Baptist Church.

The stated purpose of Bill 20-338 is to approve the closing of a portion of the public alley in Square 858 bounded by H Street, N.E., 7th Street, N.E., I Street, N.E. and 6th Street, N.E., in Ward 6. Approval of Bill 20-338, will allow for the development of a residential building with ground floor retail.

Those who wish to testify are asked to contact the Committee of the Whole, at (202) 724-8196, or e-mail Crispus Gordon, III, Legislative Assistant, at cgordon@dccouncil.us and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Tuesday, October 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 October 1, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. Copies of Bill 20-298 and Bill 20-338 can be obtained through the Legislative Services Division of the Secretary of the Council or on http://dcclims1.dccouncil.us/lims.

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 of the Whole, Council of the District of Columbia, Suite 410 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 Thursday, October 17, 2013.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

PR 20-83, Sense of the Council Supporting Mayor Gray's and Congresswoman Norton's Efforts to Maintain the FBI Headquarters in the District of Columbia Resolution of 2013

&

Bill 20-364, Public Charter School Historic Preservation Amendment Act of 2013

on

Thursday, October 17, 2013
10:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces a public hearing of the Committee of the Whole on PR 20-83, the "Sense of the Council Supporting Mayor Gray's and Congresswoman Norton's Efforts to Maintain the FBI Headquarters in the District of Columbia Resolution of 2013" and Bill 20-364, the "Public Charter School Historic Preservation Amendment Act of 2013." The public hearing will be held Thursday, October 17, 2013, at 10:00 a.m. in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The stated purpose of PR 20-83 is to declare the sense of the Council supporting Mayor Gray's and Congresswoman Norton's efforts to petition the General Services Administration to maintain the headquarters of the Federal Bureau of Investigation (FBI) in the District of Columbia, and to support the Administration in creating a plan for development of the land at the current FBI headquarters site.

The stated purpose of Bill 20-364 is to ensure that the proposed demolition, alteration, subdivision, or new construction of a public charter school building owned by the District of Columbia will undergo the same review by the Historic Preservation Office as is required for District of Columbia Public Schools buildings owned by the District.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Jessica Jacobs, Legislative Counsel, at jjacobs@dccouncil.us and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Tuesday, October 15, 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 October 15, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of PR 20-83 and Bill 20-364 can be obtained through the Legislative Services Division of the Secretary of the Council's office or at http://dcclims1.dccouncil.us/lims.

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 of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Thursday, October 31, 2013.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

PR 20-354, Contract Appeals Board Monica Parchment Confirmation Resolution of 2013

on

Thursday, October 3, 2013
12:30 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces a public hearing of the Committee of the Whole on PR 20-354, the "Contract Appeals Board Monica Parchment Confirmation Resolution 2013." The public hearing will be held Thursday, October 3, 2013, at 12:30 p.m. in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The stated purpose of PR 20-354 is to confirm the re-appointment of Ms. Monica Parchment to the Contract Appeals Board. The purpose of this hearing is to receive testimony from government and public witnesses as to the fitness of this nominee for the Board.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Evan Cash, Committee Director, at ecash@dccouncil.us and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Tuesday, October 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 October 1, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of PR 20-354 can be obtained through the Legislative Services Division of the Secretary of the Council's office or at http://dcclims1.dccouncil.us/lims.

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 of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, October 11, 2013.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC OVERSIGHT HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC OVERSIGHT HEARING

on

Office of Contracting and Procurement's Progress on Implementation of the Fiscal Year 2014 Budget and Update on the Contracting Reform Initiative

on

Thursday, October 10, 2013
12:30 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces a public oversight hearing of the Committee of the Whole on the Office of Contracting and Procurement's Progress on Implementation of the Fiscal Year 2014 Budget and Update on the Contracting Reform Initiative. The public oversight hearing will be held Thursday, October 10, 2013, at 12:30 p.m. in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The purpose of this oversight hearing is to receive testimony from the Office of Contracting and Procurement (OCP) on its implementation of the Fiscal Year 2014 budget which takes effect on October 1, 2013. The Council-approved budget includes funding for additional staff, training, and continued implementation of a contracting reform initiative aimed at improving the procurement process. According to testimony during previous budget and oversight hearings, OCP has begun implementation of this initiative, however, the timeline has been delayed several times.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Evan Cash, Committee Director, at ecash@dccouncil.us and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Tuesday, October 8, 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 October 8, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five 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 the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Thursday, October 24, 2013.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC OVERSIGHT HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC OVERSIGHT HEARING

on

The Progress of the University of the District of Columbia's Strategic Plan and Its Impact on Accreditation

on

Friday, September 27, 2013
12:30 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces a public oversight hearing of the Committee of the Whole on the Progress of the University of the District of Columbia's (UDC) Strategic Plan and Its Impact on Accreditation. The public oversight hearing will be held Friday, September 27, 2013, at 12:30 p.m. in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The purpose of the oversight hearing is to receive testimony from both public and government witnesses on the status of UDC's strategic plan, with particular emphasis on how the plan will affect both the University's reaccreditation and the accreditation of the Community College. Currently the University is developing its strategic plan, which should be debuted in December. Additionally, the University is planning for its accreditation reaffirmation, which will occur during the 2015-2016 academic year, as well as preparing the Community College to be deemed "separately accreditable" by Middle States Commission on Higher Education. The Committee invites testimony as to how the strategic plan will impact the planning for these accreditation efforts and the University's needs in order to realize those efforts.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Christina Setlow, Legislative Counsel, at csetlow@dccouncil.us and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Wednesday, September 25, 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 September 25, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five 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 the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, October 11, 2013.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE ON EDUCATION
NOTICE OF JOINT PUBLIC OVERSIGHT HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
THE COMMITTEE OF THE WHOLE
AND
COUNCILMEMBER DAVID CATANIA
THE COMMITTEE ON EDUCATION
ANNOUNCE A JOINT PUBLIC OVERSIGHT HEARING

on

TRUANCY REDUCTION IN THE D.C. PUBLIC EDUCATION SYSTEM

on

Thursday, October 10, 2013
10:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson and Councilmember David Catania announce the scheduling of a Joint Public Oversight Hearing of the Committee of the Whole and the Committee on Education to discuss truancy reduction in the District of Columbia Public Education System. The public oversight hearing is scheduled for Thursday, October 10, 2013 at 10:00 a.m., in hearing room 412 of the John A. Wilson Building.

The purpose of this public oversight hearing is to hear testimony regarding the progress of DCPS and supporting agencies in responding to the problem of truancy, and to ascertain what the government plans to do this upcoming school year (2013-2014) to reduce truancy. Experience shows that many of the District's students with high rates of truancy will never finish school and, as a result, will most likely struggle to be productive adults. Similar hearings were held on February 28, 2013 and June 24, 2013, and the Committees will continue to hold these oversight hearings.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Renee Johnson, Legislative Assistant, at rjohnson@dccouncil.us and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Tuesday, October 8, 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 October 8, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five 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 the Committee of the Whole, Council of the District of Columbia, Suite 410 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 Thursday, October 24, 2013.

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

Thursday, August 29, 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 Thursday, August 29, 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 Tuesday, August 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 Tuesday, August 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 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 September 12, 2013.

COUNCIL OF THE DISTRICT OF COLUMBIA

EXCEPTED SERVICE APPOINTMENTS AS OF JULY 31, 2013

NOTICE OF EXCEPTED SERVICE EMPLOYEES

D.C. Code § 1-609.03(c) requires that a list of all new appointees to Excepted Service positions established under the provisions of § 1-609.03(a) be published in the D.C. Register. In accordance with the foregoing, the following information is hereby published for the following positions.

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	**POSITION TITLE**	**GRADE**	**TYPE OF APPOINTMENT**
Cassillo, Anthony	Constituent Services Specialist	1	Excepted Service - Reg Appt
Ward, Devin	Communications Director	4	Excepted Service - Reg Appt

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 16, 2013
Petition Date: September 30, 2013
Hearing Date: October 15, 2013
Protest Date: December 4, 2013

License No.: ABRA-092860
Licensee: Ivy and Coney, LLC
Trade Name: Ivy and Coney
License Class: Retail Class "C" Tavern
Address: 1537 7th Street, N.W.
Contact: Cheryl Webb, (202) 277-7461

WARD 6 ANC 6E SMD 6E02

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 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 for1:30pm on December 4, 2013.

NATURE OF OPERATION
New neighborhood tavern serving food with entertainment limited to a jukebox and occasional DJ performances for special events and private parties. Occupancy load is 60.

HOURS OF OPERATON
Sunday through Thursday 10 am – 2 am, Friday and Saturday 10 am – 3 am

HOURS OF SALES/SERVICE/CONSUMPTION
Sunday through Thursday 10 am – 2 am, Friday and Saturday 10 am – 3 am

HOURS OF ENTERTAINMENT
Sunday through Thursday 6 pm – 2 am, Friday and Saturday 6 pm – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 16, 2013
Petition Date: September 30, 2013
Hearing Date: October 15, 2013

License No.: ABRA-084939
Licensee: Lee's Mini Market, Inc.
Trade Name: Lee's Mini Market
License Class: Retailer's Class "B"
Address: 3853 Alabama Ave., SE
Contact: Kevin Lee, Esq. 703-941-3133

WARD 7 ANC 7B SMD 7B07

Notice is hereby given that this licensee 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. Petition and/or request to appear before the Board must be filed on or before the petition date.

Licensee requests the following substantial change to its nature of operation:

Request a class change from Retailer Class B license to Retailer Class A license

CURRENT HOURS OF OPERATION
Sunday through Saturday 7 am – 10 pm

HOUR OF ALCOHOLIC BEVERAGE SALES
Sunday through Saturday 9:30 am – 10 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	August 16, 2013
Petition Date:	September 30, 2013
Hearing Date:	October 15, 2013
Protest Hearing Date:	December 4, 2013
License No.:	ABRA- 092685
Licensee:	Historic Restaurants Inc
Trade Name:	Washington Firehouse Restaurant/Washington Smokehouse
License Class:	Retailer's Class "C" Tavern
Address:	1626 North Capitol Street NW
Contact:	Makan Shirafkan, 703-828-4529

WARD 5 ANC 5E SMD 5E06

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 1:30pm on December 4, 2013.

NATURE OF OPERATION
New Tavern with entertainment limited to music and musicians only. Cigar Bar in the rear of 3rd floor. Seating capacity is 322. Total load is 370. Summer Garden with seating for 85 patrons.

HOURS OF OPERATION FOR INSIDE PREMISES
Sunday through Thursday 8am-2am; Friday and Saturday 8am-3am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION AND ENTERTAINMENT FOR INSIDE PREMISES
Sunday through Thursday 8am-1:30am; Friday and Saturday 8am-2:30am

HOURS OF SUMMER GARDEN OPERATION
Sunday through Saturday 8am-12am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION AND ENTERTAINMENT FOR SUMMER GARDEN
Sunday through Saturday 8am-11:30pm

DEPARTMENT OF GENERAL SERVICES

NOTICE OF PUBLIC MEETINGS REGARDING SURPLUS RESOLUTIONS PURSUANT TO D.C. OFFICIAL CODE 10-801

The District will conduct a public hearing to receive public comments on the proposed surplus of the following District properties. The date, time and location shall be as follows:

Properties: Parcel No: 02140185 – 3100 Erie Street, SE ("Winston School Building")

Date: August 27, 2013
Time: 6:00 p.m.
Location: Hillcrest Recreation Center
3100 Denver Street, SE
Washington, DC

Contact: Althea O. Holford, Real Estate Specialist
Department of General Services
202.478.2428 or althea.holford@dc.gov

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF RESCHEDULED[1] PUBLIC HEARING

TIME AND PLACE: **Monday, November 25, 2013, @ 6:30 p.m.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-S
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Case No. 10-32A Georgetown University – Northeast Triangle Residence Hall

THIS CASE IS OF INTEREST TO ANC 2E

Application of President and Directors of Georgetown College (Georgetown University), pursuant to 11 DCMR § 3104.1, for amendment to the 2010-2017 Campus Plan and further processing of the 2010-2017 Campus Plan, as well as variance relief from 11 DCMR § 400.9, to permit the construction of a new residence hall on the University's Main Campus, located at 3700 O Street, N.W. (Square 1321, Lot 1). The proposed residence hall is located in the center of the campus to the south of Henle Village and to the east of the Leavey Center.

PLEASE NOTE:

- Failure of the Applicant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Commission.

- Failure of the Applicant to be adequately prepared to present the application to the Commission, and address the required standards of proof for the application, may subject the application to postponement, dismissal, or denial.

The public hearing in this case will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, Zoning. Pursuant to § 3117.4 of the Regulations, the Commission will impose time limits on the testimony of all individuals.

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of

[1] Case previously scheduled for hearing on September 23, 2013.

personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of 11 DCMR § 3106.2.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

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 Commission, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning's website at: http://dcoz.dc.gov/services/app.shtm**. This form may also be obtained from the Office of Zoning at the address stated below.

To the extent that the information is not contained in the Applicant's prehearing submission as required by 11 DCMR § 3013.1, the Applicant shall also provide this information not less than 14 days prior to the date set for the hearing.

If an affected Advisory Neighborhood Commission (ANC) intends to participate at the hearing, the ANC shall submit the written report described in § 3012.5 no later than seven (7) days before the date of the hearing. The report shall contain the information indicated in § 3012.5 (a) through (i).

Information responsive to this notice should be forwarded to the Director, Office of Zoning, Suite 200-S, 441 4th Street, N.W., Washington, D.C. 20001. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING

TIME AND PLACE: **Thursday, October 24, 2013, at 6:30 p.m.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-S
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Case No. 10-32B Georgetown University – Proton Therapy Addition

THIS CASE IS OF INTEREST TO ANC 2E

Application of President and Directors of Georgetown College (Georgetown University), pursuant to 11 DCMR § 3104.1, for amendment to the 2010-2017 Campus Plan and further processing of the 2010-2017 Campus Plan, to permit the construction of a new Proton Therapy addition to the Lombardi Cancer Center on the University's Main Campus, located at 3800 Reservoir Road, N.W., (Square 1321, Lot 817). The proposed Proton Therapy addition is located in the interior of the campus to the south of the Lombardi Cancer Center and to the north of the Leavey Center.

PLEASE NOTE:

* Failure of the Applicant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Commission.

* Failure of the Applicant to be adequately prepared to present the application to the Commission, and address the required standards of proof for the application, may subject the application to postponement, dismissal, or denial.

The public hearing in this case will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, Zoning. Pursuant to § 3117.4 of the Regulations, the Commission will impose time limits on the testimony of all individuals.

How to participate as a witness:

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of 11 DCMR § 3106.2.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

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 Commission, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning's website at: http://dcoz.dc.gov/services/app.shtm.** This form may also be obtained from the Office of Zoning at the address stated below.

To the extent that the information is not contained in the Applicant's prehearing submission as required by 11 DCMR § 3013.1, the Applicant shall also provide this information not less than 14 days prior to the date set for the hearing.

If an affected Advisory Neighborhood Commission (ANC) intends to participate at the hearing, the ANC shall submit the written report described in § 3012.5 no later than seven (7) days before the date of the hearing. The report shall contain the information indicated in § 3012. 5 (a) through (i).

Information responsive to this notice should be forwarded to the Director, Office of Zoning, suite 200-S, 441 4th Street, N.W., Washington, D.C. 20001. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

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.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF FINAL 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 final 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."

These amendments 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*. (2012 Supp.)).

A Notice of Proposed Rulemaking with respect to these amendments was published in the *D.C. Register* on June 14, 2013, at 60 DCR 8984. No written comments on the proposed rules were received during the public comment period, and no substantive changes have been made to the regulations as proposed. The Board took final rulemaking action with respect to these amendments at a regular meeting on Wednesday, August 7, 2013.

These final rules will become effective upon 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

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 (l0th) day of the fourth (4th) month preceding the election;

(d) On the tenth (l0th) 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

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

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

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

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, an 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

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

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 though 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. 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.

DISTRICT OF COLUMBIA BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

NOTICE OF FINAL RULEMAKING

The Board of Ethics and Government Accountability ("Ethics Board"), pursuant to the authority set forth in Section 209 of 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 § 1-1161.01 *et seq.*) (2012 Supp.)), hereby gives notice of final rulemaking action to amend Section 5800.2, Chapter 58 (Registration of Lobbyists), of Title 3 (Elections and Ethics), of the District of Columbia Municipal Regulations ("DCMR").

The emergency and proposed rulemaking was adopted by the Ethics Board on June 20, 2013, and became effective immediately, published in the *D.C. Register* on June 28, 2013, at 60 DCR 009768. No written comments were received and no substantive changes have been made to the text of the proposed amendment. The Ethics Board adopted the rulemaking as final on August 8, 2013. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

Subsection 5800.2 of Title 3, ELECTIONS AND ETHICS, of the DCMR is amended to read as follows:

5800.2 A person shall register as a lobbyist with the Director of Government Ethics (the Director) by filing the Lobbyist Registration Form if that person, under the following circumstances:

(a) Receives compensation of two hundred fifty dollars ($250) or more in any three (3) consecutive calendar month period for lobbying;

(b) Receives compensation from more than one (1) source which totals two hundred fifty dollars ($250) or more in any three (3) consecutive month period for lobbying; or

(c) Expends funds of two hundred fifty dollars ($250) or more in any three (3) consecutive calendar month period for lobbying.

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 an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2006 Repl. & 2012 Supp.)), and Section 6 (6) 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)(2008 Repl.)), hereby gives notice of the adoption of an amendment to Section 995 (Medicaid Physician and Specialty Service Rate Methodology) of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The purpose of these rules is to provide a one-time, lump-sum, supplemental payment for physician and specialty services to each provider that participated in the District's Medicaid program between January 1, 2011 and February 29, 2012. The purpose of the supplemental payment is to reduce the adverse impact of a retroactive 20% rate reduction on physician and specialty service providers that became effective on January 1, 2011 and was implemented on March 1, 2012. There will not be a net financial impact to either the District or the providers from implementation of these rules.

The corresponding amendment to the District of Columbia State Plan for Medical Assistance ("State Plan") was approved on April 29, 2013 by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) after being deemed approved by the Council of the District of Columbia on January 18, 2013, PR20-0030. The effective date of the State Plan amendment is May 1, 2013.

A notice of proposed rulemaking was published in the *D.C. Register* on March 29, 2013 (60 DCR 004861). No comments were received and no substantive changes have been made. These final rules were adopted by the Director on July 26, 2013 and shall become effective on the date of publication of this notice in the *D.C. Register*.

Section 995 (Medicaid Physician and Specialty Services Rate Methodology) of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the DCMR is amended by adding Sections 995.7 through 995.11 to read as follows:

995.7 The Department of Health Care Finance (DHCF) shall provide a supplemental payment to participating providers of physician and specialty services in accordance with the requirements set forth in Section 995.4 through 995.7.

995.8 To qualify for a supplemental payment, a provider must have participated in the Medicaid program and have paid claims for physician and specialty services between the period January 1, 2011 and February 29, 2012.

995.9 For each provider who qualifies for payment in accordance with Section 995.4, DHCF shall:

(a) Establish a fund that shall be equal to and shall not exceed the difference between one hundred percent (100%) of the Medicare rate in effect for the period referenced in Section 995.4 and eighty percent (80%) of the Medicare rate in effect for the period referenced in Section 995.4 (Medicaid payment rate) for all claims paid to that provider between January 1, 2011 and February 29, 2012;

(b) Pay a provider-specific supplemental payment based on the claims submitted to DHCF during the three (3) month period beginning May 1, 2013; and

(c) Make certain that the total amount paid to each provider shall not exceed the amount set forth in Section 995.5(a).

995.10 The supplemental payment shall be calculated as the total of each provider's fund, divided by the paid claims submitted for the payment period by each provider and added proportionally to the fee-for-service rate paid to that provider during the payment period.

995.11 All payments shall be made as a lump sum adjustment at the end of the defined three month payment period.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 ("the Act"), effective October 5, 1985, (D.C. Law 6-42; D.C. Official Code § 2-1801.05) (2007 Repl.)), Section 4902 (a) and (b) of the Department of Health Functions Clarification Act of 2001 (Act), effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(a)(8) and (b)) (2008 Repl. & 2012 Supp.)), and Mayor's Order 2004-46(2) and (3)(v), dated March 22, 2004, hereby gives notice of his intent to amend Title 16, Chapter 36 of the District of Columbia Municipal Regulations (DCMR) to establish a new Section 3626 schedule of fines for tanning facilities, to correspond with the new Notice of Final Rulemaking for Tanning Facility Regulations in Subtitle F of Title 25 of the DCMR, which were published in the *D.C. Register* on March 15, 2013 at 60 DCR 003582.

The Director also gives notice of the intent to take final rulemaking action to adopt the proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The proposed rules shall not become effective until a Notice of Final Rulemaking is published in the *D.C. Register*.

Chapter 36 of Title 16 DCMR (Civil Infractions Schedule of Fines) is amended as follows:

3626 TANNING FACILITY INFRACTIONS

3626.1 Reserved

3626.2 Violations of the following provisions shall be a Class 2 infraction:

(a) Operating with extensive fire damage that affects the tanning facility's ability to comply with these regulations;

(b) Operating with serious flood damage that affects the tanning facility's ability to comply with these regulations;

(c) Operating with loss of electrical power to critical systems, including but not limited to lighting, heating, cooling, or ventilation controls for a period of two (2) or more hours;

(d) Operating with incorrect hot water temperatures that cannot be corrected during the course of the inspection in violation of Section 502.1;

(e) Operating with no hot water, or an unplanned water outage, or the water supply is cut off in its entirety for a period of one (1) or more hours in violation of Sections 412.2 and 502.1;

(f) Operating with a plumbing system supplying potable water that may result in contamination of the potable water;

(g) Operating with a sewage backup or sewage that is not disposed of in an approved and sanitary manner;

(h) Operating with a cross-connection between the potable water and non-potable water distribution systems, including but not limited to landscape irrigation, air conditioning, heating, or fire suppression system;

(i) Operating with a back siphonage event;

(j) Operating with toilet or handwashing facilities that are not properly installed;

(k) Operating with the presence of toxic or noxious gases, vapors, fumes, mists or particulates in concentrations immediately dangerous to life or health, or in concentrations sufficient to cause an environmental disease or public nuisance;

(l) Operating with the presence of any unapproved pesticide residues in the interior building areas of a tanning facility, in food storage or service areas contained within the tanning facility, or in the presence of any food in the facility; or in the presence of excessive restricted-use pesticide in any outdoor area of a tanning facility; or any evidence of the indiscriminate use of a pesticide or herbicide which may be injurious to the health of humans;

(m) Operating with equipment that by condition, design, construction, or use poses an immediate risk of entrapment, fall, puncture, pinch, crush, trip, or other injuries;

(n) Operating with environmental surfaces, including but not limited to tanning beds, stand-up tanning booths, cabinets, or vertical tanning devices, supplies, pillows, linens, garments, other items within a tanning facility that are stained with blood or bodily fluids, or soiled; or infested with vermin; or are in an otherwise unsanitary condition;

(o) Operating with gross insanitary occurrence or condition that may endanger public health including but not limited to an infestation of vermin;

(p) Failing to eliminate the presence of insects, rodents, or other pests on the premises in violation of Sections 612 or 613;

(q) Operating a tanning facility without a license in violation of Section 800.1;

(r) Operating a tanning facility with an expired license in violation of Section 800.2;

(s) Operating a tanning facility with a suspended license in violation of Section 800.2;

(t) Operating a tanning facility without a valid Certificate of Occupancy in violation of Section 800.3;

(u) Selling, leasing, transferring, loaning, assembling, certifying, recertifying, upgrading, installing, servicing, or repairing tanning equipment or devices without a valid tanning service provider registration in violation of Section 800.4;

(v) Furnishing or offer to furnish tanning equipment, devices, or associated components, such as bulbs and filters, in the District without a valid tanning service provider registration issued by the Mayor in violation of Section 800.5;

(w) Using a tanning service provider company that is not registered in the District in violation of Section 800.6;

(x) Operating a tanning facility in the District without obtaining a valid District-issued Tanning Facility Manager Identification Card issued by the Department in violation of Section 800.7;

(y) Operating a tanning facility without required warning statements in violation of Sections 804.4;

(z) Operating a tanning facility without a manager or operator who is on duty and on the premises during all hours of operation in violation of Section 200.2;

(aa) Failing to allow access to DOH representatives during the facility's hours of operation and other reasonable times as determined by the Department in violation of Section 900.2;

(bb) Hindering, obstructing, or in any way interfering with any inspector or authorized Department personnel in the performance of his or her duty; and

(cc) Operating in violation of any provision specified in Chapter 12.

3626.3 Violations of any of the following provisions in Chapter 2 (Supervision and Training) of Subtitle F, Title 25 of the DCMR shall be a Class 3 infraction:

(a) Allowing more than one (1) customer in a tanning room at a time in violation the authorized exceptions in Section 201.2;

(b) Maintaining the interior temperature of the tanning facility in excess of one hundred degrees Fahrenheit (100 °F) (thirty-eight degrees Celsius (38 °C)) at any time in violation of Section 201.3;

(c) Failing to maintain protective eyewear in optimal condition or properly sanitized in violation of Section 201.5;

(d) Failing to set timers on ultraviolet tanning equipment or devices within plus or minus ten percent (± 10%) of any selected time interval in violation of Section 201.7;

(e) Maintaining timer at a remote location so that customers cannot set their own exposure time in violation of Section 201.7;

(f) Failing to limit the maximum exposure time on ultraviolet tanning equipment or devices recommended by the manufacturer in violation of Section 201.8;

(g) Failing to provide a copy of the "Warning Statement" identified in Section 302.4 to customers during their initial visit, and annually in violation of Sections 201.9, and 300.6(a), and 300.7(a);

(h) Failing to require customers' review, sign and date the required Acknowledgment before using the facility's tanning equipment or devices in violation of Section 201.10;

(i) Failing to obtain a signed and dated "Parental/Legal Guardian Authorization Form" provided to them by the facility before a minor's use of the facility's tanning equipment or devices as specified in Section 201.11; and

(j) Failing to have staff read to the "Warning Statement" and "Parental/Legal Guardian Authorization Form" to customers who are illiterate, or visually impaired prior to the customer's use or a customer's minor child's use of the facility's tanning equipment or devices in violation of Section 201.12.

3626.4 Violations of any of the following provisions in Chapter 3 (Standard Policies & Operating Procedures and Recordkeeping) of Subtitle F, Title 25 of the DCMR shall be a Class 3 infraction:

(a) Failing to prohibit minors younger than fourteen (14) years of age from using ultraviolet tanning equipment or devices in violation of Section 300.4;

(b) Failing to prohibit minors between fourteen (14) and seventeen (17) years of age from using ultraviolet tanning equipment or devices without a valid "Parental/Legal Guardian Authorization Form" on file in violation of Section 300.5;

(c) Failing to require a minor's parent or legal guardian to sign and date the "Parental/Legal Guardian Authorization Form" in the presence of the tanning facility operator in violation of Sections 300.6(b) and 300.7(b);

(d) Failing to require a parent or legal guardian accompany a minor when using the facility's tanning equipment or devices in violation of Section 300.7(c);

(e) Permitting an infant or other minor in a tanning area being used by a parent or legal guardian in violation of Section 300.8;

(f) Failing to post the required Age Restriction Sign at or near the reception area in violation of Section 301.1;

(g) Failing to post the required warning sign with capital letters at least five millimeters (5 mm) high and all lower case letters at least three millimeters (3 mm) high in violation of Section 302.4;

(h) Failing to maintain a procedural manual with required contents at the tanning facility which is available at all times to operators and the Department during inspections in violation of Sections 303.1 and 303.2; and

(i) Failing to maintain customer files, maintenance records, and Incident Logs in violation of Sections 303.3, 303.4, 303.5, 304, 305, and 306.

3626.5 Violations of any of the following provisions in Chapter 4 (Construction, Sanitation & Maintenance, Prevention of Contamination, and Water Source, Quality and Capacity) of Subtitle F, Title 25 of the DCMR shall be a Class 3 infraction:

(a) Failing to use only tanning equipment and devices that comply with the District's Tanning Facility Regulations and all applicable District and Federal laws and regulations, including those promulgated by the Federal Trade Commission and the United States Food and Drug Administration in violation of Section 400.1, 400.2, and 400.3;

(b) Providing tanning equipment and devices without ground fault protection on the electrical circuit, or other methods for preventing shock in violation of Section 400.2;

(c) Failing to provide an emergency shut-off mechanism on tanning equipment and devices to allow the consumer to manually terminate radiation emission at any time without disconnecting the electrical plug or removing any ultraviolet lamp in violation of Section 400.4;

(d) Providing tanning equipment and devices without physical barriers to protect consumers from injury induced by touching or breaking the lamps in violation of Section 400.6;

(e) Failing to prevent line-of-sight, accidental ultraviolet radiation exposure of persons not using the tanning equipment or devices with the required physical barriers in violation of Section 400.7;

(f) Failing to have compliant protective eyewear for consumers desiring to use tanning equipment or devices but who do not have their own in violation of Section 401.1;

(g) Permitting a consumer who has refused to accept compliant protective eyewear offered by the licensee when he or she does not have his or her own or who has vocalized a refusal to use compliant protective eyewear offered by the licensee or his or her own compliant protective eyewear to use any tanning equipment in violation of Section 401.2;

(h) Possessing protective eyewear that does not meet FDA requirements stated in 21 C.F.R. § 1040.20(c)(4) (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, Protective eyewear) in violation of Section 401.3;

(i) Failing to provide tanning equipment and devices with timers that comply with the requirements of 21 C.F.R. § 1040.20(c)(2) (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, Timer system in violation of Section 402.1;

(j) Providing tanning equipment and devices with timers that exceed manufacturer's recommended exposure schedule or that exceed plus or minus ten percent (± 10%) of the maximum timer interval for the product in violation of Sections 402.2 and 402.3;

(k) Providing tanning equipment and devices with timers that automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle when emission from the tanning device has been terminated in violation of Section 402.4;

(l) Failing to provide an override timer control outside of the room in which tanning equipment or device is located in violation of Section 402.5;

(m) Operating a new tanning facility without remote timers installed in violation of Section 402.8;

(n) Permitting the operation of a remote timer by staff that is not trained in violation of Section 402.6;

(o) Permitting consumers to set or reset their own exposure time with the convenient location of the remote timer in violation of Section 402.6;

(p) Failing to install remote timer control system on existing tanning equipment or devices not equipped with a remote timer control system within one (1) year of the effective date of the Tanning Facility Regulations in violation of Section 402.9;

(q) Providing stand-up tanning booths without physical barriers or other means compliant with 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, such as floor markings, to indicate the manufacturer's recommended exposure distance between the ultraviolet lamps and the consumer's skin) in violation of Section 403.1;

(r) Failing to maintain temperatures inside of enclosed tanning booths or cabinets or vertical tanning devices below one hundred degrees Fahrenheit (100 ºF) (thirty-eight degrees Celsius (38 ºC)) in violation of Section 403.2;

(s) Failing to construct stand-up tanning booths or cabinets or vertical tanning devices to withstand the stress of use and the impact of a failing person in violation of Section 403.3;

(t) Failing to construct stand-up tanning booths or cabinets or vertical tanning devices with doors that are non-locking, and that open outwardly in violation of Section 403.4;

(u) Failing to construct stand-up tanning booths or cabinets or vertical tanning devices with non-slip floors that are easily clean and sanitized in violation of Sections 403.5, 403.6, and 403.7;

(v) Failing to maintain stand-up tanning booths or cabinets or vertical tanning devices in good condition in violation of Section 403.8;

(w) Making, selling, leasing, transferring, lending, repairing, assembling, recertifying, upgrading, or installing tanning equipment, devices, or lamps, or providing supplies used in connection with such equipment, devices or lamps that properly installed and used do not meet the requirements specified in Sections 405, 406, 407, and 408 in violation of Section 404.1;

(x) Failing to shield ultraviolet lamp contained within a sunlamp with two (2) one-piece covers (top and bottom) without cracks or breaks in the acrylic surfaces to prevent contact with the user in violation of Section 405.1;

(y) Failing to use only replacement lamps certified by the FDA as "equivalent" lamps in compliance with 21 C.F.R. § 1040.20 (Sunlamp products and

ultraviolet lamps intended for use in sunlamp products, and shall be in the form of user instructions) in violation of Section 406.1;

(z) Using tanning equipment or devices with defective lamps or filters in violation of Section 406.3;

(aa) Failing to replace ultraviolet lamps, bulbs or filters as recommended by the manufacturer or as soon as they become defective or damaged in violation of Section 406.5

(bb) Failing to use only lamps, bulbs, or filters that meet the requirements of the FDA for a particular tanning bed may be used in tanning facilities in violation of Section 406.6

(cc) Failing to maintain tanning equipment and devices in good condition or sanitized tanning equipment and devices after each use in violation of Sections 201.4, 407.1, 408.1, 408.2, and 408.3;

(dd) Failing to perform quarterly maintenance tests on each assembly of tanning equipment or device, and document in writing timer calibrations and consumers ability to manually terminate radiation emissions in violation of Sections 407.2, 407.3, and 407.4;

(ee) Failing to measure the strength of the sanitizing solution at least twice per day of tanning facility operation to ensure sufficient strength of the sanitizing solution in violation of Section 408.4;

(ff) Failing to maintain adequate supplies for cleaning and sanitizing of all tanning equipment and devices in violation of Section 408.5;

(gg) Operating with a water supply that is not approved by the Department in violation of Section 409;

(hh) Operating with insufficient water capacity to meet the water demands of the tanning facility in violation of Section 412.1; and

(ii) Operating with insufficient hot water capacity to meet the peak hot water demands throughout the tanning facility in violation of Section 412.2.

3626.6 Violations of the District's Tanning Facility Regulations in Subtitle F, Title 25 of the DCMR, which are not cited elsewhere in Section 3626 shall be deemed Class 4 infractions.

All persons wishing to comment on these proposed rules should submit written comments no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to the Office

of the General Counsel, Department of Health, 899 North Capitol Street, N.E., Room 547, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the above address, excluding weekends and holidays. You may also submit your comments to Angli Black on (202) 442-5977 or email Angli.Black@dc.gov.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Acting Director of the Department of Health, pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010 (Act), effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code §§ 7-1671.01, *et seq*. (2012 Supp.)), and Mayor's Order 2011-71, dated April 13, 2011, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Subtitle C (Medical Marijuana) of Title 22 (Public Health and Medicine) 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*, and upon completion of the thirty (30) day Council period of review, if the Council does not act earlier to adopt a resolution approving the rules.

The purpose of this rulemaking is to add a new Chapter 63, to set forth the provision of medical marijuana on a sliding scale to qualifying patients determined eligible, pursuant to § 1300.4 of this subchapter.

These rules were published in the *D.C. Register* as proposed rulemaking on March 29, 2013 at 60 DCR 4863. Written comments were received from Americans for Safe Access and Capital City Care in connection with this publication during the 30-day comment period. The Department of Health (Department) considered the comments and determined that further amendments were needed. Therefore, additional changes were made to the proposed rulemaking in §§ 6300.1-6300.3, and 6300.5-6300.6. These changes eliminate a Department controlled fund and instead place the onus on each dispensary to ensure compliance with the sliding scale program, and to submit reports demonstrating such to the Department subject to auditing by the Department.

Therefore the rulemaking is being republished for an additional 30-day comment period.

A new Chapter 63, SLIDING SCALE PROGRAM, of Subtitle C is added to Title 22 of the DCMR to read as follows:

6300 SLIDING SCALE PROGRAM

6300.1 A registered dispensary shall devote two percent (2%) of its annual gross revenue to provide medical marijuana on a sliding scale to qualifying patients determined eligible pursuant to § 1300.4 of this subchapter.

6300.2 Not later than February 15th of each calendar year, each registered dispensary in the District of Columbia shall submit to the Director:

(a) A statement of its gross revenues for the previous calendar year;

(b) A statement detailing how the dispensary devoted two percent (2%) of its annual gross revenue to eligible qualifying patients on a sliding scale,

which shall include:

(1) The name, patient registration number, and date of dispensing for each patient who received medical marijuana on a sliding scale during the previously calendar year; and

(2) The discounted amount provided to patients under this program; and

(c) An attestation, made under penalty of perjury, of the accuracy and truthfulness of the statements submitted pursuant to this subsection.

6300.3 A qualifying patient who establishes pursuant to § 1300.4 of this subchapter that his or her income is equal to or less than two hundred percent (200%) of the federal poverty level, shall be entitled to purchase medical marijuana directly, or through a caregiver, on a sliding scale from a registered dispensary in the District of Columbia.

6300.4 A registered dispensary shall sell medical marijuana to a qualifying patient, who is registered to purchase medical marijuana on a sliding scale, and possesses a registration card denoting such, at a discount of not less than twenty (20%) of its regular retail price.

6300.5 Not later than April 15th of each calendar year, the Department shall review the sliding scale program. As part of its review, the Department may adjust the percentage required to be devoted by dispensaries and the required discount to qualifying patients.

6300.6 The gross revenue amount to be devoted by each dispensary to the sliding scale program shall be subject to audit by the Department.

6300.7 In addition to any other applicable sanctions, any dispensary that fails to comply with the provisions of this chapter shall be subject to a civil fine under the Civil Infractions Act of two thousand dollars ($2,000.00) per offense, and each day of violation shall constitute a separate offense.

6300.8 Notwithstanding Subsection 6300.7 of this chapter, the Director may revoke the registration of a dispensary that commits egregious or multiple violations of this chapter; that uses fraud to conceal its annual gross revenue; or that submits false or misleading reports to the Director.

Comments on this rule should be submitted, in writing, to Patricia D'Antonio, DC Department of Health, 899 N. Capitol Street, NE, Second Floor, Washington, D.C. 20002, or to Doh.mmp@dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of this rule are available Monday through Friday between the hours

of 8:30 a.m. and 4:00 p.m. from Patricia D'Antonio, DC Department of Health, 899 N. Capitol Street, NE, Second Floor, Washington D.C. 20002.

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 (2012 Supp.)); 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 (2012 Supp.)); 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 (2012 Supp.)); 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 § 4376 through § 4376.2 of Chapter 43 (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 Contract Management Group proposed the new amendment to 19 DCMR § 43 at a meeting held on May 23, 2013. Subsequently, on May 31, 2013, the Chief Librarian through the District of Columbia Public Library (DCPL) Chief of Staff approved the proposed new amendment to the procurement regulations by signing a corrective action to implement the proposed new amendment.

The proposed amendments to the procurement regulations will enhance and make the contract procurement process within DCPL more efficient for those vendors who apply for DCPL procurement contracts. The amendment will bring DCPL in to compliance with Federal requirements when federal funds are used in issuing contracts, and strengthen the regulations to ensure that the debarment, suspension and ineligibility procedures are equitable towards all contractors applying for contracts at a value of $25,000.00 or more.

Chapter 43, DISTRICT OF COLUMBIA PUBLIC LIBRARY: PROCUREMENT, of Title 19, AMUSEMENTS, PARKS AND RECREATION, is amended as follows

Section 4376, Debarment, Suspension and Ineligibility Procedures, Subsection 4376.2, is amended to read as follows:

4376.2 The Chief Contracting Officer (CCO) shall perform the excluded parties listing search related to Federal, District and/or open-market vendor/contractors for all acquisitions of $25,000.00 or more. Results from this search will be included in acquisition (purchase orders) and contract folders. The CCO shall not utilize any listing declared ineligible under federal laws and regulations applicable to the District of Columbia in making contract award decisions.

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.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

FORMAL CASE NO. 988, IN THE MATTER OF THE DEVELOPMENT OF UNIVERSAL SERVICE STANDARDS AND THE UNIVERSAL SERVICE TRUST FUND FOR THE DISTRICT OF COLUMBIA

1. The Public Service Commission of the District of Columbia (Commission), pursuant to its authority under D.C. Official Code § 34-802 (2010 Repl.), and D.C. Official Code § 34-2003 (2010 Repl.) hereby gives notice of its intent to act upon the Application of Verizon Washington, DC Inc. ("Verizon DC")[1] and Verizon DC's Erratum[2] in the above-captioned matter. Pursuant to D.C. Official Code § 2-505(a) (2011 Repl.), the Commission will act upon the Application in not less than thirty (30) days after the date of publication of this Notice of Proposed Rulemaking in the *D.C. Register*.

2. On July 31, 2013, Verizon DC filed an application requesting authority to amend the following tariff pages:

GENERAL REGULATIONS TARIFF P.S.C.-D.C.-NO. 201
Section 1A, 7th Revised Page 3

Verizon DC supplemented this filing with its Erratum on August 2, 2013.

3. Verizon DC identifies the proposed tariff amendment as an update to its Universal Service Trust Fund surcharge, which is required by Chapter 28 of the Commission's Rules. The surcharge is being updated to true-up the 2012 payments with the amounts actually billed to customers, and to adjust the surcharge for the 2013 assessment. With the approval of this Application, the monthly per line surcharge will be $0.32 per non-Centrex line and $0.039 (rounded to $0.04) per Centrex line.[3] In its Application, Verizon DC represents that this Application increases the surcharge $0.08 for non-Centrex lines and $0.009 (rounded to $0.04) for Centrex lines.[4] In its Erratum, Verizon DC states that in the Application, Verizon described the increase of $0.009 for Centrex lines as being "(rounded to $0.04)" when it should have read "(rounded to $0.01)."[5] Verizon DC requests that this tariff become effective August 1, 2013.[6]

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[1] *Formal Case No. 988, In the Matter of the Development of Universal Service Standards and the Universal Service Trust Fund for the District of Columbia*, District of Columbia Universal Service Trust Fund Surcharge Compliance Filing for August 2013 ("Verizon DC Application"), filed July 31, 2013.

[2] *Formal Case No. 988*, Letter to Brinda Westbrook-Sedgwick, Commission Secretary, from Kathy L. Buckley, Vice President, State Government Affairs, Verizon DC ("Erratum"), filed August 2, 2013.

[3] Application at 1.

[4] Application at 1.

[5] Erratum at 1.

4. The complete text of this Application and the proposed tariff revision are on file with the Commission and may be reviewed at the Office of the Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, NW, West Tower, Suite 200, Washington, D.C. 20005 between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of Verizon DC's Application may be obtained by visiting the Commission's website at www.dcpsc.org or at cost, by contacting the Commission Secretary at the above address.

5. All persons interested in commenting on Verizon DC's Application may submit written comments and reply comments no later than thirty (30) and forty-five (45) days, respectively, after publication of this notice in the *D.C. Register* with Brinda Westbrook-Sedgwick, Commission Secretary, at the above address. After the comment period has expired, the Commission will take final action on Verizon DC's Application.

[6] Application at 2.

DISTRICT DEPARTMENT OF TRANSPORTATION

SECOND NOTICE OF PROPOSED RULEMAKING

The Director of the District Department of Transportation (Department), pursuant to the authority set forth in Sections 4(5)(A) (assigning authority to coordinate and manage public right-of-way permits and records to the Department Director), 5(4)(A) (assigning duty to review and approve public right-of-way permit requests to the Department Director), and 6(b) (transferring the public right-of-way maintenance function previously delegated to the Department of Public Works under Section III(F) of Reorganization Plan No. 4 of 1983 to the Department) 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 §§ 50-921.03(5)(A)(2012 Supp.), 50-921.04(4)(A)(2012 Supp.), and 50-921.05(b)(2009 Repl.)), and Section 604 of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 10-1141.04 (2012 Supp.)), which was delegated to the Director of the Department of Public Works pursuant to Mayor's Order 96-175, dated December 9, 1996, and subsequently transferred to the Director of the Department in Section 7 of the DDOT Establishment Act (transferring to the Director of the Department all transportation-related authority previously delegated to the Director of the Department of Public Works) (D.C. Official Code § 50-921.06), hereby gives notice of the intent to adopt amendments to Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR). The amendments will revise Chapter 33 (Public Right-of-Way Occupancy Permits) to modify the regulations for non-Washington Metropolitan Area Transit Authority (WMATA) buses to correspond with the new intercity bus regulations.

Proposed regulations were published in a Notice of Proposed Rulemaking in the *D.C. Register* on March 15, 2013, at 60 DCR 3788. In response to public comments received, the proposed rulemaking was revised to expand its application beyond sightseeing bus operations; to include a single permit requirement; to require a sign in public right-of-way at every stop at which the bus will occupy the public right-of-way to pick up and drop off passengers; to allow pick-up and drop-off in the public right-of-way at alternate locations when a permitted stop is closed to vehicle access due to certain circumstances; to allow for multiple operations to have a single sign in the public right-of-way; to have the associated fee for a shared sign be no higher than the fee for a single sign; and to set a date by which bus operators must obtain a permit for picking up and discharging passengers in public right-of-way. In addition, this rulemaking will repeal the regulations for the occupancy of the public right-of-way by tour buses because the rulemaking will provide a more efficient use of the public right-of-way for dropping off and picking up passengers.

Final rulemaking action shall not be taken in less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 33, PUBLIC RIGHT-OF-WAY OCCUPANCY PERMITS, of Title 24, PUBLIC SPACE AND SAFETY, of the DCMR is amended as follows:

Section 3301, OCCUPATION OF PUBLIC SIDEWALKS WITH PERSONALIZED PAVERS, Subsection 3301.6 is amended to read as follows:

3301.6 All terms and conditions set forth in § 3310 of this chapter shall apply to Public Rights-of-Way Occupancy Permits issued for personalized pavers, with the exception of §§ 3310.9, 3310.11, 3310.12, and 3310.16.

Section 3304, OCCUPANCY OF THE PUBLIC RIGHT-OF-WAY BY TOUR BUSES, is repealed.

Section 3306 is amended to read as follows:

3306 DESIGNATION OF PASSENGER PICK-UP AND DROP-OFF SITES WITH APPROVED SIGNAGE IN THE RIGHT-OF-WAY FOR COMMUTER, SHUTTLE, SIGHTSEEING, AND TOUR BUSES

3306.1 A bus operator that seeks to occupy a public right-of-way by stopping to pick up or discharge passengers in the public right-of-way shall obtain an annual Bus Right-of-Way Occupancy permit from the Department.

3306.2 At each location where a bus operator is authorized to occupy public right-of-way to stop to pick up or discharge passengers, the bus operator must post a sign in the public right-of-way notifying the public where the bus will stop to pick up or discharge passengers. No sign may be posted by a bus operator unless the posting of the sign has been approved as part of a Bus Right-of-Way Occupancy permit issued by the Department.

3306.3 A bus operator shall provide one (1) of the following four (4) services to be eligible for a Bus Right-of-Way Occupancy permit from the Department:

(a) Commuter bus service;

(b) Shuttle bus service;

(c) Sightseeing bus service; or

(d) Tour bus service.

3306.4 Multiple bus operators may obtain permission to post a single sign designating a stop in public right-of-way at which any of the bus operators may stop to pick up or discharge passengers. The fee for an individual shared sign shall not exceed the fee for an individual single operator sign. The fee for a shared sign shall be apportioned on a pro rata basis among the multiple bus operators who have been permitted to post the sign. No shared sign may be posted until the entire fee has been paid by all bus operators permitted to post the sign.

3306.5 The application fee for the Bus Right-of-Way Occupancy permit shall be the application fee established in § 225 of this title. Except for a Public Transit Agency, a permittee shall also pay an annual permit fee for each bus sign posted in public right-of-way in the following amounts:

(a)	Sign affixed to an existing pole or structure in public right-of-way, or a freestanding or portable sign:	Two hundred fifty dollars ($250) per sign;
(b)	Sign affixed to a new pole or structure in public right-of-way as proposed by permittee (new pole or structure to be provided and installed by permittee after receipt of permit):	Five hundred dollars ($500) per sign.

3306.6 In addition to the permit fee specified in § 3306.3, the permittee shall pay a technology fee in the amount of ten percent (10%) of the permit fee paid.

3306.7 A bus operator seeking an annual Bus Right-of-Way Occupancy permit shall file an application on a form provided by the Department. The form shall include the following information:

(a) Information on the bus operator, including:

(1) The name of the bus operator;

(2) The mailing and physical addresses of the bus operator; and

(3) The phone number, fax number, email address, and website of the bus operator; and

(b) Information on the proposed occupancy of the public right-of-way, including:

(1) The location of all stops in the District of Columbia at which passengers will be picked up or dropped off in the public right-of-way;

(2) The route(s) that the buses will take between any stops within the District of Columbia;

(3) The hours and days for which the bus operator proposes occupying the public right-of-way for the loading and unloading of passengers;

(c) Information on the signs to be posted in public right-of-way at each stop identified in paragraph (b)(1) of this subsection, including:

(1) A site plan showing the locations of the poles or structures to which proposed signs will be affixed and the locations on the sidewalk where freestanding or portable signs will be placed;

(2) The size, material, and specifications for a new pole, if required;

(3) If the sign is proposed to be affixed to an existing pole or structure, a description of the signs currently affixed to the existing pole or structure;

(4) An actual-size sample of the proposed sign that shall not be larger than twelve inches by eighteen inches (12″ x 18″); and

(5) A description of how the sign will be affixed to the pole or structure in public right-of-way; and

(d) Such other information as may be required by the Department.

3306.8 No sign may include an advertisement other than the name and logo of the bus company.

3306.9 No bus sign may be posted on a Metrobus pole nor may any bus sign be posted in a marked Metrobus Zone.

3306.10 Notwithstanding §§ 3306.5 and 3306.9, a bus operator operating a commuter bus service may attach a sign on a Metrobus pole or install a sign in a marked Metrobus Zone at no cost, provided the bus operator obtains:

(a) A bus right-of-way occupancy permit; and

(b) Approval from the Washington Metropolitan Area Transit Authority (WMATA).

3306.11 No bus sign may be posted in any public right-of-way space reserved for metered public parking.

3306.12 An application for a Bus Public Right-of-Way Occupancy permit shall be reviewed for conformance with District of Columbia traffic safety requirements, transportation network policies, and streetscape design elements. In determining whether to grant a Bus Right-of-Way Occupancy permit, the Department shall consider the following factors:

(a) The direct impact on pedestrian and vehicular traffic, including bicycle and other non-motorized vehicular traffic;

(b) The bus service schedule, peak hour(s) concentration, and anticipated traffic conditions;

(c) The number of passengers expected to board or disembark at any given time;

(d) The anticipated impact on nearby public transit systems; and

(e) Any other effect of the proposed operations in public right-of-way on public health or safety and the efficient and safe operation of the existing transportation network, including pedestrian, vehicle, and all other modes of transportation.

3306.13 Payment in full of the annual permit fee shall be made to the District prior to the issuance of the Bus Right-of-Way Occupancy permit.

3306.14 A Bus Right-of-Way Occupancy permit shall expire one (1) year after its effective date. A permittee that seeks to continue to occupy the public right-of-way after the one (1)-year period shall submit a new permit application at least thirty (30) days before the expiration date of the current permit. If all of the information required by § 3306.5 remains unchanged from the most recent application, the new permit application need only contain a statement confirming there have been no changes. If any of the information has changed, the application shall include the information required by § 3306.5 that has changed, along with a statement confirming that there have been no other changes.

3306.15 (a) Except as provided for in paragraph (b) of this subsection, no bus operator may occupy public right-of-way to stop and pick up or discharge passengers except in the stops approved as part of a Bus Right-of-Way Occupancy permit.

(b) Notwithstanding paragraph (a) of this subsection, a bus operator may occupy the public right-of-way to stop to pick up or discharge passengers at the nearest reasonable location closest to a stop approved as part of a Bus Right-of-Way Occupancy permit, when the curbside where the approved stop is closed due to one of the following special circumstances:

(1) A special event approved by the Mayor's Special Events Task Force;

(2) A Temporary Public Space Occupancy permit issued by the Department; or

(3) An order of the Metropolitan Police Department or other law enforcement or emergency response agency of competent jurisdiction.

(c) The bus operator must return to use the approved stop to pick up or discharge passengers as soon as the curbside location closed pursuant to paragraph (b) of this subsection reopens to public use.

3306.16 When occupying public right-of-way at an approved stop, the bus operator must be in the process of actively loading or unloading bus passengers and must otherwise abide by all other existing and applicable curbside regulations.

3306.17 The Department may revoke a bus operator's Bus Right-of-Way Occupancy permit and require the permittee to remove its signs and poles from the public right-of-way if the bus operator:

(a) Fails to pay in full its annual permit renewal fee, including fees for any signs; or

(b) Violates any other requirement listed in this section.

3306.18 These regulations shall take effect October 1, 2013.

3306.19 A bus operator already providing service in the District on the effective date of this chapter shall have until January 1, 2014 to apply for and receive a Bus Right-of-Way Occupancy permit.

3306.20 Each sign posted in the public right-of-way by a bus operator, and its associated pole or structure, if installed by the bus operator, that does not receive a Bus Right-of-Way Occupancy permit by August 1, 2013 must be removed by the bus operator.

3306.21 Starting August 1, 2013, a sign posted in the public right-of-way by a bus operator that does not have a Bus Right-of-Way Occupancy permit or has a Bus Right-of-Way Occupancy permit that has been revoked, may be removed by the Department. The bus operator shall be liable to the Department for the costs of any such removal.

3306.22 The District shall not incur any liability for removing a bus operator's signs or poles. The company whose signs or poles are removed shall be liable to the Department for the costs of the removal.

Section 3310, GENERAL TERMS AND CONDITIONS, Subsection 3310.2 is amended by striking the phrase "and 3304" where it appears, so that the provision reads as follows:

3310.2 The duration of Public Rights-of-Way Occupancy Permits is as follows, with provisions for renewal thereafter:

(a) Permits issued pursuant to Section 3302 shall be valid for twenty (20) years;

(b) Permits issued pursuant to Sections 3303 shall be valid for not more than one (1) year; and

(c) All other Permits shall be valid for terms not to exceed ten (10) years.

Section 3399, DEFINITIONS, is amended to read as follows:

3399.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed below:

Act – Title VI of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 10-1141.01 *et seq.*).

Bus – a public or private vehicle having a seating capacity of more than fifteen (15) passengers, exclusive of the driver.

Bus operator – a person that operates a bus service, whether directly or through contractors.

Commuter bus service- a bus that is used to transport passengers to and from worksites; provided, that this definition shall not include any vehicle owned or operated by the Washington Metropolitan Area Transit Authority.

Component device - communications equipment which alone, or as part of a communications network, is used to record, receive, store, or transmit information or data.

Department - District Department of Transportation

Director - Director of the District Department of Transportation.

Mobile storage container - a moveable container that is temporarily placed on the public right-of-way and is used for short-term storage of items,

including but not limited to, clothing, equipment, goods, household or office fixtures or furnishings, materials, and merchandise.

Occupy - to use public right-of-way, public rights of way, or public structures by installing, constructing, reconstructing, excavating, repairing, maintaining, or operating any structure, equipment, vehicle, facility, or other object (including but not limited to pipes, stand-alone conduits, tunnels, posts, or wires), in, over, under, along, through, on, across, or above the public rights-of-way under the jurisdiction of the District of Columbia government for any purpose.

Person - an individual, utility, firm, partnership, association, corporation, company, entity, or organization of any kind.

Personalized paver - an engraved sidewalk treatment that is inscribed with the name or likeness of an individual or entity.

Public right-of-way – the surface, the airspace above the surface (including air space immediately adjacent to a private structure located in a public right-of-way), and the area below the surface of any public street, bridge, tunnel, highway, lane, path, alley, sidewalk or boulevard.

Public Transit Agency - a municipal corporation or government agency (and its agents) that operates a bus, train, van, streetcar, trolley, subway, or rail vehicle for use by the general public.

Shuttle bus service– a van or bus that is used to transport passengers between worksites.

Sightseeing bus service- a bus used for sightseeing and touring purposes, traveling a regular route at scheduled times and with specific stop(s), which is available to the general public for boarding or discharging at any stop, and used to transport passengers principally between multiple destinations of historic, cultural, architectural, or societal interest within the District of Columbia.

Stand-alone conduit - conduit that is not housed inside other conduit.

Tour bus service - a bus used for sightseeing and touring purposes, and used to transport passengers principally from one (1) destination to another and back to the original destination.

Van - a public or private vehicle having a seating capacity of between eight (8) and fifteen (15) passengers, exclusive of the driver.

Any person interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the *D.C. Register*, with Sam Zimbabwe, Associate Director, District Department of Transportation, 55 M Street, S.E., 5th Floor, Washington, DC 20003. Comments may also be sent electronically to publicspace.policy@dc.gov. Additional copies of this proposal are available, at cost, by writing to the above address, and are available electronically, at no cost, on the Department's web site at www.ddot.dc.gov.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 12-10A
(Text Amendment – 11 DCMR)
(Technical Correction to Z.C. Order No. 12-10)

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 intent to amend § 3401.3 of the Zoning Regulations (Title 11 DCMR) to include the phrase ", interior renovations, or both" in its introductory paragraph.

Subsection 3401.3 became effective on July 12, 2013, with the publication of Z.C. Order No. 12-10 in the *D.C. Register*. The subsection was part of a new Chapter 34, Green Area Ratio (GAR). The introductory paragraph of § 3401.3, among other thing, indicates the circumstances under which the GAR standards would apply to existing buildings. In the final draft text provided to the Commission by the Office of Planning (OP), the term "interior renovations or both" was intended to replace the initially proposed term "alterations, or repairs." However, OP inadvertently omitted the term "alterations, or repairs" without replacing it. The intention that certain interior renovations would trigger GAR applicability is clearly evident by the fact that § 3401.3(c) specifies the conditions when an otherwise eligible interior renovation would be exempt from the GAR standards. Subsection § 3401.3 (c) would have no meaning but for the inclusion of interior renovations in the introductory paragraph of § 3401.3.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following amendment to the Zoning Regulations is proposed.

Title 11 DCMR, Chapter 34, GREEN AREA RATIO, Section 3401, APPLICABILITY OF GREEN AREA RATIO STANDARDS, Subsection 3401.3 is amended by inserting into its introductory paragraph the phrase ", interior renovations, or both" after the phrase "where any additions" so that the entire provision reads as follows:

3401.3 The GAR standards set forth in this chapter shall apply to all new buildings and to all existing buildings where any additions, interior renovations, or both within any twelve (12) month period exceed one hundred percent (100%) of the assessed value of the building as set forth in the records of the Office of Tax and Revenue as of the date of the building permit application, except:

(a) Buildings that do not require certificates of occupancy;

(b) Municipal wastewater treatment facilities operated by the District of Columbia Water and Sewer Authority;

(c) The interior renovation of an existing building that:

(1) Is located in the Central Employment Area;

(2) Has an existing one hundred percent (100%) lot occupancy prior to the filing of the building permit;

(3) Has an existing roof that cannot support a dead load of four inches (4 in.) of growth medium on the roof; and

(4) The work proposed by the building permit application will not result in a roof capable of supporting a dead load of four inches (4 in.) of growth medium on the roof; or

(d) A historic resource and any additions thereto subject to the provisions of § 3401.7.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001, or by e-mail at zcsubmissions@dc.gov. Ms. Schellin may also be contacted by telephone at (202) 727-6311 or by e-mail at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF EMERGENCY RULEMAKING

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(b)(1) (C), (D), (E), (F), (G), (I) and (J), 14, 20, and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I) and (J) (2009 Repl.)); D.C. Official Code § 50-313 (2009 Repl. & 2012 Supp.); D.C. Official Code § 50-319 (2009 Repl.); and D.C. Official Code § 50-320 (2012 Supp.); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); and Section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, and for other purposes, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); hereby gives notice of its adoption on an emergency basis of amendments to Chapters 4 (Taxicab Payment Service Providers) and 6 (Taxicab Parts and Equipment) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

The rules provide necessary updates to the regulatory framework to implement the modern taximeter system (MTS), preventing legal incongruities that will halt the implementation of the MTS, and providing the residents and visitors the consumer and safety improvements intended by the D.C. Council. The rules establish a framework to encourage full compliance of the taxicab industry with the deadlines contained in the final rules. Evidence has demonstrated to the Commission that taxicab companies and independent owners are substantially complying with the requirement to obtain fully functional MTSs by the September 1st, 2013 deadline, but have requested further time to comply based on exigent circumstances. As a result, the Commission determined that there is an immediate need to preserve the welfare of these companies and owners and adopts these emergency rules to provide a short extension for taxicab companies and independent owners with contractual relationships with an approved payment service provider (PSP), who will apply on behalf of their clients for an extended installation deadline.

This rulemaking was adopted on July 31, 2013, shall take effect on Friday, August 9, and remain in effect for one hundred twenty (120) days after the date of adoption (expiring November 27, 2013), unless earlier superseded by an amendment or repeal by the Commission, or the publication of final rulemaking, whichever occurs first.

Chapter 4, TAXICAB PAYMENT SERVICES PROVIDERS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended as follows:

Section 401, GENERAL REQUIREMENTS, is amended by adding a new Subsection 401.7 to read as follows:

401.7 Extension of time to comply with the MTS implementation requirements of Chapter 6.

(a) Each PSP approved by the Office as of August 5, 2013 may file, pursuant to this subsection and § 603.2(f), an application for extension of

compliance with the MTS requirements of Chapter 6 on behalf of a customer (a taxicab company or independent owner) that, as of August 15, 2013, has an executed contract for the installation of one or more fully-functional MTS units not later than September 30, 2013. A PSP shall not charge a customer a fee in connection with the extension.

(b) To be eligible to apply for an extension on behalf of a customer, a PSP shall:

(1) Have approval from the Office pursuant to § 405 not later than August 5, 2013;

(2) Have a fully executed contract by the date of the application for the installation of one or more fully operational MTS units not later than September 30, 2013 ("eligible contracts");

(3) Agree in writing with the customer that:

(A) The PSP is eligible to apply for an extension under the provisions of this subsection;

(B) The PSP shall apply for an extension on behalf of such customer by not later than August 15, 2013;

(C) If the PSP fails to apply for an extension, misses the deadline, or if the application is denied by the Office due an action or omission of the PSP, the customer may cancel the contract without penalty, regardless of the pendency of any appeal of the decision by the PSP; and

(D) The PSP shall install a fully-operational MTS unit in each vehicle that is the subject of an application not later than September 30, 2013.

(4) File its extension application not later than August 15, 2013.

(c) If granted by the Office, an extension shall allow each PSP customer identified in the application to comply with the MTS implementation requirements of Chapter 6 not later than September 30, 2013.

(d) No taxicab company or independent owner shall be granted an extension of time to comply with the MTS implementation requirements through application by the PSP except as provided in this subsection and § 603.2(f).

(e) Each PSP interested in obtaining an extension on behalf of its customers shall file an application with the Office, notarized and executed under penalty of perjury, that includes the following:

(1) The PSP's name and business telephone number;

(2) The following information regarding each customer:

(A) The customer's name;

(B) The date on which each eligible contract was executed;

(C) The VIN of each vehicle that is the subject of an eligible contract;

(D) The date (not later than September 30, 2013), by which installation is expected to occur for each vehicle;

(3) A statement by the PSP certifying that it meets the eligibility requirements of § 401.7 (b).

(f) No filing fee shall be charged by the Office in connection with an application.

(g) False information.

(1) By the PSP. If the application contains or is submitted with materially false information provided orally or in writing by the PSP to the Office for the purpose of inducing approval, the Office may:

(A) Deny the entire application;

(B) Suspend or revoke the PSP's operating authority; or

(C) Enforce the MTS implementation requirements as of the implementation date against all customers listed in the application to the same extent as if the application had not been filed.

(2) By the owner. If the application contains or is submitted with materially false information provided orally or in writing by a taxicab company or independent owner to the PSP or to the Office for the purpose of inducing approval, the Office may:

(A) Deny the application with respect to all vehicles for which the extension is sought by such owner;

(B) Suspend or revoke the company's operating authority or the independent owner's DCTC operator's license (face card); or

(C) Enforce the MTS implementation requirements as of the implementation date against such owner to the same extent as if the application had not been filed.

(h) The Office shall determine whether to grant or deny the application within five (5) days after it is filed, provided however, that such period may be extended by the Office for no more than two (2) days with notice to the DDS. An application shall be granted where it reasonably appears to the Office that the PSP meets the requirements for an extension, including that all MTS installations will be made by not later than September 30, 2013.

(i) If the Office grants the application, it shall provide notice to the PSP in writing.

(j) By not later than September 30, 2013, the PSP shall install a fully operational MTS unit in each vehicle that is the subject of the extension.

(k) Within five (5) days following the Office's grant of an application, the PSP shall provide a printed letter to each customer for each vehicle listed in its application. Each letter shall:

(1) Be received by the customer no later than August 29, 2013;

(2) Be signed by the owner of the PSP or other person with suitable authority;

(3) Be notarized before a notary public who imprints his or her official seal onto the document; and

(4) Contain the following language prominently displayed, *viz.*:

> This vehicle -- [VIN] -- has been granted an exemption from the D.C. Taxicab Commission MTS equipment requirements through and including September 30, 2013, based on an application filed by [name of PSP] on [date] and granted by the D.C. Office of Taxicabs on [date].
>
> This letter shall be maintained in the vehicle at all times, where it shall be presented upon demand to any enforcement inspector (hack inspector) or other law enforcement official.
>
> **DO NOT DUPLICATE, ALTER, OR MISUSE THIS LETTER.**
>
> Duplication, alteration, or misuse of this letter may result in civil penalties, including impoundment of the vehicle, a civil fine, and/or the suspension or revocation of an operator's DCTC operator license (Face card), of a taxicab company's operating authority, or of a PSP's operating authority.

(l) If the Office denies an application, it shall state the reasons for its decision in writing. A decision to deny may be appealed to the Chief of the Office within five (5) days, and, otherwise, shall constitute a final decision of the Office. The Chief shall issue a decision within two (2) days. A decision of the Chief to affirm or reverse a denial shall constitute a final decision of the Office. Only a PSP shall have standing to challenge the denial of its application.

(m) If a PSP agrees in writing with its customer that it shall apply for an extension on behalf of such customer, and such PSP either fails to apply or has its application denied by the Office, the customer may cancel the contract without penalty, regardless of the pendency of any appeal by the PSP.

Chapter 6, TAXICAB PARTS AND EQUIPMENT, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended as follows:

Section 603, MODERN TAXIMETER SYSTEMS, is amended as follows:

A new paragraph (f) is added to Subsection 603.2 to read as follows:

(f) Extension of time to comply with MTS implementation requirements.

(1) Notwithstanding any other provision of this chapter, a taxicab company or independent owner may obtain an extension to comply with the MTS implementation requirements, through and including September 30, 2013, through an application filed by a PSP pursuant to the requirements of this subsection and § 401.7.

(2) Taxicab companies and independent owners are not eligible to apply for extensions of the September 1, 2013 implementation date). Only a PSP may apply for such an extension. A company or independent owner that has executed or attempted to execute a contract with a PSP that declines to file an application for extension will not be excused from compliance and should make alternative arrangements. Companies and independent owners in such circumstances are advised to confer with legal counsel before making such alternative arrangements.

(3) To be eligible for an extension under this subsection, an owner (taxicab company or independent owner) shall:

(A) Execute a contract with a PSP requiring such PSP to install one or more fully operational MTS units in such owner's vehicle(s) not later than September 30, 2013;

(B) Cooperate with the PSP to allow the PSP to file the application for extension pursuant to this subsection and § 401.7, including execute the contract sufficiently in advance of the August 15, 2013 application deadline, by a date set by the PSP (not by the Office); and

(C) Agree in writing with the PSP that:

(i) The PSP is eligible to apply for an extension under the provisions of § 405 and this subsection;

(ii) The PSP shall apply for an extension on behalf of such customer by not later than August 15, 2013;

(iii) If the PSP fails to apply for an extension, misses the deadline, or if the application is denied by the Office due an action or omission of the PSP, the customer may cancel the contract without penalty, regardless of the pendency of any appeal of the decision by the PSP.

(4) If the application contains or is submitted with materially false information provided orally or in writing by a taxicab company or independent owner to the PSP or to the Office for the purpose of inducing approval, the Office may:

(A) Deny the application with respect to all vehicles for which the extension is sought by the owner;

(B) Suspend or revoke the company's operating authority or the independent owner's DCTC operator's license (face card); or

(C) Enforce the MTS implementation requirements as of the implementation date against such owner to the same extent as if the application had not been filed.

(5) Within five (5) days following the Office's grant of the PSP's application, the PSP shall provide an original, notarized letter complying with § § 401.7(i) for each vehicle that is the subject of the extension. The letter shall be maintained in the vehicle to which it pertains, where it shall be presented upon demand to any enforcement inspector (hack inspector) or other law enforcement official prior to September 1, 2013. Failure to maintain the letter in the vehicle shall subject the owner to enforcement of the MTS requirements to the same extent as if the extension had not been granted, including all fines and penalties established §§ 612 and 825.

(6) If the Office grants the PSP's application, the owner shall:

(A) Meet all of its obligations in the contract with the PSP, including the agreed-upon installation date and time; and

(B) Comply with all MTS requirements as of the date of installation or by September 30, 2013, whichever is earlier.

(7) If the Office denies the PSP's application in its entirety, the owner shall be subject to enforcement of the MTS requirements to the same extent as if the application had not been filed, including all fines and penalties established §§ 612 and 825 of this title. Only a PSP shall have standing to challenge the denial of an extension application.

(8) If a taxicab company or independent owner has agreed in writing with the PSP that the PSP is required to apply for an extension on

behalf of such customer, and such PSP either fails to apply or has its application denied by the Office, the customer may cancel the contract without penalty, regardless of the pendency of any appeal by the PSP.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director, pursuant to the authority set forth in Section 3 of the Gallery Place Project Graphics Amendment Act of 2004, effective April 5, 2005 (D.C. Law 15-278; D.C. Official Code § 6-1409(a-1) (2008 Repl.)) and Mayor's Order 2013-147, dated August 8, 2013, hereby gives notice of the adoption of the following emergency rulemaking amending subtitle A (Building Code Supplement) of Title 12 (D.C. Construction Codes Supplement of 2008) of the District of Columbia Municipal Regulations.

This emergency rulemaking is necessitated by the immediate need to amend provisions of the Building Code Supplement to authorize and establish guidelines for the issuance of permits for the erection of graphic displays and digital signage in the private alley between the Gallery Place Project and the Verizon Center.

This emergency rulemaking was adopted on August 12, 2013, and became effective immediately. This emergency rulemaking will remain in effect for up to one hundred twenty (120) days from the date of effectiveness. The rules will expire on December 10, 2013.

The Director also hereby give notice of the intent to take final rulemaking action to adopt this amendment in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Section 3107.18 (Rules for Gallery Place Project Graphics) of Chapter 31A (Signs) of Subtitle A (Building Code Supplement) of Title 12 (D.C. Construction Codes Supplement of 2008) of the District of Columbia Municipal Regulations is amended as follows:

In Subsection 3107.18.1, the definition of GALLERY PLACE PROJECT GRAPHICS is amended to read as follows:

> **GALLERY PLACE PROJECT GRAPHICS:** The outdoor graphics and visuals for the Gallery Place Project and the private alley located between the Gallery Place Project and the property known as the Verizon Center, including, but not limited to, banners, digital screens, digital video monitors, theater marquees, fixed and animated signs for commercial establishments located within the project, projectors for projecting static and moving images onto the Gallery Place Project, interactive kiosks, and images projected onto the facade of the Gallery Place Project.

A new Subsection 3107.18.2a.is added to read as follows:

3107.18.2a **Gallery Place Project Graphics Displays in Private Alley.** A single, stationary Gallery Place Project Graphic may be erected and maintained in the private alley located between the Gallery Place Project and the property known as the Verizon Center; provided that it complies with the following specific requirements, in

addition to the provisions in Sections 3107.18.2 (Additional Requirements and Restrictions) and 3107.18.2.3 (Intensity or Brilliance of Signs):

3107.18.2a.1 The Gallery Place Project Graphic in the private alley shall consist of one (1) stationary stanchion to support two (2) digital displays, each measuring no more than two hundred and eighty-five square feet (285 sq. ft.) and neither of which shall have any audio or sound, other than *de minimis* sounds caused by general operation. The lowest portion of the digital displays shall have at least nine feet and seven inches (9 ft. 7 in.) of clearance from the sidewalk, and the highest point of the digital displays shall not exceed a height of twenty-nine feet and ten inches (29 ft. 10 in.) as measured from the sidewalk. The width of the digital displays shall not exceed fourteen feet (14 ft.). No portion of the Gallery Place Project Graphic may project more than forty-two inches (42 in.) beyond the building restriction line. The maximum distance between the faces of the portions of the two (2) digital displays that are located in public space shall not exceed forty-two inches (42 in.). There shall be ten feet (10 ft.) of clearance in every direction around the stanchion in order to allow for unobstructed pedestrian movement. The sign and stanchion of the Gallery Place Project Graphic shall be innovative and sculptural with regard to its overall shape and structural design.

3107.18.2a.2 In addition to other reviews authorized by this section, after installation of the displays, the brilliance, illumination, and use of full-motion video, if any, shall be subject to review by the District Department of Transportation to determine whether the Gallery Place Project Graphic in the private alley creates a risk for vehicular traffic safety.

3107.18.2a.3 Any commercial advertising messages on the Gallery Place Project Graphic digital displays in the private alley shall be for businesses, goods, or services located within the Gallery Place Project.

3107.18.2a.4 Each Gallery Place Project Graphic digital display in the private alley shall operate only between the hours of 6:00 a.m. and midnight or no more than thirty (30) minutes after the end of an event at the Verizon Center, whichever is later, and shall show a minimum of six (6) minutes per hour of public service content.

3107.18.2a.5 The permitee shall act promptly to make any necessary changes to the displays to ensure compliance with federal law or the Federal-District Agreement to control outdoor advertising on federal-aid routes, in the event there is a representation by the federal government that the Gallery Place Project Graphics digital displays are not in compliance with such law or agreement.

3107.18.2a.6 The Gallery Place Project Graphic in the private alley shall be subject to the permit requirements of Sections 3107.18.4 through 3107.18.8; provided, that the permit fee for the Gallery Place Project Graphic digital displays shall be three dollars ($3) per square foot of each of the digital displays; provided further, that the reviews for the initial permit by the District Department of Transportation and

the Office of Planning under Section 3107.18.5 (Permit Application Referrals) shall be conducted within fourteen (14) days of the referral date; and provided further, that the initial permit shall be valid for three (3) years and shall be renewable annually thereafter. Each application for renewal shall be submitted on or before the anniversary of the permit's original issuance and shall be subject to review for compliance with Sections 3107.18.4 (Gallery Place Project Graphics Permit Application), 3107.18.5 (Permit Applications Referrals), 3107.18.6 (Effect of Adverse Report), 3107.18.7 (Review, Approval, and Denial of Permit Applications), and other applicable laws or regulations.

All persons desiring to comment on these proposed regulations should submit comments in writing to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Room 5164, Washington, D.C. 20024, or via e-mail at helder.gil@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Persons with questions concerning this Notice of Emergency and Proposed Rulemaking should call (202) 442-4400. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar ($1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at http://dcra.dc.gov by going to the "About DCRA" tab, clicking on "News Room", and then clicking on "Rulemaking".

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2006 Repl. & 2012 Supp.)) and Section 6(6) 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) (2008 Repl.)), hereby gives notice of the adoption, on an emergency basis of an amendment to Section 1916, entitled "In-Home Supports", Chapter 19 (Home and Community-based Waiver Services for Persons with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules establish standards governing reimbursement of in-home supports provided to participants in the Home and Community-Based Waiver Services for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia and renewed by the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services for a five-year period beginning November 20, 2012. In-home supports provide periodic supports to assist the primary caregiver and enable the person to reside successfully in their homes. These rules amend the previously published rules by: (1) establishing guidelines for obtaining additional in-home supports services in the event of a temporary emergency; and (2) establishing new guidelines for the maintenance of documents for auditing and review purposes.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of ID/DD Waiver services. In-home supports services are essential to ensuring that persons enrolled in the ID/DD Waiver continue to receive services and supports in the comfort of their own homes or family homes. This rule includes new service delivery requirements when a provider requests an extension of services during a temporary emergency. These measures will ensure that providers comply with stricter service delivery standards and improve the quality of health services. These rules are published on an emergency basis to ensure that the health, safety, and welfare of persons receiving this service will continue to receive these services in accordance with the enhanced service delivery requirements.

The emergency rulemaking was adopted on July 31, 2013 and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until November 27, 2013, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Section 1916 (In-Home Supports) of Chapter 19 of Title 29, PUBLIC WELFARE of the DCMR is deleted in its entirety and amended to read as follows:

1916 IN-HOME SUPPORTS SERVICES

1916.1 The purpose of this section is to establish standards governing Medicaid eligibility for in-home supports services for persons enrolled in the Home and Community-Based Services Waiver for Persons with Intellectual and Developmental Disabilities (Waiver) and to establish conditions of participation for providers of these services.

1916.2 In-home supports are services provided to a person to assist him or her to reside successfully at home. Services may be provided in the home or community, with the place of residence as the primary setting.

1916.3 To be eligible for reimbursement, in-home supports services shall be:

(a) Included in the person's Individual Support Plan (ISP) and Plan of Care;

(b) Habilitative in nature; and

(c) Provided to a person living in one of the following types of residences:

(1) The person's own home;

(2) The person's family home; or,

(3) The home of an unpaid caregiver.

1916.4 In-home supports services include a combination of hands-on care, habilitative supports, and assistance with activities of daily living. In-home supports services eligible for reimbursement shall include the following:

(a) Training and support in activities of daily living and independent living skills;

(b) Training and support to enhance community integration by utilizing community resources, including management of financial and personal affairs and awareness of health and safety precaution;

(c) Training on, and assistance in the monitoring of health, nutrition, and physical condition;

(d) Training and support to coordinate or manage tasks outlined in the Health Management Care Plan;

(e) Assistance in performing personal care, and household and homemaking tasks that are specific to the needs of the person;

(f) Assistance with developing the skills necessary to reduce or eliminate behavioral episodes by implementing a Behavioral Support Plan (BSP) or positive strategies;

(g) Assistance with the acquisition of new skills or maintenance of existing skills based on individualized preferences and goals identified in the in-home Supports Plan, ISP, and Plan of Care; and

(h) Coordinating transportation to participate in community events consistent with this service.

1916.5 Each provider rendering in-home supports services shall:

(a) Be a Waiver provider agency; and

(b) Comply with Sections 1904 (Provider Qualifications) and 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR.

1916.6 Each Direct Support Professional (DSP) rendering in-home supports services shall comply with Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 of the DCMR.

1916.7 In-home support services shall be authorized in accordance with the following provider requirements:

(a) The Department on Disability Services (DDS) shall provide a written service authorization before the commencement of services;

(b) The service name and provider delivering services shall be identified in the ISP and Plan of Care;

(c) The ISP and Plan of Care shall document the amount and frequency of services to be received;

(d) The in-home Supports Plan, ISP, and Plan of Care shall be submitted to and authorized by DDS annually; and

(e) The provider shall submit each quarterly review to the person's DDS Service Coordinator within thirty (30) days of the end of each quarter of the person's effective date of the ISP.

1916.8 Each provider of in-home supports services shall maintain the following documents for monitoring and audit reviews:

(a) The daily progress notes described in Section 1909 of Chapter 19 of Title 29 DCMR, which shall include the following:

(1) A listing of all community activities attended by the person and the person's response to those activities;

(2) A listing of all habilitative supports provided in the home and the person's response to the supports; and

(3) Any visitor the person receives, special events attended, and any situation or event in the home that requires follow-up during the delivery of the in-home supports services; and

(4) The dates and times services are delivered.

(b) The documents required to be maintained under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 of the DCMR.

1916.9 Each provider shall comply with the requirements under Section 1908 (Reporting Requirements) of Chapter 19 of Title 29 DCMR and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.

1916.10 Each DSP providing in-home support services shall assist each person in the acquisition, retention, and improvement of skills related to activities of daily living, such as personal grooming, household chores, eating and food preparation, and other social adaptive skills necessary to enable the person to reside in the community.

1916.11 Each DSP providing in-home supports services shall:

(a) Be a member of the person's Support Team;

(b) Assist with and actively participate in the development of the person's In-Home Supports Plan, ISP, and Plan of Care;

(c) Record daily progress notes; and

(d) Review the person's in-home Supports Plan, ISP, and Plan of Care initially and at least quarterly, and more often as needed once the DSP initiates services.

1916.12 In-home supports services shall only be provided for eight (8) hours per day. DDS may authorize an increase in hours, for an additional eight (8) hours per day up to one hundred and eighty (180) days, in the event of a temporary emergency.

1916.13 In the event of a temporary emergency, a written justification for an increase in hours shall be submitted with the in-home Supports Plan, ISP, and Plan of Care by the provider to DDS. The written justification must include:

(a) An explanation of why no other resource is available;

(b) A description of the temporary emergency;

(c) An explanation of how the additional hours of in-home supports services will support the person's habilitative needs;

(d) A revised copy of the in-home Supports Plan, ISP, and Plan of Care reflecting the increase in habilitative supports to be provided; and

(e) The service authorization from the Medicaid Waiver Supervisor or other Department on Disability Services Administration designated staff.

1916.14 Payment for in-home supports services shall not be made for routine care and supervision that is normally provided by the family, legal guardian, or spouse.

1916.15 Family members who provide in-home Supports services shall comply with Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 of the DCMR.

1916.16 Family members who provide in-home supports services shall not reside in the same home as the person receiving the services.

1916.17 In-home supports services shall not be provided to persons receiving the following residential services:

(a) Host Home;

(b) Shared Living;

(c) Residential Habilitation; and

(d) Supported Living.

1916.18 In-home supports services may be used in combination with Medicaid State Plan Personal Care Aide (PCA) services or ID/DD PCA services, provided the services are not rendered at the same time.

1916.19 In-home supports services shall not be used to provide supports that are normally provided by medical professionals.

1916.20 In-home supports services shall be billed at the unit rate. The reimbursement rate shall be twenty dollars and eighty eight cents ($20.88) per hour billable in units of fifteen (15) minutes at a rate of five dollars and twenty two cents ($5.22), and shall not exceed eight (8) hours per twenty-four (24) hour day. A standard unit of fifteen (15) minutes requires a minimum of eight (8) minutes of continuous service to be billed. Reimbursement shall be limited to those time periods in which the provider is rendering services directly to the person.

1916.21 Reimbursement for in-home supports services shall not include:

(a) Room and board costs;

(b) Routine care and general supervision normally provided by the family or natural caregivers;

(c) Services or costs for which payment is made by a source other than Medicaid;

(d) Travel or travel training to Supportive Employment, Day Habilitation, Individualized Day Supports, or Employment Readiness; and

(e) Costs associated with the DSP engaging in community activities with the individuals.

Comments on the emergency and proposed rule shall be submitted, in writing, to Linda Elam, Ph.D., MPH, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 899 North Capitol Street, NE, Suite 6037, Washington, D.C. 20002, via telephone on (202) 442-9115, via email at DHCF Publiccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(b)(1) (C), (D), (E), (F), (G), (I) and (J), 14, 20 and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I) and (J) (2009 Repl.)); D.C. Official Code § 50-313 (2009 Repl. & 2012 Supp.); D.C. Official Code § 50-319 (2009 Repl.); and D.C. Official Code § 50-320 (2012 Supp.); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); and Section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, and for other purposes, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); hereby gives notice of its adoption on an emergency basis, and notice of its intent to adopt on a permanent basis, amendments to Chapter 4 (Taxicab Payment Service Providers) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

This rule clarifies the hardware and software components of integrations between taxicab payment service providers (PSPs) and digital dispatch services (DDSs) to provide for the digital dispatch of taxicabs. There is an immediate need to preserve and promote the safety and welfare of the District's residents and visitors through maintaining consistency throughout the ongoing installations of modern taximeter systems (MTS) and to provide necessary updates to the regulatory framework to implement the MTS, thereby preventing legal incongruities that will halt the implementation of the MTS, which would prevent the residents and visitors from receiving the consumer and safety improvements intended by the D.C. Council.

The emergency rulemaking was adopted on July 31, 2013, shall take effect on Friday, August 9, and remain in effect for one hundred twenty (120) days after the date of adoption (expiring November 27, 2013), unless earlier superseded by an amendment or repeal by the Commission, or the publication of final rulemaking, whichever occurs first.

The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

Chapter 4, TAXICAB PAYMENT SERVICE PROVIDERS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended as follows:

Section 401, GENERAL REQUIREMENTS, is amended as follows:

Subsections 401.3 and 401.4 are amended to read as follows:

401.3 Each PSP and each digital dispatch service (DDS) shall comply with the integration requirements of § 408.16 for the processing of digital payment, not later than the date required by § 603.2. Prior to such date, each DDS shall be

permitted to process digital payments without integration. Where a PSP and DDS are affiliated businesses, the PSP shall comply with all applicable provisions of this Chapter without regard to the form of payment, including ensuring that the passenger surcharge will be collected from the passenger and paid to the District for every trip.

401.4 No later than the date required by § 603.2, no PSP shall fail or refuse to participate in processing digital payments in the manner required by this chapter, where the taxicab company or independent owner that uses an MTS unit provided by the PSP chooses to offer digital payment to its passengers.

Section 408, OPERATING REQUIREMENTS APPLICABLE TO PSPs AND DDSs, is amended as follows:

Subsection 408.16 is amended to read as follows:

408.16 Digital payment requirements.

Each approved PSP and each approved DDS shall comply with the following requirements for integration of their services, except that this section shall not apply to a digital payment where the PSP and the DDS are affiliated businesses that comply with the data reporting and passenger surcharge requirements of subsection (b) (2) of this section.

(a) Integration mandated.

(1) Each PSP that fails to integrate or to maintain integration as required by this subsection shall be subject to civil penalties, including the suspension or revocation of its operating authority under this title.

(2) Each DDS that fails to integrate or to maintain integration as required by this subsection shall be subject to civil penalties, including the modification, suspension, or revocation of its operating authority as provided in this chapter. Modification may consist of the suspension or revocation of authority to provide dispatch services for taxicabs, including digital payment.

(b) Integration requirements.

(1) Each PSP and each DDS shall integrate by complying with the data security requirements of subparagraph (2) of this paragraph and by complying with the minimum requirements for integration in paragraph (b) (3) of this subsection, or by executing an integration agreement pursuant to paragraph (b)(4) of this

subsection. Failure to integrate and maintain integration as required shall subject both businesses to civil penalties.

(2) Data security requirements for all integration. Integration shall in all cases require that the PSP and DDS use, incorporate, or connect to one another via technology that meets Open Web Application Security Project ("OWASP") security guidelines, that complies with the current standards of the PCI Security Standards Council ("Council") for payment card data security, if such standards exist, and, if not, then with the current guidelines of the Council for payment card data security, and, that, for direct debit transactions, complies with the rules and guidelines of the National Automated Clearing House Association.

(3) Additional minimum requirements for integration. Where a PSP and a DDS do not operate pursuant to an integration agreement executed and approved pursuant to paragraph (b)(4), they shall operate either through hardware integration under paragraph (b)(3)(A) or through hardware and software integration under paragraph (b)(3)(B), as they shall determine.

(A) Hardware integration requirements. Hardware integration between a PSP and DDS shall allow the following events to occur in the following order:

(i) At the conclusion of the trip, the operator shall use the MTS unit to notify the PSP of the identity of the DDS approved pursuant to Subsection 1604 that is processing the digital payment;

(ii) The operator shall manually enter the following information into the MTS unit or into the DDS's payment solution approved pursuant to Chapter 16, thereby notifying the DDS of:

(A) The taximeter fare pursuant to § 801.7;

(B) The amount of any gratuity;

(C) The number of passengers;

(D) Any additional information commercially and reasonably required to allow the DDS to process the digital payment and to comply fully with this paragraph § 408.16 (b)(3)(A);

(iii) Upon receipt of the information in § 408.16 (b)(3)(A)(ii), the DDS shall:

(A) Process the digital payment;

(B) Collect from the passenger and remit to the District the taxicab passenger surcharge pursuant to § 408.15;

(C) Transmit to the TCIS the trip data required by § 603.9, other than the PSP's unique trip number; and

(iv) The PSP shall transmit to the TCIS the trip data required by § 603.9 to allow the Office to reconcile the data provided by the PSP and the DDS.

(B) Hardware and software integration. Hardware and software integration between a PSP and DDS shall allow the following events to occur in the following order:

(i) At the conclusion of the trip, the operator shall use the MTS unit to notify the PSP of the identity of DDS approved pursuant to Subsection 1604 that is processing the digital payment;

(ii) The operator shall use an application program interface (API) information in the MTS unit or in the DDS's payment solution approved pursuant to Chapter 16, to notify the DDS of:

(A) The taximeter fare pursuant to § 801.7;

(B) The amount of any gratuity;

(C) The number of passengers;

(D) Any additional information commercially and reasonably required to allow the DDS to process the digital payment and to comply fully with § 408.16(b)(3);

(E) The PSP's unique trip number assigned to the trip;

(iii) The DDS shall:

(A) Process the digital payment;

(B) Collect from the passenger and remit to the District the taxicab passenger surcharge pursuant to § 408.15;

(C) Transmit to the TCIS the trip data required by § 603.9, including the PSP's unique trip number;

(iv) The PSP shall transmit to the TCIS the trip data required by § 603.9 to allow the Office to reconcile the data provided by the PSP and the DDS; and

(v) The vehicle owner (taxicab company or independent owner) shall pay the PSP an integration service fee of not more than thirty five cents ($.35).

(4) Alternative for integration via approved integration agreement. In lieu of complying with paragraph (b)(3) of this subsection, any DDS and any PSP may negotiate an integration agreement that allocates the obligations set forth in paragraph (b)(3) in any reasonable, reliable, verifiable, and commercially reasonable manner that meets the following requirements:

Section 409, PROHIBITIONS, is amended as follows:

Subsection 409.5 is amended to read as follows:

409.5 No PSP shall allow its MTS to be used by any person for a taxicab trip unless the taxicab passenger surcharge is collected from the passenger and paid to the District for such trip.

Subsection 409.9 is amended to read as follows:

409.9 A PSP shall not allow its associated taxicab companies, independent owners, or taxicab operators to associate with a dispatch service that is not in full compliance with this title or other applicable law.

Section 411, PENALTIES, is amended as follows:

Subsection 411.1 is amended to read as follows:

411.1 A PSP or DDS that violates this chapter or an applicable provision of another chapter of this title is subject to:

(a) A civil fine of two hundred fifty dollars ($250) for the first violation of a provision, which shall double for the second violation of the same provision, and triple for each subsequent violation of the same provision thereafter;

(b) Confiscation of an MTS unit or unapproved equipment (including any fixed or mobile hardware component such as a smartphone, mobile data terminal, tablet, or attached payment card reader) used in connection with the violation:

(c) Suspension, revocation, or non-renewal of the Office's approval of its MTS (if a PSP) or modification, suspension, revocation, or non-renewal of its certificate of operating authority under Chapter 16 (if a DDS);

(d) Any combination of the sanctions listed in (a)-(c) of this subsection.

Section 499, DEFINITIONS, is amended as follows:

Subsection 499.2 is amended as follows:

The following definition is added after the definition of "Group riding":

"Implementation date" – the date for implementation of MTS units in all taxicabs, as provided in § 603.2.

The definition of "Integration service fee" is amended to read as follows:

"Integration service fee" - a fee paid by the vehicle owner to the PSP for the use of the MTS whenever a digital payment is made.

Copies of the proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting Jacques Lerner, General Counsel and Secretary to the Commission, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking should submit written comments via e-mail to dctc@dc.gov or by postal mail or hand delivery to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, D.C. 20020, Attn: Jacques Lerner, General Counsel and Secretary to the Commission. Comments should be filed within thirty (30) days after publication of this notice in the *D.C. Register*.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-143
August 6, 2013

SUBJECT: Appointment – Acting Director, Department of Health

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) 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(2) (2012 Supp.), and in accordance with section 2(a)(2) of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01(a)(2) (2012 Supp.), it is hereby **ORDERED** that:

1. **DR. JOXEL GARCÍA** is appointed Acting Director of the Department of Health and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2013-136, dated July 22, 2013.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to August 1, 2013.

Vincent C. Gray

VINCENT C. GRAY
MAYOR

ATTEST: Cynthia Brock-Smith

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-144
August 6, 2013

SUBJECT: Appointment – Mayor's Commission on HIV/AIDS

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) 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(2) (2012 Supp.), and in accordance with Mayor's Order 2013-126, dated July 12, 2013, it is hereby **ORDERED** that:

1. **DR. JOXEL GARCÍA** is appointed as an *ex officio*, non-voting member, and Co-Chairperson, of the Mayor's Commission on HIV/AIDS, representing the Department of Health, and shall serve at the pleasure of the Mayor for so long as he remains Director of the Department of Health.

2. **EFFECTIVE DATE:** This Order shall become effective immediately.

Vincent C. Gray

VINCENT C. GRAY
MAYOR

ATTEST: Cynthia Brock-Smith

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-145
August 8, 2013

SUBJECT: Delegation of Rulemaking Authority – Foster Youth Statements of Rights and Responsibilities Act of 2012

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(6) 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) (2012 Supp.), and section 372 of the Prevention of Child Abuse and Neglect Act of 1977 ("Act"), as amended, effective April 23, 2013, D.C. Law 19-276, 60 DCR 2060, it is hereby **ORDERED** that:

1. The Director of the Child and Family Services Agency is delegated authority to promulgate rules pursuant to section 372 of the Act.

2. This order shall supersede all pre-existing Orders to the extent of any inconsistency.

3. **EFFECTIVE DATE:** This Order shall become effective immediately.

Vincent C. Gray

VINCENT C. GRAY
MAYOR

ATTEST: Cynthia Brock-Smith

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-146
August 8, 2013

SUBJECT: Reappointments – Not-for-Profit Hospital Corporation Board of Directors

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) 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(2) (2012 Supp.), and in accordance with section 5115 of the Not-for-Profit Hospital Corporation Establishment Amendment Act of 2011, effective September 14, 2011, D.C. Law 19-21, D.C. Official Code § 44-951.04 (2012 Supp.), it is hereby **ORDERED** that:

1. **MARGO L. BAILEY**, who was nominated by the Mayor on May 22, 2013 and, following a forty-five day period of review by the Council of the District of Columbia, was deemed approved pursuant to Proposed Resolution 20-0291 on July 20, 2013, is reappointed as a member of the Not-for-Profit Hospital Corporation Board of Directors, for a term to end July 9, 2016.

2. **BISHOP CHARLES MATTHEW HUDSON, JR.**, who was nominated by the Mayor on May 22, 2013 and, following a forty-five day period of review by the Council of the District of Columbia, was deemed approved pursuant to Proposed Resolution 20-0290 on July 20, 2013, is reappointed as a member of the Not-for-Profit Hospital Corporation Board of Directors, for a term to end July 9, 2016.

3. **EFFECTIVE DATE:** This Order shall become effective immediately.

Vincent C. Gray

VINCENT C. GRAY
MAYOR

ATTEST: Cynthia Brock-Smith

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-147
August 8, 2013

SUBJECT: Delegation of Authority to the Director of the Department of Consumer and Regulatory Affairs – Gallery Place Graphics

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(2) 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(2) and (11) (2012 Supp.), and sections 4 and 10 of the Construction Codes Approval and Amendments Act of 1986 ("Act"), effective March 21, 1987, D.C. Law 6-216, D.C. Official Code §§ 6-1403 and 6-1409 (2008 Repl.), it is hereby **ORDERED** that:

1. Mayor's Order 2011-181, dated October 31, 2011, is amended by adding a new subsection III. C. to read as follows:

   C. Notwithstanding any other provision of this Mayor's Order, the Director of the Department of Consumer and Regulatory Affairs is delegated the authority vested in the Mayor by section 10 of the Act to issue rules to amend Title 12A of the District of Columbia Municipal Regulations, Chapter 31A, section 3107.18 (Rules for Gallery Place Project Graphics). Rules issued pursuant to this paragraph are not subject to approval by the Construction Codes Coordinating Board or the Working Group.

2. **EFFECTIVE DATE:** This Order shall become effective immediately.

Vincent C. Gray

VINCENT C. GRAY
MAYOR

ATTEST: Cynthia Brock-Smith

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-148
August 12, 2013

SUBJECT: Appointment – Mayor's Council on Physical Fitness, Health, and Nutrition

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) 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(2) (2012 Supp.), and pursuant to section 2 of the Mayor's Council on Physical Fitness, Health, and Nutrition Establishment Act of 2011, effective December 2, 2011, D.C. Law 19-58, D.C. Official Code § 7-121 (2012 Supp.), it is hereby **ORDERED** that:

1. **DR. JOXEL GARCIA** is appointed as the Chairman of the Mayor's Council on Physical Fitness, Health, and Nutrition and as a member representing the Department of Health. He shall serve in that capacity at the pleasure of the Mayor.

2. **EFFECTIVE DATE:** This Order shall become effective immediately.

Vincent C. Gray

VINCENT C. GRAY
MAYOR

ATTEST: Cynthia Brock-Smith

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

ACADEMY OF HOPE PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

The Academy of Hope Public Charter School solicits expressions of interest in the form of proposals with references from qualified vendors for each of the services listed below.

Business Services:

1. Cloud Technology services & consulting – support the school's technology needs with installation, maintenance, repair, and professional development
2. Accounting services – accounting consulting services (Washington, DC CPA Required)
3. Human Resources - outsourced

Insurance services:

4. Employee Benefits – provide health and life insurance for 19 employees
5. Business Insurance – business insurance coverage for public charter school

Questions and proposals may be e-mailed to finance@aohdc.org with the subject line in the type of service. Deadline for submissions is **12:00 pm August, 26 (insurance services only) and 12:00 pm September 10, 2013 for all other services.**. Appointments for presentations will be scheduled at the discretion of the school office after receipt of proposals only. No phone calls please.

E-mail is the preferred method for responding but you can also mail proposals and supporting documents to the following address:

Academy of Hope Public Charter School
Attn: Business Office
601 Edgewood St. NE, Ste. 25
Washington, DC 20017

CESAR CHAVEZ PUBLIC CHARTER SCHOOL DC

REQUEST FOR PROPOSALS

The Cesar Chavez Public Charter For Public Policy Schools invites interested and qualified vendors to submit proposals to provide services in the following areas:

K-12 Common Core Professional Development: The ToPPP Grant, a Race to the Top Grant administered by Chavez Public Charter Schools, is seeking a provider of Common Core Professional Development for a K-12 school consortium. Professional Development may consist of but is not limited to the following: providing full-day intensive workshops for teachers on the Common Core Standards and supporting small groups of teachers working on Common Core-focused instructional planning. Any vendor should have extensive experience in adult professional development and deep knowledge about Common Core standards.

Online Portal for Instructional Materials: The ToPPP Grant, a Race to the Top Grant administered by Chavez Public Charter Schools, is seeking a provider for an online portal for the indexing of Common Core aligned instructional materials. Portal function may consist of but is not limited to the following: space to post resources including word documents, links, and videos, the ability for members to comment and hold online communication via the portal, and access to pre-existing websites that contain Common Core-related instructional resources. Any vendor should have extensive experience in creating online learning platforms/portals as well as expertise about existing online resources that involve Common Core standards.

If you would like to put in a bid as a vendor for these services, please contact toppgrant@chavezschools.org.

Deadline for receiving bids is Tuesday August 20h, 2013 at 12pm.

COMMISSION ON FASHION ARTS AND EVENTS

NOTICE OF PUBLIC MEETING

TUESDAY, SEPTEMBER 10, 2013
1350 PENNSYLVANIA AVENUE, NW WASHINGTON, D.C. 20004
ROOM 301

The Commission on Fashion Arts and Events will hold its open public meeting on Tuesday, September 10, 2013 at 4:30pm in the John Wilson Building, room 301.
The Fashion Arts and Events Commission will be in attendance to discuss the Website for posting public meetings/minutes either on own website (to be developed if voted on), DMPED (POC website) or Open Government website (new office in DC). If you have any questions or concerns please feel free to contact Michelle Wright at 202-727-6365.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

September 2013

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
Theresa Ennis	Board of Accountancy	12	8:30 am-12:00pm
Leon Lewis	Board of Appraisers	18	8:30 am-4:00 pm
Leon Lewis	Board Architects and Interior Designers	6	8:30 am-1:00 pm
Sheldon Brown	Board of Barber and Cosmetology	9	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	10	7:00-pm-8:30 pm
Kevin Cyrus	Board of Funeral Directors	12	1:00pm-5:00 pm
Theresa Ennis	Board of Professional Engineering	26	9:30 am-1:30 pm
Leon Lewis	Real Estate Commission	10	8:30 am-1:00 pm
Pamela Hall	Board of Industrial Trades	17	9:00 am-2:00 pm
	Asbestos Electrical Elevators Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

Dates and Times are subject to change. All meetings are held at 1100 4th Street, SW, Suite E-300 A-B, Washington, D.C. 20024. Board agendas are available upon request.

For further information on this schedule, please call 202-442-4320.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF VENDING REGULATIONS INFORMATION SESSIONS

The Department of Consumer and Regulatory Affairs will be offering several free training sessions to the public regarding the recently approved vending business license regulations.

Staff from DCRA, the Department of Health (DOH), the Department of Transportation (DDOT), the Metropolitan Police Department (MPD), the Fire and Emergency Medical Services Department (FEMS), the Office of Tax and Revenue (OTR), and the Department of the Environment (DDOE) will be on hand to answer questions on topics such as:

- Vending licenses (classes, types, and requirements);
- Sidewalk vending;
- Mobile roadway vending (e.g., food and merchandise/services trucks);
- Vendor employee ID badges;
- Vending locations;
- Public/Farmers markets;
- Fees; and
- New vending business opportunities.

The free training sessions will be held on the following dates and times:

- Saturday, August 17 from 9:00 am to 11:00 am.
- Monday, August 19 from 6:00 pm to 8:00 pm.
- Saturday, August 24 from 9:00 am to 11:00 am.
- Monday, August 26 from 6:00 pm to 8:00 pm.
- Tuesday, August 27 from 6:00 pm to 8:00 pm.

Each of the training sessions will be held at the DCRA offices at 1100 Fourth Street, SW, Second Floor Conference Room (Room E-200), Washington, D.C. 20024. The location is on the Metro Green Line, at the Waterfront stop. Limited paid parking is available on site.

To register for any of the free training sessions, please visit: http://bizdc.ecenterdirect.com/Conferences.action and search for keyword “vending”.

If you need assistance with registering for any of the training sessions, please contact the DCRA Small Business Resource Center at 202-442-4538 or email Claudia.Herrera@dc.gov or India.Blocker@dc.gov.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY

FY 2013 Charter Schools Program, Dissemination Grant (Title V, Part B)

Application Release Date: August 30, 2013

GRANT APPLICATION SUBMISSION DEADLINE: September 20, 2013

The Office of Public Charter School Financing and Support, within The Office of the State Superintendent of Education (OSSE), will issue a Request for Applications for the FY 2013 Charter Schools Program Dissemination Grant.

A total of Three Hundred Forty-Eight Thousand, Two Hundred and Thirty-Five Dollars ($348,235) in Dissemination Grant funds shall be used by public charter schools (LEAs) to assist other schools in adapting the public charter school's program (or certain aspects of public charter school's program), or to disseminate information about the public charter school through activities such as:

- Assisting other individuals with planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

- Developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating within the partnership;

- Developing curriculum materials, assessments, and other materials that promote increased student achievement, and are based on successful practices within assisting charter school; and

- Conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

To be eligible for this grant, a public charter school:

- Must have been in operation for at least three (3) consecutive years prior to this solicitation;

- Must not have received a dissemination grant in the past; and

- Must have demonstrated overall success defined by the No Child Left Behind Act, which states:

(1) Substantial progress in improving student academic achievement;

(2) High levels of parent participation and satisfaction; and

(3) The management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

The grant award will be for a period not to exceed two (2) years from the date of the award, and the LEAs/public charter schools must commit to spending all grant funds awarded under this competition by September 30, 2015.

To receive more information, please contact:

John Savage
Program Analyst
Office of the State Superintendent of Education
810 First Street, NE, 8th Floor
Washington, D.C. 20002
Email: john.savage@dc.gov

A copy of the application will be available on August 30, 2013, on OSSE's website at www.osse.dc.gov .

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

CITYWIDE REGISTRATION SUMMARY

As Of JULY 31, 2013

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	43,186	2,787	801	17	153	12,070	**59,014**
2	29,890	6,047	242	26	146	11,797	**48,148**
3	37,461	7,463	382	20	117	12,202	**57,645**
4	48,279	2,386	551	10	148	9,199	**60,573**
5	51,400	2,106	572	16	148	8,764	**63,006**
6	50,301	6,189	546	21	174	12,612	**69,843**
7	51,276	1,363	474	2	123	7,133	**60,371**
8	48,156	1,345	453	3	171	7,602	**57,730**
Totals	359,949	29,686	4,021	115	1,180	81,379	**476,330**
Percentage By Party	**75.56%**	**6.23%**	**.84%**	**.02%**	**.25%**	**17.08%**	**100.00%**

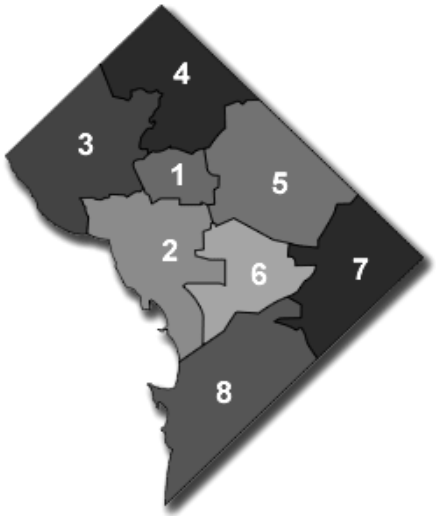
DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF

VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS

AS OF THE END OF JULY 31, 2013

COVERING CITY WIDE TOTALS BY:

WARD, PRECINCT AND PARTY



ONE JUDICIARY SQUARE
441 4TH STREET, NW SUITE 250N
WASHINGTON, DC 20001
(202) 727-2525
http://www.dcboee.org

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 1 REGISTRATION SUMMARY

As Of JULY 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,305	31	7	1	8	194	**1,546**
22	3,571	299	33	2	8	965	**4,878**
23	2,753	176	63	3	6	771	**3,772**
24	2,421	222	32	0	8	805	**3,488**
25	3,824	428	73	1	7	1,243	**5,576**
35	3,553	229	68	0	12	1,095	**4,957**
36	4,157	276	76	1	16	1,162	**5,688**
37	3,084	148	52	0	8	700	**3,992**
38	2,734	141	57	1	9	740	**3,682**
39	4,183	221	105	3	15	1,078	**5,605**
40	3,885	228	108	1	24	1,180	**5,426**
41	3,288	203	63	3	16	1,052	**4,625**
42	1,796	61	29	1	6	499	**2,392**
43	1,714	71	25	0	4	376	**2,190**
137	918	53	10	0	6	210	**1,197**
TOTALS	**43,186**	**2,787**	**801**	**17**	**153**	**12,070**	**59,014**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 2 REGISTRATION SUMMARY

As Of JULY 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	707	159	7	0	10	454	**1,337**
3	1,454	428	15	0	14	742	**2,653**
4	1,674	485	9	1	7	857	**3,033**
5	2,176	737	18	1	10	902	**3,844**
6	2,585	1,105	26	2	22	1,639	**5,379**
13	1,399	303	7	1	1	528	**2,239**
14	2,896	462	25	1	11	1,072	**4,467**
15	3,075	337	23	6	14	969	**4,424**
16	3,533	388	30	4	13	970	**4,938**
17	4,684	650	42	6	24	1,594	**7,000**
129	1,865	328	11	2	6	757	**2,969**
141	2,298	251	17	1	8	675	**3,250**
143	1,544	414	12	1	6	638	**2,615**
TOTALS	**29,890**	**6,047**	**242**	**26**	**146**	**11,797**	**48,148**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 3 REGISTRATION SUMMARY

As Of JULY 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,214	426	17	0	4	558	**2,219**
8	2,282	654	24	2	8	755	**3,725**
9	1,122	521	10	2	8	485	**2,148**
10	1,662	446	9	1	9	625	**2,752**
11	3,435	992	46	3	9	1,479	**5,964**
12	505	217	3	0	4	229	**958**
26	3,039	398	33	3	5	1,053	**4,531**
27	2,488	302	18	1	5	647	**3,461**
28	2,249	558	34	3	6	805	**3,655**
29	1,116	231	10	0	4	371	**1,732**
30	1,266	241	15	0	4	287	**1,813**
31	2,311	356	21	0	10	583	**3,281**
32	2,674	350	28	0	5	641	**3,698**
33	2,963	399	36	3	12	826	**4,239**
34	3,826	583	30	0	12	1,372	**5,823**
50	2,029	308	15	2	9	469	**2,832**
136	932	148	9	0		365	**1,454**
138	2,348	333	24	0	3	652	**3,360**
TOTALS	**37,461**	**7,463**	**382**	**20**	**117**	**12,202**	**57,645**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 4 REGISTRATION SUMMARY

As Of JULY 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,173	79	40	3	8	441	**2,744**
46	2,830	71	30	0	11	532	**3,474**
47	2,928	158	37	3	10	735	**3,871**
48	2,816	145	34	0	10	598	**3,603**
49	844	41	16	0	4	180	**1,085**
51	3,251	576	23	0	9	680	**4,539**
52	1,255	198	5	0	2	237	**1,697**
53	1,211	76	20	0	4	283	**1,594**
54	2,371	95	38	0	4	498	**3,006**
55	2,469	76	27	1	9	442	**3,024**
56	3,118	97	37	0	12	676	**3,940**
57	2,526	82	33	0	14	443	**3,098**
58	2,381	61	18	1	3	383	**2,847**
59	2,725	95	36	1	8	427	**3,292**
60	2,212	83	23	0	7	679	**3,004**
61	1,624	56	14	0	2	289	**1,985**
62	3,224	143	29	0	4	388	**3,788**
63	3,413	127	55	0	12	633	**4,240**
64	2,293	61	16	1	6	326	**2,703**
65	2,615	66	20	0	9	329	**3,039**
Totals	**48,279**	**2,386**	**551**	**10**	**148**	**9,199**	**60,573**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 5 REGISTRATION SUMMARY

As Of JULY 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	3,986	192	54	5	9	930	**5,176**
44	2,885	226	30	3	12	645	**3,801**
66	4,791	127	38	0	11	531	**5,498**
67	3,193	125	25	0	9	429	**3,781**
68	1,988	159	33	1	8	427	**2,616**
69	2,258	82	20	0	9	278	**2,647**
70	1,525	69	19	1	3	241	**1,858**
71	2,514	68	31	1	8	366	**2,988**
72	4,634	124	28	1	13	768	**5,568**
73	1,954	102	34	2	7	371	**2,470**
74	4,153	187	58	0	11	786	**5,195**
75	3,240	126	47	0	4	667	**4,084**
76	1,285	53	12	0	4	248	**1,602**
77	2,828	104	33	0	8	484	**3,457**
78	2,968	78	35	0	7	458	**3,546**
79	2,109	71	16	1	8	376	**2,581**
135	3,022	175	49	1	13	553	**3,813**
139	2,067	38	10	0	4	206	**2,325**
TOTALS	**51,400**	**2,106**	**572**	**16**	**148**	**8,764**	**63,006**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 6 REGISTRATION SUMMARY

As Of JULY 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	3,999	395	47	1	16	1,024	**5,482**
18	4,126	250	44	0	14	899	**5,333**
21	1,160	56	18	0	4	264	**1,502**
81	4,794	345	47	1	15	968	**6,170**
82	2,561	260	26	1	9	564	**3,421**
83	3,716	425	36	4	10	924	**5,115**
84	1,902	430	25	2	7	583	**2,949**
85	2,600	507	27	1	8	761	**3,904**
86	2,323	282	28	0	7	513	**3,153**
87	2,794	233	25	1	13	566	**3,632**
88	2,154	310	17	0	8	540	**3,029**
89	2,510	691	28	3	6	786	**4,024**
90	1,619	272	13	1	6	508	**2,419**
91	4,201	372	46	1	18	996	**5,634**
127	3,887	262	50	2	13	835	**5,049**
128	2,230	204	32	1	10	637	**3,114**
130	827	336	9	0	2	302	**1,476**
131	1,585	400	13	2	4	556	**2,560**
142	1,313	159	15	0	4	386	**1,877**
TOTALS	**50,301**	**6,189**	**546**	**21**	**174**	**12,612**	**69,843**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 7 REGISTRATION SUMMARY

As Of JULY 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,626	80	16	0	8	283	**2,013**
92	1,683	41	13	1	10	247	**1,995**
93	1,659	46	16	0	4	236	**1,961**
94	2,120	56	19	0	2	272	**2,469**
95	1,812	51	21	0		312	**2,196**
96	2,525	75	26	0	7	379	**3,012**
97	1,577	34	14	0	3	206	**1,834**
98	1,914	41	26	0	4	262	**2,247**
99	1,562	46	15	0	4	244	**1,871**
100	2,240	42	14	0	5	276	**2,577**
101	1,840	36	20	0	6	202	**2,104**
102	2,596	57	27	0	7	327	**3,014**
103	3,785	94	38	0	13	571	**4,501**
104	3,099	81	30	0	11	452	**3,673**
105	2,558	64	27	0	4	394	**3,047**
106	3,285	76	22	0	7	462	**3,852**
107	1,930	59	17	0	4	294	**2,304**
108	1,224	32	7	0	1	128	**1,392**
109	1,025	37	9	0	1	101	**1,173**
110	3,987	119	34	1	8	448	**4,597**
111	2,573	62	27	0	9	378	**3,049**
113	2,365	71	19	0	3	293	**2,751**
132	2,291	63	17	0	2	366	**2,739**
TOTALS	**51,276**	**1,363**	**474**	**2**	**123**	**7,133**	**60,371**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of JULY 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,172	57	11	1	7	294	**2,542**
114	3,338	112	30	0	19	524	**4,023**
115	3,160	78	21	1	10	653	**3,923**
116	4,150	110	44	0	15	633	**4,952**
117	1,870	45	13	0	9	279	**2,216**
118	2,771	74	29	0	9	393	**3,276**
119	3,069	119	44	0	11	579	**3,822**
120	2,033	41	22	0	6	342	**2,444**
121	3,553	85	39	1	14	566	**4,258**
122	1,938	50	20	0	5	277	**2,290**
123	2,322	94	26	0	12	363	**2,817**
124	2,774	65	16	0	4	382	**3,241**
125	5,041	130	46	0	13	792	**6,022**
126	4,091	125	39	0	17	727	**4,999**
133	1,526	49	10	0	5	195	**1,785**
134	2,254	44	28	0	6	277	**2,609**
140	2,094	67	15	0	9	326	**2,511**
TOTALS	**48,156**	**1,345**	**453**	**3**	**171**	**7,602**	**57,730**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 6/30/2013 and 7/31/2013

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	**379,142**	**31,912**	**4,341**	**119**	**1,305**	**88,137**	**504,956**
Board of Elections Over the Counter	7	0	0	0	0	3	**10**
Board of Elections by Mail	52	1	0	0	0	20	**73**
Board of Elections Online Registration	52	5	0	0	0	11	**68**
Department of Motor Vehicle	919	169	3	2	8	427	**1,528**
Department of Disability Services	1	0	0	0	0	1	**2**
Office of Aging	0	0	0	0	0	0	**0**
Federal Postcard Application	1	0	0	0	0	0	**1**
Department of Parks and Recreation	0	0	0	0	0	0	**0**
Nursing Home Program	0	0	0	0	0	0	**0**
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	**0**
Department of Corrections	2	0	0	0	0	0	**2**
Department of Human Services	5	0	0	0	0	0	**5**
Special / Provisional	0	0	0	0	0	0	**0**
All Other Sources	39	3	0	0	0	15	**57**
+Total New Registrations	**1,078**	**178**	**3**	**2**	**8**	**477**	**1,746**

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	53	4	1	1	1	14	**74**
Administrative Corrections	1,623	191	12	0	1	977	**2,804**
+TOTAL ACTIVATIONS	**1,676**	**195**	**13**	**1**	**2**	**991**	**2,878**

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	21,550	2,533	323	8	134	7,958	**32,506**
Moved Out of District (Deleted)	7	1	0	0	0	6	**14**
Felon (Deleted)	1	0	0	0	0	0	**1**
Deceased (Deleted)	307	19	4	0	0	35	**365**
Administrative Corrections	225	46	2	1	0	90	**364**
-TOTAL DEACTIVATIONS	**22,090**	**2,599**	**329**	**9**	**134**	**8,089**	**33,250**

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	228	32	4	3	6	82	
- Changed From Party	-85	-32	-11	-1	-7	-219	
ENDING TOTALS	**359,949**	**29,686**	**4,021**	**115**	**1,180**	**81,379**	**476,330**

ELSIE WHITLOW STOKES COMMUNITY FREEDOM PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

The Elsie Whitlow Stokes Community Freedom Public Charter School is seeking bids from prospective candidates to provide the following services:

1. **Supplier of Groceries** for the National School Breakfast and Lunch Program in accordance with requirements and specifications detailed in the Invitation for Bid.

2. **Supplier of Bread Products** for the National School Breakfast and Lunch Program in accordance with requirements and specifications detailed in the Invitation for Bid

3. **English Language Learner Coaching Services** in accordance with requirements and specifications detailed in the Request for Proposal.

4. **English Language Arts Coaching Services** in accordance with requirements and specifications detailed in the Request for Proposal.

5. **Special Education Services** in accordance with requirements and specifications detailed in the Request for Proposal.

6. **Ground Cover Installation** in accordance with requirements and specifications detailed in the Request for Proposal.

7. **Information Technology Services** in accordance with requirements and specifications detailed in the Request for Proposal.

8. **Cleaning Services** in accordance with requirements and specifications detailed in the Request for Proposal.

9. **Public Relation Services** in accordance with requirements and specifications detailed in the Request for Proposal.

To obtain an electronic copy of the full Request for Proposal (RFP), send an email to educompliance@gmail.com, specifying the RFP service request type in the subject heading.

The deadline for submissions is August 23, 2013 at 5pm.

Please e-mail proposals and supporting documents to educompliance@gmail.com.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

Office of Government Ethics

BEGA – Advisory Opinion – Unredacted - 1012-001

August 6, 2013

Advisory Opinion

Discounts Offered to District Government Employees[1]

This Advisory Opinion addresses several questions received by the Board of Ethics and Government Accountability ("BEGA") regarding discounts offered to District of Columbia government employees by non-governmental entities. Such discounts may be for, but are not limited to: (a) mobile phone service; (b) gym membership; (c) event tickets; (d) sporting events; or (e) hotel rates. This Advisory Opinion serves to provide guidance regarding whether, and in what circumstances, District government employees may accept discount offers.

Authority Governing Gifts

The acceptance of gifts by District government employees is governed by Chapter 18, Title 6B of the D.C. Municipal Regulations,[2] the Council Code of Conduct, and 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 § 1-1161.01 (2012 Supp.)), and is under the jurisdiction of the Board of Ethics and Government Accountability ("BEGA"). As defined by DPM § 1803.2(b) and Council Code of Conduct § III(f)(1), a discount, because it is a thing of value, is considered a gift.[3] The analysis of whether it is permissible for District government employees to accept a gift in the form of a discount begins with a review of the pertinent DPM and Council Code of Conduct gift provisions.

DPM

1803.2 (a) Except as noted in section 1803.3 of this section, a District government employee shall not solicit or accept, either directly or through the intercession of others, any gift from a prohibited source.

1803.2(b) For the purposes of this section, the following terms shall have the meaning ascribed:

Gift - any gratuity, favor, loan, entertainment, or other like thing of value.

Prohibited source - any person or entity that:

[1] The term "District Government Employees" refers to employees and agency heads of the Executive and Legislative branches of District government, including Councilmembers, and council staff, employees and agency heads of independent agencies, and members of Boards and Commissions who receive compensation.
[2] Hereinafter, Title 6B of the D.C. Municipal Regulations will be referred to as the "District Personnel Manual" or "DPM."
[3] This Advisory Opinion's analysis of the gift provisions contained in the Council Code of Conduct is limited to Council Code of Conduct § III (Gifts from Outside Sources) and does not include § IV (Conferences, Travel, and Receptions).

(1) Has or is seeking to obtain contractual or other business or financial relations with the District government;

(2) Conducts operations or activities that are subject to regulation by the District government; or

(3) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.[4]

Council Code of Conduct

III(a) Except as provided in subsection (c) of this Rule and Rule IV, employees shall not solicit or accept, either directly or indirectly, any gift from a prohibited source. [5]

III(c) Notwithstanding subsection (a) of this Rule, an employee may accept the following gifts:

(4) Opportunities and benefits, including favorable rates and commercial discounts:

(A) Available to the public or to a class consisting of all District employees;

(B) Offered to members of a group or class in which membership is unrelated to District employment; or

(C) Offered to members of an organization, such as an employees' association or agency credit union, in which membership is related to District employment if the same offer is broadly available to large segments of the public through organizations of similar size;

(6) Anything that is paid for by the Council or the District or secured by the Council or the District under contract;

(10) Reduced membership or other fees for participation in organization activities offered to all District employees by professional organizations if the only restrictions on membership relate to professional qualifications;

In addition to the DPM and Council Code of Conduct gift provisions, we also must look to DPM § 1803.1 for further guidance on the responsibilities of District government employees.

1803.1 (a) An employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in or create the appearance of the following:

(1) Using public office for private gain;

Can District government employees permissibly accept a Discount?

As stated previously, under the definition of a gift as provided in the DPM and the Council Code of Conduct, a discount is a gift because it is a "thing of value."[6] If the entity conferring the discount has or is seeking to obtain contractual or other business or financial relations with the District government, conducts operations or activities that are subject to regulation by the District

[4] In addition, District employees must not accept gifts, whether or not from a prohibited source, if the gift is motivated by an employee's status as a government employee (DPM § 1803.1(a)(1)(using public office for private gain)), an intent to gain preferential treatment (§ 1803.1(a)(2)), or is meant to reward an employee for carrying out official government duties (§ 1803.7 and 18 U.S.C. § 209 (salary supplementation)).
[5] Council Code of Conduct § III(f)(2) uses the same definition of "prohibited source" as DPM § 1803.2(b).
[6] See, DPM § 1803.2(b) and Council Code of Conduct, Section III(f)(1).

government, or has an interest that may be favorably affected by the performance or non-performance of a District employee's official responsibilities, the entity would be considered a prohibited source. Therefore, under a plain reading of DPM §§ 1803.2 (a) and (b) and Council Code of Conduct § III(f)(2), District employees are prohibited from accepting a discount offered by a prohibited source. Although this general prohibition applies, this opinion will explore several applicable exceptions.

In addition to addressing the DPM and Council Code of Conduct provisions regarding gifts from prohibited sources, this opinion also will explore whether the acceptance of a discount by a District government employee because of his or her status as a District government employee is permissible. District government employees are prohibited from "using public office for private gain" and may not be rewarded by an outside source for carrying out official functions or duties.[7] We answer these questions by analyzing various discount scenarios in light of the DPM and Council Code of Conduct, which define the responsibilities of District government employees and Councilmembers and their staffs.[8]

Types of Discounts

1. Discounts offered to the general public

We first address discounts "available to the public."[9] If the discount is offered to the general public and not restricted to a particular subgroup of prospective purchasers, it is permissible for a District government employee to accept the same discount. Because it is offered to the general public, District government employees who receive the discount are not using their public office for private gain because the receipt of the discount is not dependent on their status as District government employees. For example, if a supermarket offers pints of strawberries "buy one, get one free" or if a clothing store offers a 50% off clearance sale, District government employees can accept the discount because it is available to the general public. In such instances, "it appears that the motivation of the offeror is to increase sales volume by attracting a large identifiable group of customers, rather than to offer something of value to a particular group."[10] Taking advantage of discounts that are available to the general public, even if the source of the discount is a prohibited source, does not violate the DPM's gift provisions and is explicitly permitted by the Council Code of Conduct.[11]

2. Discounts offered to a class consisting of ***all*** District government employees

Discounts available to a class consisting of ***all*** District government employees are intended to cover "commercial discounts that are offered to all . . . employees on the same terms."[12] District government employees may accept discounts on fees such as gym memberships or hotel rates that are offered to ***all*** District government employees.

In situations where a discount offer is made to a class as large and diverse as all District government employees, "there is little likelihood that the offeror is seeking to gain influence or to supplement employees' salaries."[13]

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[7] See, DPM § 1803.1(a)(1), § 1803.7 and 18 U.S.C. § 209.
[8] In the absence of an internal District directive on the subject of discounts, we look to the United States Office of Government Ethics (U.S. OGE) for guidance. The U.S. OGE has issued several advisory opinions on the subject of discounts. The U.S. OGE advisory opinions are based on interpretations of the Code of Federal Regulations, which defines the responsibilities of federal employees.
[9] See, U.S. OGE Informal Advisory Letter 93 x 29.
[10] See, U.S. OGE Informal Advisory Letter 85 x 13.
[11] Council Code of Conduct § III(c)(4)(A).
[12] See, U.S. OGE Informal Advisory Letter 92 x 96.
[13] See, U.S. OGE Informal Advisory Letter 85 x 13.

Instead, the offer most likely is made because of the size of the employer (District government), not because of the employer's status as a governmental entity. Certainly, there is nothing to suggest that the offer is being made to any one individual District government employee because of his or her status as such. There is also little risk that an expectation of favorable or preferential treatment of the offeror will be created, even if the mass discount originates from a prohibited source. As a result, receipt of such a discount is not construed as "using public office for private gain." Discounts that are available to ***all*** District government employees are permissible, even if they are from a prohibited source.[14]

3. Discounts offered to subgroups of District government employees

In contrast to discounts offered to a class consisting of ***all*** District government employees, discounts offered ***only to subgroups*** of employees "raise the possibility of an improper motive and create appearance problems."[15] Discounts offered only to subgroups of employees may include discounts offered only to District government employees in specific agencies, discounts offered only to District government agencies with more than a specified number of employees, or discounts offered only to District government agencies that have a contractual relationship with the entity offering the discount. Such discounts bring into question the offeror's motives. There is the possibility that the offeror has singled out the subgroup because of some benefit, beyond increased sales (as discussed above), that the offeror expects to receive from the subgroup. This is especially true where a subgroup such as an agency has a contractual or other type of financial relationship (i.e., a grantee) with the entity offering the discount. For this reason, discounts offered ***only to subgroups*** of District government employees are generally prohibited.

4. Discounts received as a result of goods or services paid for by the District government or secured by the District government under a District government contract

The DPM does not specifically address receipt of goods and services paid for by the District government or secured under a District government contract. It is our view, then, that anything that is paid for by the District government or secured under a District government contract is excluded from the definition of gift. This is consistent with the Council Code of Conduct, which specifically excludes goods and services paid for by the District government or secured under a District government contract from definition of gift.[16] The rationale for this view is that "items secured under Government contract . . . accrue to the employee from the Government and, thus, are not gifts from an outside source."[17]

This means that District government employees may accept discounts on parking fees or concierge services provided for in their agency's lease for building space. Similarly, if a health club opens in the building of a District government agency and that agency provides a discount for its employees as a term of its lease, then the District government employees of that agency could accept the discount without violating the DPM's gift provisions. The exclusion turns on the discount being a term of the agency's lease or contract. In contrast, if a building landlord offers an agency head event tickets because the agency head's agency is a tenant, not because the event tickets were a term of the lease, the event tickets would be considered a gift and the agency head would be prohibited from accepting that gift.

There are two limitations regarding this general rule of which District government employees need to be aware. The first limitation involves the receipt of promotional benefits from a travel provider. Any promotional benefits a District government employee receives, such as frequent

[14] Council Code of Conduct § III(c)(4)(A) expressly permits acceptance of such discounts.
[15] See, U.S. OGE Informal Advisory Letter 85 x 13.
[16] Council Code of Conduct § III(c)(6).
[17] See, U.S. OGE Informal Advisory Letter 85 x 13.

flier miles or hotel points, as a result of official District government travel, are considered the property of the District government and may not be used by the District government employee for personal use.

The second limitation involves the receipt of personal benefits to which the District government is entitled under a District government contract. For example, if a copy machine supplier offers a free iPad with the purchase of a copy machine and that copy machine is purchased using District government funds, the employee who managed the purchase may not accept the free iPad for personal use because it is the property of the District government.

5. Discounts that do not confer a benefit[18]

Situations where a selling price is listed as a "discount" price, when in fact the price is not lower than the "market value" price are not considered gifts because they do not confer any benefit to the District government employee who accepts the discount. "Market value" represents the retail cost an employee would incur to purchase an item. Aside from event tickets, where the face value dictates the "market value," employees can ascertain "market value" by "reference to the retail cost of similar items of like quality."[19]

For example, if a discount clothing store offered District government employees suits for a discounted price of $500, while a second, comparable discount clothing store offered similar suits of like quality for a non-discounted price of $500, the discount offered by the first discount clothing store would not be considered a gift because those employees who accepted the "discount" price would be paying "market value." Therefore, a District government employee who paid the "discount" price would not be using his or her public office for private gain and an analysis as to whether the discount is offered by a prohibited source would be unnecessary.

Due to the vagaries and subjective nature of product valuation, caution should be exercised in ever accepting anything which is advertised as discounted. The safest approach is to assume that an item that is said to be discounted, actually is discounted, and then to proceed accordingly.

6. Discounts based on a negotiated price

In general, District government employees may enter into negotiated business transactions with persons outside the government, but "in certain situations, a negotiated price will reflect a discount and that discount may prove to be a prohibited gift."[20] The question of whether the negotiated price constitutes a gift turns on the objective value of the negotiated item. "The transaction will involve a gift only if the employee pays less than an amount that falls within the range that may be considered fair value. The amount of the gift would be the difference between the fair value and the amount actually paid."[21] "Fair value" is "a price sufficient to cover the company's anticipated costs and allow for a fair profit."[22]

In any case involving the negotiation of the selling price of a good or service, as discussed above, District government employees must ensure that they are not using their official title or position to receive a discount, or that the reason the discount is being offered is because of their District government employee status. Where a vendor provides a negotiated discount based on a District government employee's official title or position, that discount is considered an improper gift. For example, if an apartment building landlord offers the Director of a District government agency a

[18] Although Council Code of Conduct § III(c)(7)(C) makes reference to an exception for "anything for which market value is paid by the employee," the exception is only applicable to "any donation accepted by the Council under specific authority."
[19] See, U.S. OGE Informal Advisory Letter 85 x 13.
[20] Id.
[21] Id.
[22] Id.

lease for a fraction of the going rental rate, the Director should be aware that the negotiated discount may have been offered as a result of his or her official title or position, and that the discount would likely be considered a gift that the Director is prohibited from accepting.

Summary of Discount Exceptions

1. Certain discounts offered by professional organizations

This exception allows District government employees to accept discounts on memberships or other fees for participation in organization activities offered to all District government employees by professional organizations if the only restrictions on membership relate to professional qualifications.[23] These discounts are permissible because they represent a standard offer that the organization has made broadly available to large segments of the public. For example, if a state Bar offered all members a reduced rate for trial advocacy training, a District government employee who was a member of that Bar permissibly could accept the discount because it was offered to all members and only restricted by membership.

2. Certain discounts offered to a class in which membership is unrelated to District government

This exception allows District government employees to accept discounts offered to organization members in which membership is unrelated to District government employment.[24] For example, District government employees may permissibly accept discounts provided by their membership in a national travel club because membership in such an organization is unrelated to their District government employment.

3. Certain discounts related to District government employment but broadly available outside of District government

This exception allows District government employees to accept discounts offered to organization members in which membership is related to District government employment if the same offer is broadly available to large segments of the public through organizations of similar size.[25] For example, discounts offered to members of a District government employees' union would be permissible under this exception, provided that they are also broadly available to the public through federal government unions or private sector unions of comparable size.

4. Certain discounts that represent a nominal value (under $10)[26]

Discounts that result in District government employees receiving a nominal value (i.e. under $10) fall under an exception to the gift provisions under the DPM or Council Code of Conduct if the discount is received on a non-recurring occasion.[27] If the source of the nominal value discount is not a prohibited source, then acceptance of the gift is permitted. For example, if a sandwich shop that was not a prohibited source was opening a location near a District government agency and they offered a one-time free lunch (under $10) to all employees of that agency to celebrate the sandwich shop's grand opening, the District government employees would be permitted to accept

[23] Council Code of Conduct § III(c)(11) already expressly permits the acceptance of "reduced membership or other fees for participation in organization activities offered to all District employees by professional organizations if the only restrictions on membership relate to professional qualifications."
[24] Council Code of Conduct § III(c)(4)(B) already expressly permits the acceptance of discounts "offered to members of a group or class in which membership is unrelated to District employment."
[25] Council Code of Conduct § III(c)(4)(C) already expressly permits the acceptance of discounts "offered to members of an organization, such as an employees' association or agency credit union, in which membership is related to District employment if the same offer is broadly available to large segments of the public through organizations of similar size.
[26] Under Council Code of Conduct § III(c)(8)(C), an employee may accept "unsolicited gifts having an aggregate market value of $20 or less per source per occasion."
[27] See, DPM § 1803.3(e)

the one-time free lunch because the sandwich shop is not a prohibited source and the lunch is of nominal value and was offered on a non-recurring occasion.

If, however, the source of the nominal value discount is a prohibited source, acceptance of the gift may still be permitted, but only if there is no improper motive for giving the gift. To use our earlier example, if the sandwich shop is a prohibited source and offered the same discount (lunch of nominal value on a non-recurring occasion), District government employees would be permitted to accept the offer only if the sandwich shop did not expect a benefit in return from the District government employees to whom the sandwich shop offered the discount.

5. Certain discounts restricted to geographic locations

This exception allows District government employees to accept discounts that are restricted to geographical locations as long as geographic location is the only restriction. For example, if a national chain drug store offered a discount to ***all*** District government employees, but the discount is available only to stores located in the District, and not in Maryland, Virginia, or elsewhere, District government employees would be permitted to accept the discount. This is because the discount was offered to ***all*** District government employees and the only restriction is the geographic location.

Conclusion

Even though discounts can be considered gifts that are subject to the gift provisions found in the DPM and the Council Code of Conduct, there are a number of applicable exceptions that allow District government employees to accept discount offers. For example, District government employees may take advantage of discounts that are available to the general public, are offered to ***all*** District government employees, have only a geographic limitation, have a nominal value and are offered on a one-time basis, are part of a District government contract, are offered by professional organizations, or are offered based on membership in an organization and are unrelated to the employee's District government position. District government employees are prohibited from accepting discounts offered based on their District government employment, or offered to certain subgroups of District government employees.

When considering whether accepting a particular discount is permissible, if there is any question as to whether the source is a prohibited source or whether the discount offer has impermissible restrictions, or any other concerns, District government employees should contact this Office for guidance.

Please be advised that this advice is provided pursuant to section 219 of 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 § 1-1161.01 *et seq.*, which empowers me to issue, on my own initiative, an advisory opinion on any matter I deem of sufficient public importance concerning a provision of the Code of Conduct over which the Ethics Board has primary jurisdiction. (See, D.C. Official Code § 1-1162.19(a-1)).

Sincerely,

_____/s/_____
DARRIN P. SOBIN
Director of Government Ethics
Board of Ethics and Government Accountability

#1012-001

DEPARTMENT OF HEALTH
HEALTH PROFESSIONAL LICENSING ADMINISTRATION

NOTICE OF MEETING

Board of Medicine
August 28, 2013

On AUGUST 28, 2013 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of maters 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.

Meeting times and/or locations are subject to change – please visit the Board of Medicine website www.doh.dc.gov/bomed and select BoMed Calendars and Agendas to view the agenda and any changes that may have occurred.

Executive Director for the Board – Jacqueline A. Watson, DO, MBA, (202) 724-8755.

INSPIRED TEACHING DEMONSTRATION PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Spanish Language Program

The Inspired Teaching Demonstration Public Charter School is seeking competitive bids for a vendor to provide a Spanish Language Program at their school at 1328 Florida Avenue NW for the 2013-2014 School Year.

The Spanish language instruction program will be for students from pre-k or kindergarten through 5th grade and will integrate into the daily instructional program of the Inspired Teaching Demonstration Public Charter School. The Spanish program will take place during the school day as a special class. Additional information regarding the Inspired Teaching School and specifications of service are outlined in the Request for Proposal (RFP) and may be obtained from:

Zoe Duskin, Principal
zoe.duskin@inspiredteachingschool.org
202-248-6825

Proposals must be submitted as PDF or Microsoft Word documents and will be accepted until 5pm, August 23rd, 2013.

All bids not addressing all areas as outlined in the RFP will not be considered.

RICHARD WRIGHT PUBLIC CHARTER SCHOOL

REQUEST FOR BIDS

Human Resource Services

The Richard Wright Public Charter School is soliciting bids for the listed below special services. Bid package may be obtained beginning on Monday, August 19, 2013 by sending a request via email to acharles@richardwrightpcs.org . No phone calls. Bids must be delivered via email to acharles@richardwrightpcs.org by 5:00 PM on Friday, August 30, 2013.

In support of the Director of Business Operations vendor will assist with the following:

HR Policies/Practices Implementation, Employee Relations, Employee Files, Recruitment, Onboarding, Benefits Administration, Payroll, Compliances (Legal, State, Local, Office of the State Superintendent, District of Columbia Public Charter School Board)

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 September 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 August 16, 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 **Effective: September 15, 2013**
Recommended for appointment as a DC Notaries Public **Page 2**

Bachrach	Margaret S.	Loeb & Loeb LLP 901 New York Avenue, NW, Suite 300 East	20001
Bernard	Kimberly	Law Offices of James M. Loots, PC 634 G Street SE, Suite 200	20003
Blincoe	Michele W.	Supreme Court of the United States One First Street, NE	20543
Bonn	Thomas	Neal R. Gross & Company, Inc. 1323 Rhode Island Avenue, NW	20005
Boyd	Nancy J.	National Women's Law Center 11 Dupont Circle NW	20036
Brooks	Jessica	Wells Fargo Bank, NA 1850 M Street, NW	20036
Carroll	Danielle	AdvantEdge Business Centers 2101 L Street, NW, Suite 800	20037
Chichester	Sharon A.	Loeb & Loeb LLP 901 New York Avenue, NW, Suite 300 East	20001
Clark	Valerie	Potomac Place Tower Unit Owners Association 800 4th Street, SW	20024
Clay	Patricia	Human Capital Initiatives 611 Pennsylvania Avenue, SE, Suite 375	20003
Clifton	Kateri	The Leonard Resource Group, Inc. 1023 15th Street, NW	20005
Clones	Ivonne	Citibank 5700 Connecticut Avenue, NW	20015
Clouthier	James	Capital One Bank 1700 K Street, NW	20008
Cole	Donna M.	Atlantic Trust 1201 F Street, NW, Suite 900	20004

D.C. Office of the Secretary **Effective: September 15, 2013**
Recommended for appointment as a DC Notaries Public **Page 3**

Coroneos	Paul	Self 7007 Wyndale Street, NW	20015
Cruz	Jose A.	Alliance For Retired Americans 815 16th Street, NW, 4th Floor North	20006
Daniel	Jamie	Hickok Cole Architects 1023 31st Street, NW	20007
Dewhurst	Lauren Richter	Hill International, Inc. 1225 Eye Street, NW, Suite 601	20005
Dodson	Tamika R	Office of the People's Counsel 1133 15th Street, NW, Suite 500	20005
Dougall	Tiffany	The New York Avenue Presbyterian Church 1313 New York Avenue, NW	20005
Drath	Francesca	The Donohoe Companies Inc. 2101 Wisconsin Avenue, NW	20007
Ferguson	Robert D.	International Center for Research on Women 1120 20th Street, NW, Suite 500 North	20036
Galdos	Alexandra R.	Ballard Spahr LLP 1909 K Street, NW, 12th Floor	20006
Gaskins	Kimberley	Steptoe & Johnson 1330 Connecticut Avenue, NW	20036
Goodwin	Brooke N.	Self 111 Michigan Avenue, NW	20010
Gregg	Lindsey	Environmental Design & Construction LLC 1108 Good Hope Road, SE	20020
Guadalupe	Eduardo	KCI Technologies Inc. 122 C Street, NW, Suite 820	20001
Guest	Cathie D.	Borger Management, Inc. 1111 14th Street, NW, Suite 200	20005

D.C. Office of the Secretary **Effective: September 15, 2013**
Recommended for appointment as a DC Notaries Public **Page 4**

Hackett, Sr.	Shelton W.	Hackett's Funeral Chapel, Inc. 814 Upshur Street, NW	20011
Hall	Joan M.	Sterne, Kessler, Goldstein & Fox PLLC 1100 New York Avenue, NW	20005
Hawkins	Tammie	CDQ Consulting & Insurance, LLC 20 F Street, NW, Suite 700	20001
Hendrixson	Eric	Neal R. Gross & Company, Inc. 1323 Rhode Island Avenue, NW	20005
House	Mia J.	DC Contract Appeals Board 441 4th street, NW, Suite 350N	20001
Houston	Michelle	Alderson Reporting 1155 Connecticut Avenue, NW, Suite 200	20036
Jackson	Chad	Neal R. Gross & Company, Inc. 1323 Rhode Island Avenue, NW	20005
Jeter	Nichelle	Federal Housing Finance Agency 400 7th Street, SW	20024
Johnson	Shannon Elizabeth	Environmental Design & Construction LLC 1108 Good Hope Road, SE	20020
Jones	Janice	Alderson Reporting 1155 Connecticut Avenue, NW, Suite 200	20036
Jones	Marcy S.	Self (Dual) 2617 17th Street, NE	20018
Knight	Kristal	Lorna Group, Inc. 3200 Martin Luther King, Jr. Avenue, SE	20032
Koehler	Allison	Powers Pyles Sutter & Verville 1501 M Street, NW	20005
Kucia	Bethany J.	BNY Mellon	

D.C. Office of the Secretary **Effective: September 15, 2013**
Recommended for appointment as a DC Notaries Public **Page 5**

Lambert	Darice Nicole	Transportation Federal Credit Union 1200 New Jersey Avenue, SE, West Wing 1st Floor	20003
Lane-Porter	Denise	Premier Property LLC 1435 4th Street, SW, Suite B-603	20024
Lavoie	John A.	The Metropolitan Club of the City of Washington 1700 H Street, NW	20006
Lerman	Amy F.	Epstein Becker & Green, P.C. 1227 25th Street, NW, 7th Floor	20037
Malickson	Bryan	Expert Closing Services, LLC 2001 S Street, NW, Suite 250	20009
Marshall	Karolyn M.	Altria Client Services 101 Constitution Avenue, NW, Suite 400W	20001
Martin	Carolyn	Self 212 Oakwood Street, SE, Suite 118	20032
Mehalko	Stephen Michael	Premium Title and Escrow, LLP 1534 14th Street, NW	20005
Messele	Fantu G.	TD Bank 1489 P Street, NW	20005
Michon	Daniel	Neal R. Gross & Company, Inc. 1323 Rhode Island Avenue, NW	20005
Mollen	Eric	Neal R. Gross & Company, Inc. 1323 Rhode Island Avenue, NW	20005
Morrison	Charles	Neal R. Gross & Company, Inc. 1323 Rhode Island Avenue, NW	20005
Morton	Darick	B.O.P Real Estate Solutions, LLC 1380 Monroe Street, NW, Suite 229	20010

D.C. Office of the Secretary **Effective: September 15, 2013**
Recommended for appointment as a DC Notaries Public **Page 6**

Newman	Sharon	United States Attorney's Office 555 4th Street, NW	20001
Nicholson	Cheryl L.	Olender Reporting, Inc. 1100 Connecticut Avenue, NW, Suite 810	20036
Pigeon	Bryan J.	Spiegel & McDiarmid LLP 1133 New Hampshire Avenue, NW, 2nd Floor	20036
Praetorius	Andrea D.	Wells Fargo Bank, N.A. 3700 Calvert Street, NW	20007
Prister	Justin T.	National Association of State Workforce Agencies 444 North Capitol Street, NW, Suite 142	20001
Queen	DeVaughn	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Ramsey	Barbara J.	Roetzel & Andress, LPA 600 14th Street, NW, Suite 400	20005
Rong	Charles	Center for Global Development 1800 Massachusetts Avenue, NW, 3rd Floor	20036
Ross	Tritty	Self (Dual) 3508 Commodore Joshua Barney Drive, NE, Apt. 304	20018
Samuels	Willamena	Manna, Inc. 828 Evarts Street, NE	20018
Sanchez	Paola	District of Government, Office of Attorney General, Child Support Services Division 441 4th Street, NW, Suite 550N	20001
Schmitt	Margaret	Hickok Cole Architects, Inc. 1023 31st Street, NW	20007
Shields	Ellen	Department of Transportation 1200 New Jersey Avenue, SE	20590

D.C. Office of the Secretary **Effective: September 15, 2013**
Recommended for appointment as a DC Notaries Public **Page 7**

Shifflett	Jeffrey	Capital Research Center 1513 16th Street, NW	20036
Simon	Stacie M.	The Elder & Disability Law Center 1111 19th Street, NW, Suite 760	20036
Smith	Lisa Renee	Howard University 2400 6th Street, NW Suite 320	20059
Tari	Soheila M.	Atlantic Trust Company 1201 F Street, NW, Suite 900	20004
Uzzell	Thomas C.	George Sexton Associates 2121 Wisconsin Avenue, NW, Suite 220	20007
Whitehead	Debra Ann	Self 1735 P Street, NW, Unit 3	20036
Wilson	Jonathan	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Young	DaRoyce	NIH Federal Credit Union 2200 Pennsylvania Avenue, NW	20037
Young	Bryan	Capital Reporting Company 1821 Jefferson Place, NW, 3rd Floor	20036

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DC TAXICAB COMMISSION

NOTICE OF SPECIAL MEETING

The District of Columbia Taxicab Commission will hold a Special Meeting on Monday, August 19, 2013 at 10:00 am. The Special Meeting will be held in the Old Council Chambers at 441 4th Street, NW, Washington, DC 20001.

The final agenda will be posted no later than seven (7) days before the General Commission Meeting on the DCTC website at www.dctaxi.dc.gov.

Contact the Assistant Secretary to the Commission, Ms. Mixon, on 202-645-6018, extension 4, if you have further questions.

DRAFT AGENDA

I. Call to Order

II. Commission Communication

III. Adjournment

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 18562 of 1538 New Jersey Avenue LLC, pursuant to 11 DCMR §3103.2, for a variance from the lot area requirements under § 401.3 to allow the conversion of a church and residential unit into a six-unit[1] apartment building in an R-4 District at premises 1538 New Jersey Avenue, N.W., Washington, D.C. (Square 510, Lot 53).

HEARING DATE: June 11, 2013
DECISION DATE: July 9, 2013

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (the "Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by email to Advisory Neighborhood Commission ("ANC") 6E, and to owners of property within 200 feet of the site. The site is located within the jurisdiction of ANC 6E, which is automatically a party to this application. ANC 6E submitted a report dated May 10, 2013 in support of the application. The ANC report stated that at a regularly scheduled, duly noticed meeting on May 1, 2013, at which a quorum was present, ANC 6E voted unanimously (7-0-0) in support of the application. (Exhibit 27.)

The Office of Planning ("OP") submitted a report dated June 4, 2013 recommending denial of the application. (Exhibit 31.) The District of Columbia Department of Transportation ("DDOT") submitted a report of no objection to the application. (Exhibit 30.)

The Applicant submitted four letters of support from neighbors. (Exhibits 28, Tab E and 37, Tab F.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance under § 3103.2 from the strict application of the lot area requirement under § 401.3. No parties appeared at the public hearing in opposition to the application. Rose Carter, who testified at the hearing to request additional information, signed a letter of support following the hearing and was entered into the record. (Exhibit 37, Tab F.) Accordingly, a decision by the Board to grant this application would not be adverse to any party.

[1] The Applicant amended its application by reducing its request to six units instead of the seven units it initially asked for. (Exhibit 37.) The caption has been amended accordingly.

Based on the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking the variance relief that the Applicant has met the burden of proof under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR §3100.5, the Board has determined to waive to the requirements 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 part and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE REVISED PLANS AT EXHIBIT 37, TAB A.**

VOTE: **3-1-1** (Lloyd J. Jordan, Jeffrey L. Hinkle, and S. Kathryn Allen[2] to Approve; Anthony J. Hood (by absentee vote) to Deny; one Board 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: August 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 TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

[2] Board member Allen stated during deliberations that she had reviewed the record and therefore was participating in deliberations on the case.

BZA APPLICATION NO. 18562
PAGE NO. 3

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 08-34D
(Capitol Crossing IV, LLC and the Archdiocese of Washington Holy Rosary Church – Modification to First-Stage Planned Unit Development @ Square 566, Lot 854 and a Portion of Lot 853)
August 13, 2013

THIS CASE IS OF INTEREST TO ANCS 2C and 6C

On August 8, 2013, the Office of Zoning received an application from Capitol Crossing IV, LLC and the Archdiocese of Washington Holy Rosary Church (together, the "Applicant") for approval of a modification to a first-stage planned unit development ("PUD").

The property that is the subject of this application consists of Lot 854 and a Portion of Lot 853 in Square 566 in Northwest Washington, D.C. (Ward 2), which is located on a site bounded by 2nd Street, N.W. to the east, the proposed extension of F Street, N.W. to the south, 3rd Street, N.W. to the west, and the proposed extension of G Street, N.W. to the north. The property is currently zoned, for the purposes of this project, C-4 through a PUD-related map amendment approved in the first-stage PUD.

The overall PUD that consists of three major blocks – the North Block, the Center Block, and the South Block – that will contain a mixed-used project for the redevelopment of the land and air rights above the I-395 Center Leg Freeway, to be known as Capitol Crossing. (See Z.C. Case No. 08-34 for details on the overall PUD.) This request for a first-stage modification seeks approval of an increase in the height of the Holy Rosary Church facilities from 50 feet to 58 feet.

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.

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:		
American Federation of Government Employees, Local 631,		
Petitioner,	PERB Case Nos. and	04-UM-01 04-UM-02
and		
Government of the District of Columbia[1],	Certification No. 155	
Respondents.		

CERTIFICATION OF REPRESENTATIVE[2]

A representation proceeding having been conducted in the above-captioned matter by the Public Employee Relations Board ("PERB" or "Board") in accordance with the District of

[1] Named Respondents include: Office of Zoning; Office of Planning; Department of Public Works; Energy Office; Office of Property Management; Department of Transportation; and Department of Real Estate Services.

[2] By virtue of the Board's modification of units in a Decision and Order issued on April 27, 2012 (Slip Op. No. 1263), this Certification supersedes the Certifications of AFGE, Local 631, AFGE Local 1975, or AFGE, Local 3871, as the respective exclusive representative of the respective units set forth in the following cases: *American Federation of Government Employees, 14th District, Local 3871 and District of Columbia Office of Planning and Development*, PERB Case No. 82-R-15, Certification No. 14 (1982); *American Federation of Government Employees, 14th District, Local 3871 and District of Columbia Energy Office*, PERB Case No. 82-R-16, Certification No. 14 (1982); *American Federation of Government Employees, 14th District, Local 3871 and District of Columbia Department of Administrative Services*, PERB Case No. 86-R-02, Certification No. 44 (1987); *American Federation of Government Employees, Local 1975, AFL-CIO and District of Columbia Department of Public Works*, PERB Case No. 88-R-03, Amended Certification No. 24 (1989); *American Federation of Government Employees, Local 631 and District of Columbia Department of Public Works, Design Engineering and Construction Administration, Bureau of Building Construction Services*, PERB Case No. 94-R-03, Certification No. 77 (1994); *American Federation of Government Employees, Local 631 and District of Columbia Department of Public Works, Facilities Operation and Maintenance Administration, Office of Contract Support and the Office of Standards and Inspection*, PERB Case No. 94-R-06, Certification No. 82 (1995); *American Federation of Government Employees, Local 631 and District of Columbia Department of Public Works, Design Engineering and Construction Administration, Contract Management Division*, PERB Case No. 95-RC-13, Certification No. 85 (1995); and *American Federation of Government Employees, Local 631 and District of Columbia Water and Sewer Authority*, PERB Case No. 96-UM-03, Certification No. 92 (1996).

Columbia Merit Personnel Act of 1978 and the Rules of the Board, and it appearing that an exclusive representative has been designated;

Pursuant to the authority vested in the Board by D.C. Code §§ 1-605.2(1) and (2) and 1-617.9(a) and (c), and Board Rules 504.1(d), 504.5(e), and 516.2;

IT IS HEREBY CERTIFIED THAT:

The American Federation of Government Employees ("AFGE"), Local 631, has been designated by the employees in the respective units described below as their exclusive representative for the purpose of collective bargaining concerning terms-and-conditions of employment, including compensation, with the District of Columbia organization named in each unit's respective description.

Unit Descriptions:

a. All employees in the District of Columbia Office of Planning; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

b. All employees in the District of Columbia Office of Zoning; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

c. All employees in the Energy Office of the District of Columbia Department of Environment; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

d. All employees in Fleet Management Administration, Department of Public Works, and all unrepresented non-professional employees, in the Administrative Services Branch, Office of Management Services in the Department of Public Works; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

e. All professional and non-professional employees in the District Department of Transportation Office of Contracting and Procurement and Administrative and Management Support Services, Office Integrity and Compliance; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

f. All employees in the Mail Services in the Department of Real Estate Services, Facilities Division, Facilities Management; and for all professional and non-professional employees in the Department of Real Estate Services Facilities Division – Operations and Facilities Division - Facilities Management Areas I, II, II, IV, and V; Facilities Division Building Maintenance Operations, Areas I, II, IV and V; and Building Maintenance – DC Warehouse formerly employed in the Office of Property Management, Facilities Operation Maintenance Administration (FOMA), including positions of Secretary, mail Assistant, maintenance Mechanic, Electrician, Electrical Worker, Plumber, Pipefitter, A/C Equipment Mechanic, Locksmith Leader, Locksmith, Carpenter Leader, Carpenter, Wood Crafter, Masonry Worker, Sheet Metal Worker, Mechanic, Welder; in the Department of Real Estate Services, the Construction Division, for all professional employees (including civil engineer, mechanical engineers, electrical engineer, general engineer, structural engineer and architect) and non-professional (including civil engineering technician, program manager, clerical and other support staff), formerly employed in the Office of Property Management, Capital Construction Services Administration (CCSA); and for all employee in the Contracts Unit, Department of Real Estate Services, Facilities Division, Excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provision of Title XVIII of the CMPA of 1978, *as amended.*

IT IS HEREBY FURTHER CERTIFIED THAT:

The American Federation of Government Employees ("AFGE"), Local 1975 is recognized as the exclusive representative—for the purpose of collective bargaining concerning terms-and-conditions of employment, including compensation, with the District of Columbia Department of Public Works—of all non-professional District Service ("DS") and Wage Grade

("WG") employees within the Department of Public Works, except Fleet Management Administration and the Office of Management Services, Administrative Services Branch, who previously were assigned to bargaining units within the Department of Public Works, AFGE, Local 1975, on July 23, 1984, in Certification of Representation No. 24, as set forth in the units described below.

Unit Descriptions:

a. Non-professional DS employees granted recognition on May 3, 1972, in the Department of Highways and Traffic including Bureau of Construction and Maintenance; Design Engineering and Research; Traffic Engineering and Operation; and Office of Planning and Programming and Business Administration; and now in the Department of Transportation in Bureaus of Construction and Maintenance; Design, Engineering and Research; Traffic Engineering and Operations; and Office of Transportation Policies and Plans; and Office of Controller; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

b. All Wage Grade employees granted exclusive recognition on June 2, 1967 in the Department of Highways and Traffic, including Bureaus of Construction and Maintenance; Design, Engineering and Research; and Traffic Engineering and Operations and now in the same bureaus of the Department of Transportation, excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

c. All Uniformed Motor Vehicle Inspectors in the Department of Motor Vehicles, and covered by amended recognitions issued October 19, 1981 for non-supervisory employees in the Bureau of Traffic Adjudication, Department of Parking Enforcement; Motor Vehicles; Department of Transportation, excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

d. All unrepresented District Service (DS) professional employees in the Government of the District of Columbia Department of Public Works, Transportation Systems Administration, Bureau of Traffic Adjudication, Hearing Division, employed as Hearing Examiners; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

e. All employees in the Government of the District of Columbia Department of Transportation, employed as Hearing Examiners; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended.*

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

Effective April 27, 2012[3]

Keturah D. Harley
Acting Executive Director

[3] Date Slip Op. No. 1263 was issued.

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-01
v.	Opinion No. 1400
District of Columbia Metropolitan Police Department,	**Motion for Reconsideration**
Respondent.	

DECISION AND ORDER

I. Statement of the Case

On October 20, 2010, Complainant Fraternal Order of Police/Metropolitan Police Department Labor Committee ("Complainant" or "FOP") filed an Unfair Labor Practice Complaint ("Complaint") against Respondent D.C. Metropolitan Police Department ("Respondent" or "MPD"), alleging that Respondent violated D.C. Code § 1-617.04(a)(1) and (5) by unilaterally changing the classification of a grievance from "granted" to "denied, in part," and refusing to grant the remedies requested in the grievance. (Complaint at 6-7). In its Answer, Respondent denied the alleged violations of the Comprehensive Merit Personnel Act ("CMPA"), and raised the affirmative defenses that the Complaint was untimely, and that the Public Employee Relations Board ("Board") lacked jurisdiction because the Complaint was purely contractual. (Answer at 2-5).

On May 28, 2013, the Board issued a Decision and Order in this case. *Fraternal Order of Police/Metropolitan Police Dep't Labor Committee v. D.C. Metropolitan Police Dep't*, Slip Op. No. 1388, PERB Case No. 11-U-01 (May 28, 2013). In Slip Op. No. 1388, the Board held that the Complaint was timely, and that the Board had jurisdiction over the Complaint. Slip Op. No. 1388 at p. 3-4. Furthermore, the Board determined that by granting FOP's grievance and then changing the grievance classification to "denied, in part," MPD failed to adhere to its statutory duty to bargain in good faith with FOP. Slip Op. No. 1388 at p. 5. The Board ordered

MPD to 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, and to post a notice where notices to bargaining unit members are normally posted in each of MPD's buildings. Slip Op. No. 1388 at p. 6-7.

On June 11, 2013, MPD submitted a Motion for Reconsideration ("Motion"), alleging that the Board erred in concluding that MPD failed to bargain in good faith by unilaterally changing the classification of the grievance because "the interpretation of the relief contemplated by Article 24 of the Collective Bargaining Agreement ("CBA") was in dispute by the parties. (Motion at 1-2). Additionally, MPD contends that that Board erred in asserting jurisdiction over the matter because a decision regarding FOP's requested relief would require interpretation of Article 24 of the CBA. (Motion at 2).

In response, FOP filed an Opposition to the Motion for Reconsideration ("Opposition"). In its Opposition, FOP asserted that the Board does not lack jurisdiction, there was no dispute over the relief requested in FOP's grievance that would require interpretation of the parties' CBA, and that MPD committed an unfair labor practice when it changed the grievance classification. (Opposition at 5-11).

II. Discussion

A. Factual Background

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 24[1] of the parties' CBA by changing Sergeant Douglas' tour of duty without 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). After receiving this response, FOP filed the underlying Complaint in this case.

---

[1] 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).

B. Position of MPD before the Board

In its Motion, MPD raises three arguments: 1) the Board lacks jurisdiction over this matter because resolution requires interpretation of the parties' CBA; 2) MPD did not commit an unfair labor practice because the interpretation of a relief provision of the CBA was in dispute by the parties; and 3) MPD did not violate the CMPA by changing the grievance designation. (Motion at 5-12).

First, MPD asserts that the Board lacks jurisdiction over this matter because resolution of the Complaint required an interpretation of the 14-day scheduling rule contained in the parties' CBA. (Motion at 5). MPD states that FOP "specifically made its request for the additional relief pursuant to Article 24, Section 1 of the parties' CBA." *Id.* MPD further asserts that the CBA provides a grievance and arbitration procedure to resolve contractual disputes, and that the Board's precedent provides that the Board lacks jurisdiction in these circumstances. (Motion at 5-6). MPD cites to the Board's decision in *FOP/MPD Labor Committee v. MPD*, 60 D.C. Reg. 2585, Slip Op. No. 1360, PERB Case No. 12-U-31 (2013), stating that the jurisdictional issue in the instant case is "identical to the jurisdictional issue that led the Board to dismiss 12-U-31." (Motion at 6). Specifically, MPD states that FOP made its request for remedies in addition to those afforded by Article 24, Section 1 of the CBA, which is unambiguous and not subject to interpretation. (Motion at 6-7). Whether MPD properly denied FOP's requests for additional relief beyond the remedy expressly authorized by Article 24, Section 1 of the CBA requires analysis and interpretation of the parties' CBA, which "[a]s it did most recently in PERB Case No. 12-U-31, the Board has consistently held it has no jurisdiction to do [sic] perform such interpretation." (Motion at 7). Further, MPD cites to *FOP/MPD Labor Committee v. MPD*, 59 D.C. Reg. 6039, Slip Op. No. 1007, PERB Case No. 08-U-41 (2011) to support its contention that because the parties are in dispute over the remedy to be awarded for an acknowledged breach of the CBA, the dispute falls outside the Board's jurisdiction. (Motion at 7-8).

Next, MPD alleges that it did not commit an unfair labor practice by "re-characterizing a disputed grievance remedy" because there was a dispute over the remedy to be provided for the contract violation at issue in this case. (Motion at 8-9). MPD states that in its response to FOP's grievance and demand for relief, Chief of Police Cathy Lanier expressly granted financial compensation provided for in the parties' CBA, and that "[t]he additional relief requested by the FOP was not granted; in fact, it was not even referenced." (Motion at 10). MPD contends that "[g]iven the specifically limited grant of relief, the Respondent fails to understand how the Board concluded that the grievance was granted 'without limitation.'" *Id.* After FOP sent a letter requesting implementation dates for the other forms of relief requested, MPD states that Chief Lanier's response "reiterated the grant of financial relief contained in her original grievance response – there was no alteration or change to the Chief's position as to the remedy to be provided." *Id.* MPD contends that the letter "simply clarified that [Chief Lanier] had not agreed to provide the additional remedies requested by FOP." *Id.* In support of its allegation that its actions did not violate the CMPA because the parties disputed the remedy for the contract violation, MPD cites to Board cases in which stated that the failure to implement an arbitration award does not constitute an unfair labor practice if the interpretation of the award is disputed by

the parties. (Motion at 8-9). MPD notes that while the instant case does not involve an arbitrator's award, the Board analogized the Respondent's actions as such in its Decision and Order. (Motion at 9). Additionally, MPD contends that it had a legitimate reason to not provide the additional relief requested by FOP, and therefore its refusal to provide the additional relief does not constitute an unfair labor practice. (Motion at 11; *citing FOP/Dep't of Youth Rehabilitation Services Labor Committee v. Dep't of Youth Rehabilitation Services*, 59 D.C. Reg. 6755, Slip Op. No. 1127, PERB Case No. 11-U-31 (2011).

Finally, MPD contends that it did not commit an unfair labor practice when it changed the grievance classification from "granted" to "denied, in part" because the change was made for clarification purposes, and the correspondence between the parties "clarified that there was no meeting of the minds as to the remedy to be provided." (Motion at 12). MPD alleges that the grievance classification change occurred because "the interpretation of the remedy contemplated by Article 24 of the CBA was in dispute by the parties," and the fact that the change was made does not establish a CMPA violation or confer jurisdiction over this matter to the Board. (Motion at 11-12).

C. Position of FOP before the Board

FOP disputes MPD's allegation that the Board lacks jurisdiction over this matter, and contends that MPD's reliance PERB Case Nos. 08-U-41 and 12-U-31 is misplaced. (Opposition at 5). FOP contends that the holdings in these cases "are not triggered until there is a belief that the hearing/case will require contract interpretation." *Id.* In the instant case, the Board is not required to interpret the parties' CBA in order to determine whether an unfair labor practice was committed. (Opposition at 6). FOP states:

> [D]ue to MPD's initial decision to *grant* the FOP's entire grievance, which contained five (5) specific requests for remedies, this is not a question of what can or cannot be granted under Article 24, but rather an assessment of whether MPD needed to bargain with the FOP after it agreed to these five (5) remedies and then later decided that it wanted to change its decision. Indeed, since MPD had already agreed to the FOP's proposed remedy, there was *nothing* for [the Board] to analyze within the contract.

(Opposition at 6) (emphasis in original). As MPD already agreed to the remedy for the contractual violation, there is no obligation for the Board to interpret Article 24 of the parties' CBA. (Opposition at 7-8). MPD notes that the Board has jurisdiction to decide disputes if there is not a need to interpret contractual provisions that are distinct from the CMPA. (Opposition at 8). Additionally, FOP cites to *AFSCME DC Council 20, Local 2921 v. D.C. Public Schools*, 42 D.C. Reg. 5685, Slip Op. No. 339, PERB Case No. 92-U-08 (1992) for its assertion that the Board has jurisdiction over CMPA questions that overlap with contractual provisions. (Opposition at 8).

Next, FOP contends that there is no dispute between the parties over the remedy to be provided for the contract violation at issue in this case. (Opposition at 9). FOP states that MPD disagrees with the Board's conclusion that Chief Lanier granted the grievance without limitation, and the remedies at issue "were clearly delineated in the FOP's Step 2 Grievance and it was granted, unequivocally, by MPD and without any indication of a limitation." (Opposition at 9-10). Further, "[i]f MPD had initially desired to limit its grant of the grievance to the payment of time and a half, It should have so stated." (Opposition at 10). FOP distinguishes the FOP/DYRS Labor Committee case relied upon by MPD, stating that "[w]hile MPD may have granted the Grievance in error it is not legally barred from providing the remedies that were requested by the FOP and that were originally agreed to by the MPD." *Id.*, *citing FOP/DYRS Labor Committee v. DYRS*, Slip Op. No. 1127.

Finally, FOP rejects MPD's argument that the grievance classification change does not constitute an unfair labor practice because it was done for clarification purposes only. (Opposition at 11). FOP contends that MPD's reclassification was a substantive change to the parties' CBA, and supports the Board's conclusion that MPD's actions constitute a failure to adhere to its statutory duty to bargain in good faith. *Id.* FOP states that MPD's Motion is a mere disagreement with the Board's decision, and must be denied. *Id.*

D. Analysis

The Board has repeatedly held that "a motion for reconsideration cannot be based upon mere disagreement with its initial decision." *University of the District of Columbia Faculty Association/NEA v. University of the District of Columbia*, 59 D.C. Reg. 6013, Slip Op. No. 1004 at p. 10, PERB Case No. 09-U-26 (2009); *see also FOP/MPD Labor Committee v. MPD*, 59 D.C. Reg. 6579, Slip Op. No. 1118, PERB Case No. 08-U-19 (2011); *American Federation of Government Employees Local 2725 v. D.C. Dep't of Consumer and Regulatory Affairs and Office of Labor Relations and Collective Bargaining*, 59 D.C. Reg. 5041, Slip Op. No. 969, PERB Case Nos. 06-U-43 (2009); *D.C. Dep't of Human Services v. FOP/Dep't of Human Services Labor Committee*, 52 D.C. Reg. 1623, Slip Op. No. 717, PERB Case Nos. 02-A-04 and 02-A-05 (2003); *MPD v. FOP/MPD Labor Committee*, 49 D.C. Reg. 8960, Slip Op. No. 680, PERB Case No. 01-A-02 (2002). Absent authority which compels reversal, the Board will not overturn its decision and order in this case. *See Peterson v. Washington Teachers Union*, Slip Op. No. 1254 at p. 2, PERB Case No. 12-S-01 (March 28, 2012); *Collins v. American Federation of Government Employees National Office and Local 1975*, 60 D.C. Reg. 2541, Slip Op. No. 1351 at p. 3, PERB Case No. 10-S-10 (2013).

In its Motion, MPD alleges that the Board lacks jurisdiction over this matter because resolution of the Complaint requires an interpretation of the 14-day scheduling rule contained in the parties' CBA. (Motion at 5). In its initial Decision and Order, the Board considered a similar argument raised by MPD as an affirmative defense in its Answer to FOP's Unfair Labor Practice Complaint. (Slip Op. No. 1388 at p. 3-4). The Board rejected MPD's argument, stating that it examines the record of a case to determine if the facts concern a violation of the CMPA, regardless of how the dispute is characterized in the complaint or whether the parties disagree over the application of the CBA to the dispute. (Slip Op. No. 1388 at p. 4). Citing *American*

Federation of Government Employees, Local Union No. 3721 v. District of Columbia Fire Dep't, 39 D.C. Reg. 8599, Slip Op. No. 287 at n. 5, PERB Case No. 90-U-11 (1991), the Board noted that it 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.

(Slip Op. No. 1388 at p. 4). The Board went on to state that "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." (Slip Op. No. 1388 at p. 4; *citing University of the District of Columbia Faculty Ass'n v. University of the District of Columbia*, 60 D.C. Reg. 2536, Slip Op. No. 1350 at p. 2, PERB Case No. 07-U-52 (2013)). After considering the record of this case and applying the AFGE, Local Union 3721 test, the Board concluded that the matter was not purely contractual and may concern a violation of the CMPA. (Slip Op. No. 1388 at p. 4). The Board determined: (1) the case did 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; (2) the Board was not required to interpret the parties' CBA to resolve the dispute, and could instead resolve the dispute based upon its interpretation of D.C. Code § 1-617.04(a)(1) and (5) and its case law; and (3) the dispute could be resolved by the CMPA – specifically, whether MPD's actions constituted a failure to bargain in good faith. *Id.*

In its Motion, MPD presents no new facts or law that compels the Board to reverse its decision that it had jurisdiction to decide the dispute. Instead, MPD expands upon its original argument that was rejected by the Board. (Motion at 5-8). MPD characterizes this case as a question of whether it correctly interpreted Article 24, Section 1 of the parties' CBA when responding to FOP's grievance. (Motion at 5). However, as the Board held in its decision and order, the question in this case is not whether MPD awarded the correct remedy for its contractual violation, but whether altering the classification of the grievance from "granted" to "denied, in part" constituted a violation of the CMPA. (Slip Op. No. 1388 at p. 4) ("[T]he 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.") As FOP correctly observes in its Opposition, "[t]he Unfair Labor Practice Complaint concerned the MPD's actions after it agreed to the remedy and then unilaterally changed it. As such, no contractual interpretation is required here." (Opposition at 8).

For that reason, MPD's reliance on PERB Case Nos. 12-U-31 and 08-U-41 is misplaced. In PERB Case No. 12-U-31, FOP alleged that MPD violated the CMPA by refusing to allow an officer to have a specific union representative serve as his union representative during an investigatory interview. (Slip Op. No. 1360 at p. 1). The Board concluded that it lacked jurisdiction over that case because in order to determine whether MPD acted improperly in refusing to allow the specific union representative to represent the officer during the investigatory interview, the Board would have had to interpret the portion of the parties' CBA

that covered the rules for investigatory interviews. *Id.* at p. 4. Similarly, in PERB Case No. 08-U-41, the Board was asked to determine whether a party's actions violated the parties' CBA. (Slip Op. No. 1007 at p. 8). In the instant case, the Board is not being asked to determine whether MPD acted improperly in altering Sergeant Douglas's work schedule without the required 14-day notice. MPD does not dispute that it violated the parties' CBA by failing to give the requisite notice. (Motion at 9). Instead, in its Complaint, FOP asked the Board to examine a different question – whether MPD changing the grievance classification from "granted" to "denied, in part" without bargaining over the change constitutes a failure to bargain in good faith, in violation of the CMPA. (Complaint at 1-2). As the Board held in its Decision and Order, the resolution of this issue does not require an interpretation of the parties' CBA, and therefore the case was properly before the Board. (Slip Op. No. 1388 at p. 4). The issue to be resolved in this case has not changed since the Board issued its Decision and Order, and therefore the Board's jurisdiction over the case has not changed since its initial Decision and Order. MPD disagrees with the Board's finding that the case was not purely contractual, and such disagreement cannot be the basis for overturning the Board's Decision and Order in Slip Op. No. 1388. *See University of the District of Columbia Faculty Association/NEA,* Slip Op. No. 1004 at p. 10.

MPD's assertion that it did not commit an unfair labor practice because the interpretation of Article 24, Section 1 was disputed by the parties is similarly unavailing. Sergeant Douglas' step 2 grievance requested five forms of relief:

> (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). In the response to the grievance, dated May 27, 2010, Chief Lanier states, "this grievance is *granted.* You will be compensated at the rate of time and one-half for the day you worked outside of your normal tour of duty." (Complaint Exhibit 5) (emphasis in original). The response contains no rejection of the other remedies requested in the grievance, nor does it point out that Article 24, Section 1 provides only for payment of time and one-half for the time worked outside the employee's regular tour of duty. *Id.* MPD could have denied the portions of the grievance requesting remedies outside of those provided for in the parties' CBA, or disputed FOP's right to request additional remedies, but it did not do so. Instead, as the Board determined in its initial Decision and Order, MPD "wholly" and "without limitation" chose to

grant Sergeant Douglas' grievance. (Slip Op. No. 1388 at p. 5). Chief Lanier's May 27 letter is clear and unambiguous, and does not support MPD's contention in its Motion that there was dispute over the interpretation of Article 24, Section 1. (Motion at 8-11). Further, *FOP/DYRS Labor Committee v. DYRS* is not applicable to this case, as FOP has not alleged that it was statutorily barred from implementing the remedies granted by Chief Lanier's May 27 letter. (Motion at 8-11). MPD disagrees with the Board's determination that Chief Lanier granted the grievance without limitation, and the Board will not alter its decision based on MPD's disagreement. *See University of the District of Columbia Faculty Association/NEA*, Slip Op. No. 1004 at p. 10.

Finally, the Board rejects MPD's contention that the initial Decision and Order should be overturned because the change in the grievance classification was done for clarification purposes only, and there was no "meeting of the minds as to the remedy to be provided." (Motion at 11-12). In its Decision and Order, the Board determined that the change in the grievance classification was a "partial rescission of its initial decision to grant the grievance," and that although this was a case of first impression, it bore similarity to other actions in which a party failed to bargain in good faith. (Slip Op. No. 1388 at p. 5). MPD's assertion that the change in the grievance classification was only a clarification, and there was disagreement over the remedy to be awarded, are simply disagreements with the Board's prior holding. MPD's allegation is denied.

MPD has not provided any authority or additional facts which compel reversal of the Board's Decision and Order. Therefore, as mere disagreement with the Board's findings does not merit reconsideration, MPD's Motion for Reconsideration is denied.

ORDER

IT IS HEREBY ORDERED THAT:

1. The District of Columbia Metropolitan Police Department's 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.

July 29, 2013

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 11-U-01 was transmitted via File & ServeXpress to the following parties on this the 29th day of July, 2013.

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Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
American Federation of Government Employees, Local 631,	
Complainant,	PERB Case No. 13-U-23
v.	Opinion No. 1401
District of Columbia Department of General Services,	
Respondent.	

DECISION AND ORDER

I. Statement of the Case

Complainant American Federation of Government Employees, Local 631 ("Union" or "Complainant") filed the above-captioned Unfair Labor Practice Complaint and Request for Preliminary Relief ("Complaint"), against Respondent District of Columbia Department of General Services ("Agency" or "Respondent") for alleged violations of section 1-617.04(a)(5) of the Comprehensive Merit Protection Act ("CMPA"). Respondent filed a document styled Answer to Unfair Labor Practice Complaint ("Answer") in which it denies the alleged violations and raises the following affirmative defenses:

(1) The decision to conduct drug and alcohol testing is a management right pursuant to D.C. Code § 1-617.08, and is therefore not subject to bargaining.
(2) Complainant failed to establish that Respondent refused to bargain.
(3) The Complaint is untimely.

(Answer at 5-7).

II. Discussion

A. Background

The facts of this case are largely undisputed. Article 4, Section D of the parties' collective bargaining agreement ("CBA") states: "No Employer regulation or policy that is a negotiable issue is to be adopted or changed without first bargaining with the Union." (Complaint at 2; Answer at 2). Article 43 states, in part: "Employees who hold a CDL license, as required by their positions, shall be tested for drug and alcohol in accordance with the U.S. Department of Transportation regulations." (Complaint at 2; Answer at 2). On May 4, 2012, the Agency provided the Union with a document entitled "Notice of Drug and Alcohol Testing for Safety Sensitive Positions." (Complaint at 2, Complaint Ex. 4A; Answer at 3, Answer Ex. 2).

On December 19, 2012, the Union met with the Agency to present a proposal for the implementation of criminal background checks and drug and alcohol testing. (Complaint at 2; Answer at 3). Via letter dated January 28, 2013, the Agency's representative responded to the Union's proposals, stating in part that "this area of the law is so well covered by law that any attempt to negotiate over it, as demonstrated above, would run afoul of some provision of law. I propose that the parties just follow the law." (Complaint at 2, Complaint Ex. 6; Answer at 3). The Union responded via e-mail on January 30, 2013, stating that its bargaining unit members were not in "safety-sensitive positions." (Complaint at 3, Complaint Ex. 7; Answer at 3). On February 20, 2013, the Union contacted the Agency's representative to request a response to the January 30, 2013 e-mail. (Complaint at 3; Answer at 3). On February 25, 2013, the Union's counsel e-mailed the Agency's representative, stating:

> I wrote you about this last week. I have not heard from you and it appears you have not informed the Agency about AFGE 631's bargaining position and rights. What is the District's position on this subject. We have gave [sic] you a proposal, on December 19, 2012, and have only received a letter from you, but no counterproposal. Please respond by February 28, 2013 at 5:00 p.m. as to the District's current position.

(Complaint at 3, Complaint Ex. 9; Answer at 3). On March 5, 2013, the Agency notified the Union that it would begin background checks and drug and alcohol testing for Union bargaining unit employees. (Complaint at 3; Answer at 4). The parties agree that the Union's bargaining unit members are employed in Carpenter, Electrical Worker, Electrician, Maintenance Mechanic Helper, Plumber, and Locksmith Worker positions with the Agency. (Complaint at 3; Answer at 4). The parties dispute whether bargaining unit employees are assigned to positions which meet the criteria for safety-sensitive positions, as provided in D.C. Code § 1-620.31(10). (Complaint at 3; Answer at 4).[1]

[1] D.C. Code § 1-620.31(10) states that "safety-sensitive position" means: (A) Employment in which the District employee has direct contact with children or youth; (B) Is entrusted with the direct care and custody of children or youth; and (C) Whose performance of his or her duties in the normal course of employment may affect the health, welfare, or safety of children or youth.

B. Union's position

The Union alleges that the Agency violated D.C. Code § 1-617.04(a)(5) by implementing criminal background checks and drug and alcohol testing for employees who are not in safety-sensitive positions. (Complaint at 4). The Union seeks a preliminary relief order requiring the Agency to cease and desist further criminal background checks and drug and alcohol testing for bargaining unit employees until the Agency bargains with the Union over the implementation of the policy, and "post a notice for six (6) months in all Local 631 bargaining units notifying employees it [?] has violated the law by implementing criminal background checks and drug and alcohol testing without bargaining with Local 631." (Complaint at 4). Further, the Union asks the Board to issue an order:

(1) requiring the Agency to cease and desist the criminal background tests and drug and alcohol tests;

(2) requiring the Agency to reinstate any employees adversely affected by the testing program, expunge and destroy any documents from the employee records concerning the results of those tests, and award back pay, restored annual leave, and costs "associated with any bargaining unit employee's efforts to resolve any issues arising from the criminal background checks and drug and alcohol testing; and

(3) requiring a six (6) month notice posting.

(Complaint at 4-5).

C. Agency's position

The Agency raised three affirmative defenses in its Answer. The first is that it has not violated the CBA because it is only required to bargain over negotiable issues[2], and the decision to conduct drug and alcohol testing is a management right pursuant to D.C. Code § 1-617.08, and therefore not subject to bargaining. (Answer at 5-6, *citing D.C. Fire and Emergency Medical Services Dep't v. AFGE Local 3721*, 54 D.C. Reg. 3167, Slip Op. No. 874 at p. 17, PERB Case No. 06-N-01 (2007)). The Agency states that because Article 4, Section D of the parties' CBA is inapplicable to non-negotiable issues, it has not violated the CBA. (Answer at 6).

Next, the Agency contends that the Union has failed to establish that the Agency refused to bargain, and that the Union failed to provide significant support for its allegation. (Answer at 6). The Agency states that the Union has offered "only a single action by the Respondent – the Respondent's January 28, 2013 e-mail and letter – in support of the allegation that Respondent refused to bargain with Complainant." *Id*; Answer Ex. 4. In support of this affirmative defense, the Agency cites to *AFGE Local 2741 v. D.C. Dep't of Recreation and Parks* for the proposition

[2] Article 4, Section D of the parties' CBA states: "No Employer regulation or policy that is a negotiable issue is to be adopted or changed without first bargaining with the Union." (Answer Ex. 3).

that a "refusal to bargain in good faith is established by the totality of a party's actions, and usually a single action standing alone will not demonstrate bargaining in bad faith." (Answer at 6, *citing AFGE Local 2741 v. D.C. Dep't of Recreation and Parks*, 46 D.C. Reg. 6502, Slip Op. No. 588, PERB Case No. 98-U-16 (1999)).

Finally, the Agency alleges that the Complaint is untimely pursuant to Board Rule 520.4, which requires unfair labor practice complaints to be filed not later than 120 days after the date on which the alleged violations occurred. (Answer at 6). The Agency states that it notified the Union that bargaining members would be subject to criminal background checks, traffic records checks, and drug and alcohol testing on May 4, 2012. (Answer at 7, Answer Ex. 2). From that date, the Agency asserts that the Complaint was due by September 3, 2012, but was not filed until April 3, 2013. *Id.*

D. Analysis

As a threshold issue, we must address the Agency's allegation that the Board lacks jurisdiction to consider this matter because the Complaint is untimely. Board Rule 520.4 states that unfair labor practice complaints must 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 complaint 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 time 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, the alleged violations are the Agency's "refusal to bargain and repudiation of Local 631's CBA," in contravention of D.C. Code § 1-617.04(a)(5). (Complaint at 3-4). The Agency notified the Union of the drug and alcohol testing policy on May 4, 2012. (Complaint at 2; Answer at 3). However, the Agency did not notify the Union that its bargaining proposals were rejected until January 28, 2013. (Complaint at 2, Complaint Ex. 6; Answer at 3). January 28, 2013, was the earliest possible date that the Union could have become aware of the alleged violation. The Complaint was filed 64 days after January 28, 2013, and thus is not untimely. *See Durant v. D.C. Dep't of Corrections*, Slip Op. No. 1288 at p. 4-5, PERB Case Nos. 10-U-39 and 10-E-07 (June 27, 2012); *Hill v. Nat'l Union of Hospital and Healthcare Employees, Local 2095*, Slip Op. No. 1322 at p. 2, PERB Case No. 08-U-74 (March 27, 2012); *Morton v. Fraternal Order of Police/Metropolitan Police Dep't Labor Committee*, 59 D.C. Reg. 7366, Slip Op. No. 1268 at p. 2, PERB Case No. 10-U-43 (2012). Therefore, the Agency's allegation that the Compliant is untimely is dismissed.

To determine whether Respondent was required by the parties' CBA to bargain with the Union over the implementation of criminal background checks, traffic record checks, and drug and alcohol testing, the Board must consider whether the decision to implement these checks is a management right, pursuant to D.C. Code § 1-617.08. In the context of drug testing, the Board has previously held that an agency's decision to implement a drug testing policy is "plainly a

management decision." *Teamsters Local 639 v. D.C. Public Schools*, 38 D.C. Reg. 96, Slip Op. No. 249 at p. 3, PERB Case No. 89-U-17 (1990); *see also Teamsters Local Union 639 v. D.C. Public Schools*, 38 D.C. Reg. 3313, Slip Op. No. 274 at pgs. 1-2, PERB Case Nos. 90-N-02, 90-N-03, and 90-N-04 (1991) (the standard for imposition of drug testing is nonnegotiable because it is closely related to the right to implement a drug testing program); *Fraternal Order of Police/Metropolitan Police Dep't Labor Committee v. Metropolitan Police Dep't*, 59 D.C. Reg. 9742, Slip Op. No. 1026 at p. 8, PERB Case No. 07-U-24 (2010). Therefore, the implementation of the criminal background checks, traffic record checks, and drug and alcohol testing is a non-negotiable management right, and the Agency did not repudiate the parties' CBA by violating Article 4 or failing to bargain in good faith.

The Board has consistently held that an exercise of management rights does not relieve the employer of its obligation to bargain over the impact and effects of, and procedures concerning, the implementation of management rights. *International Brotherhood of Police Officers, Local 446 v. D.C. General Hospital*, 41. D.C. Reg. 2321, Slip Op. No. 312, PERB Case No. 91-U-06 (1994); *see also D.C. Nurses Association v. D.C. Dep't of Mental Health*, 59 D.C. Reg. 9763, Slip Op. No. 1259, PERB Case No. 12-U-14 (2012), *American Federation of Government Employees, Local 383 v. D.C. Dep't of Disability Services*, 59 D.C. Reg. 10771, Slip Op. No. 1284, PERB Case No. 09-U-56 (2012). Unions enjoy the right to impact and effects bargaining concerning a management rights decision only if they make a timely request to bargain. *University of the District of Columbia Faculty Association/NEA v. University of the District of Columbia*, 29 D.C. Reg. 2975, Slip. Op. No. 43, PERB Case No. 82-N-01 (1982). The Board has held that "[a]ny general request to bargain over a matter implicitly encompasses all aspects of that matter, including the impact and effects of a management decision that is otherwise not bargainable." *International Brotherhood of Police Officers, Local 446 v. D.C. General Hospital*, 39 D.C. Reg. 9633, Slip Op. No. 322 at p. 3, PERB Case No. 91-U-14 (1992). An unfair labor practice has not been committed until there has been a general request to bargain and a "blanket" refusal to bargain. *AFSCME District Council 20, Local 2921 v. D.C. Public Schools*, 60 D.C. Reg. 2602, Slip Op. No. 1363 at p. 5, PERB Case No. 10-U-49 (2013) (*citing Fraternal Order of Police/Dep't of Corrections Labor Committee v. D.C. Dep't of Corrections*, 49 D.C. Reg. 8937, Slip Op. No. 679 at p. 9, PERB Case Nos. 00-U-36 and 00-U-40 (2002)).

Although the Agency was not required to bargain over the decision to implement the background check and drug and alcohol testing program, the question remains whether the Union made a request to bargain over the impact and effects of the program, and if so, whether the Agency refused to engage in impact and effects bargaining. Where there "exists a duty to bargain over the impact and effects of a decision involving the exercise of a managerial prerogative... categorically refusing to bargain over this aspect is done so at the risk of management." *Teamsters Locals 639 and 730 v. D.C. Public Schools*, 38 D.C. Reg. 96, Slip Op. No. 249, PERB Case No. 89-U-17 (1991). In the instant case, there are no allegations that the Union specifically requested impact and effects bargaining, but the December 19, 2012, meeting and the proposal submitted at that meeting fall under *International Brotherhood of Police Officers, Local 446's* broad definition of a request to bargain. Slip Op. No. 322 at p. 3. It is undisputed that the Agency met with the Union on December 19, 2012, and that the Union presented a proposal for the background check and drug and alcohol testing program.

(Complaint at 2, Complaint Ex. 5; Answer at 3). It is also undisputed that the Agency responded to the Union's proposals via the January 28, 2013, e-mail. (Complaint at 2, Complaint Ex. 6; Answer at 3, Answer Ex. 4). A review of the January 28, 2013, e-mail shows that the Agency's representative addressed, point by point, the Union's proposal for the background checks and drug and alcohol testing program, before rejecting the proposal. (Complaint Ex. 6; Answer Ex. 4). The Agency's response cannot be characterized as a blanket or categorical refusal to bargain, and therefore the Agency did not violated D.C. Code § 1-617.04(a)(5) by failing to bargain in good faith. *See AFSCME District Council 20, Local 2921*, Slip Op. No. 1363 at p. 5; *see also Fraternal Order of Police/Dep't of Corrections Labor Committee v. D.C. Dep't of Corrections*, Slip Op. No. 679 at p. 9. The Union's Unfair Labor Practice Complaint is dismissed.[3]

ORDER

IT IS HEREBY ORDERED THAT:

1. Complainant Fraternal Order of Police/Metropolitan Police Dep't Labor Committee's Unfair Labor Practice Complaint is dismissed.

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.

July 29, 2013

[3] As the Board has dismissed the Union's Unfair Labor Practice Complaint, the Union's Request for Preliminary Relief is moot and will not be addressed.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 13-U-23 was transmitted via File & ServeXpress to the following parties on this the 29th day of July, 2013.

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/s/ Erin E. Wilcox

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Government of the District of Columbia

Public Employee Relations Board

In the Matter of:	
District of Columbia Public Schools, Petitioner,	PERB Case No. 13-A-09
v.	Opinion No. 1402
Council of School Officers, Local 4, American Federation of School Administrators, AFL-CIO (on behalf of Deborah H. Williams), Respondent.	**CORRECTED COPY**

DECISION AND ORDER

I. Statement of the Case

The District of Columbia Public Schools ("DCPS" or "Petitioner") filed an arbitration review request ("Request") of an arbitration award ("Award") by Arbitrator Joseph M. Sharnoff ("Arbitrator"). The Request invokes Rule 538.2, which provides that the Board shall notify the parties that they may file briefs on the issues contained in an arbitration review request if the Board finds that there may be grounds to modify or set aside the award. The Respondent Council of School Officers Local 4, American Federation of School Administrators, AFL-CIO, ("Union" or "Respondent") filed an opposition, which stated only that "the Union hereby submits its objection to the Arbitration Review Request filed by the District of Columbia Public Schools" and requested an opportunity to submit briefs. DCPS filed a motion asking the Board to set a briefing schedule, noting the Union's request and again citing Rule 538.2.

II. Discussion

A. Award

After holding hearings, the Arbitrator found the following pertinent facts: DCPS hired Deborah H. Williams ("Williams" or "Grievant") as a teacher at the Sharpe Health School for the 2005-2006 school year. DCPS appointed the Grievant principal at the Sharpe Health School at the start of the 2007-2008 school year. (Award at p. 2). She held that position in May 2010

when the chancellor of DCPS sent her a "Notice of Non-Reappointment as Principal for the 2010-2011 School Year." The notice stated, "The action is effective at the close of business on June 25, 2010." The notice advised the Grievant that DCPS would honor any rights that she might have to revert to her highest prior permanent level of employment if she provided written notification of her intent to exercise those rights by May 28, 2010. (Award at pp. 4, 14-15). The effective date of the non-reappointment did not arrive before the chancellor issued to Williams a notice of termination dated June 18, 2010. The Union filed a grievance on behalf of Williams "in protest of her termination as without just cause under the Parties' CBA." (Award at p. 16).

The Arbitrator issued the following Award:

> The grievance is sustained. The District of Columbia Public Schools is directed to reinstate the Grievant, Deborah Hall Williams to her former, or fully equivalent position as a Principal in the DCPS school system and make her whole for all losses, including back pay and seniority, under the CBA, less any appropriate set offs. The Arbitrator hereby retains jurisdiction for the limited purpose of resolving any disputes concerning the remedy only.

(Award at p. 26).

B. Analysis

The Request asserts that the remedy of reinstating the Grievant as a principal is contrary to law and public policy. The Request concludes: "The Agency respectfully requests the Board to determine, pursuant to PERB Rule 538.2, that there may be grounds to modify or set aside the Arbitrator's award for fees or that the Parties may fully brief these issues pursuant to the same Board Rule." (Request ¶ 15). The reference to fees appears to be erroneous as fees were not awarded. The substance of the Request, an objection to the reinstatement remedy, raises the initial question of whether this matter is properly before the Board as the Arbitrator stated that he retained "jurisdiction for the limited purpose of resolving any disputes concerning the remedy only." (Award p. 26).

The only act of an arbitrator that the Board may review is a final award. *D.C. Dep't of Consumer & Regulatory Affairs v. AFGE, Local 2725*, 59 D.C. Reg. 15198, Slip Op. No. 1338 at p. 2, PERB Case No.11-A-01 (2012); *Univ. of D.C. and Univ. of D.C. Faculty Ass'n/NEA*, 38 D.C. Reg. 845, Slip Op. No. 260 at p. 2, PERB Case No. 90-A-05 (1990). Arbitrators not infrequently retain jurisdiction regarding part or all of a remedy. In deciding whether an award in which an arbitrator has retained jurisdiction is final, the Board considers whether the matter the arbitrator retained jurisdiction to address was resolved or unresolved by the award. Guided by *U.S. Department of the Treasury, Customs Service Nogales, Arizona and National Treasury Employees Union Chapter 116*, 48 FLRA 938 (1993), the Board has held that where the arbitrator retained jurisdiction to consider any requests regarding an issue that the award resolved, the award is nonetheless final. *D.C. Dep't of Consumer & Regulatory Affairs and AFGE, Local 2725*, 59 D.C. Reg. 5392, Slip Op. No. 978 at pp. 4-5, PERB Case No. 09-A-01

(2009). In *Department of Consumer and Regulatory Affairs*, the arbitrator "retain[ed] jurisdiction for sixty days for the purpose of clarifying the remedy if needed upon request of the parties to consider any request, if any, for attorney fees. . . ." *Id.* at p. 3. Conversely, an award is not final if the arbitrator retained jurisdiction to address an unresolved issue, as was the case in *University of the District of Columbia v. AFSCME, Council 20, Local 2087*, 59 D.C. Reg. 15167, Slip Op. No. 1333, PERB Case No. 12-A-01 (2012), where the arbitrator left the amount of attorneys' fees unresolved and remanded the question for the parties to negotiate, retaining jurisdiction to resolve their disputes. *Id.* at 6.

The present case is parallel to *Department of Consumer and Regulatory Affairs*. The remedy is complete and fully resolved; the Arbitrator retained jurisdiction only to entertain any disputes the parties might bring to him. As the matter is properly before the Board, we will consider the parties' requests that the Board order briefs to be filed.

A party does not need the Board's permission to submit a brief with its arbitration review request or its opposition to an arbitration review request. *See Int'l Bhd. of Police Officers Local 445 (on behalf of Nelson) and D.C. Dep't of Admin. Servs.*, 41 D.C. Reg. 1597, Slip Op. No. 300 at p. 2 n.3, PERB Case No. 91-A-05 (1992). There is a circumstance in which the Board must request briefs. When the Board finds that there may be grounds to modify or set aside an award, Rule 538.2 requires the Board to notify the parties of that fact and give them fifteen (15) days to file briefs.

The alleged ground for modifying the Award is that it is contrary to title 5 of the District of Columbia Municipal Regulations ("DCMR"), which provides that principals are appointed to one-year terms and that "[r]etention and reappointment shall be at the discretion of the Superintendant." 5 DCMR § 520.2. The Petitioner maintains that the Grievant did not challenge her non-reappointment to the position of principal and this non-reappointment remains effective. By reinstating the Grievant to the position of principal, the Petitioner concludes, the Award conflicts with the DCMR.[1]

DCPS and the Arbitrator agree that the Union grieved only the termination and not the non-reappointment. (Request ¶ 9; Award at p. 26). They dispute whether the non-reappointment stands following the termination. DCPS denies that there is "any evidence the Chancellor rescinded her decision to non-reappoint Ms. Williams." (Request ¶ 9). The Arbitrator, in contrast, stated, "With regard to the reinstatement directive, the Arbitrator finds that the termination letter issued to the Grievant by the DCPS was intended to, and did, have the effect of making null and void the previously issued Notice of Non-Reappointment." (Award at p. 26) The Board will not overturn an arbitrator's finding on the basis of a disagreement with the arbitrator's determination. *F.O.P./Dep't of Corrs. Labor Comm. v. D.C. Dep't of Corrs.*, 59 D.C. Reg. 9798, Slip Op. No. 1271 at p. 6, PERB Case No. 10-A-20 (2012). Nonetheless, reinstating the Grievant as a principal may conflict with the DCMR notwithstanding a rescission

[1] The Request also criticizes the arbitrator's evaluation of evidence. (Request ¶ 14). The Request does not connect the criticism to the claim that the Award is contrary to law. A dispute with an arbitrator's evaluation of evidence does not raise an issue for review. *D.C. Hous. Auth. and AFGE, Local 2725 (on behalf of Banjo)*, 46 D.C. Reg. 6882, Slip Op. No. 591 at p. 2, PERB Case No. 99-A-04 (1999).

of the notice of non-reappointment. Section 520.5 of title 5 of the DCMR provides, "An appointment to the position of Principal or Assistant Principal shall expire automatically upon the completion of the stated term, unless the appointment has been renewed by the Board of Education, upon recommendation of the Superintendent, prior to expiration." In view of this and other sections of title 5 of the DCMR, the Board hereby notifies the parties that it finds that there may be grounds to modify or set aside the Arbitrator's award.

DCPS requested a briefing schedule. The schedule is set by Rule 538.2. The parties shall have "fifteen (15) days from the time of notice to file briefs concerning the matter."[2]

ORDER

It is hereby ordered that:

1. The Board requests the parties to brief fully the issue of whether the Award's directive that the Grievant be reinstated "to her former, or fully equivalent position as a Principal in the DCPS school system" is contrary to title 5 of the DCMR and subject to being modified or set aside pursuant to section 1-605.02(6) of the D.C. Code. The findings of fact of the Arbitrator, the trier of fact, are conclusive. No recitation of the facts is needed.

2. The briefs are due on August 13, 2013.

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.

July 29, 2013

[2] In finding Rule 538.2 applicable, the Board expresses no opinion as to the merits of the Petitioner's arbitration review request.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 13-A-09 was transmitted via File & ServeXpress to the following parties on this the 29th day of July, 2013.

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Collective Bargaining
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VIA FILE & SERVEXPRESS

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VIA FILE & SERVEXPRESS

David McFadden
Attorney-Advisor

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
Fraternal Order of Police/Metropolitan Police Department Labor Committee (on behalf of Sergeant Andrew J. Daniels),	
Complainant,	PERB Case No. 08-U-26
	Opinion No. 1403
v.	
District of Columbia Metropolitan Police Department,	
Respondent.	

DECISION AND ORDER

I. Statement of the Case

This matter is before the Board upon an unfair labor practice complaint filed by the Fraternal Order of Police/Metropolitan Police Department Labor Committee ("FOP" or "Complainant") on behalf of Sergeant Andrew J. Daniels ("Daniels" or "Grievant"). FOP alleges that grievances it filed on behalf of Daniels were followed by retaliatory actions against him. FOP lists the District of Columbia Metropolitan Police Department ("Department" or "Respondent"), Assistant Chief Joshua Ederheimer, Inspector Victor Brito, and Captain Mark Carter, 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 FOP/Metro. Police Dep't Labor Comm. v. D.C. Metro. Police Dep't*, 59 D.C. Reg. 6579, Slip Op. No. 1118 at pp. 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 Department Labor Committee v. D.C. Public Employee Relations Board*, Civ. Case No. 2011 CA 007396 P(MPA) (D.C. Super. Ct. Jan 9, 2013).

The complaint alleges that on behalf of five of its members, including Daniels, FOP filed on January 11, 2008, an informal step 1 grievance with Inspector Brito concerning a new staff schedule that the Metropolitan Police Academy ("MPA") had unilaterally implemented. Following Inspector Brito's denial of the informal step 1 grievance, FOP appealed the denial by filing a formal step 1 grievance and then a formal step 2 grievance. On January 22, 2008, four (4) days after the filing of the formal step 1 grievance, Inspector Brito ordered Daniels to submit all leave requests with him, contrary to Department policy regarding leave requests. (Complaint ¶ 11). On January 22, 2008, FOP filed an informal grievance against that change, and another alleged act of retaliation followed. The alleged retaliation occurred after the Grievant investigated and reported on the illness and hospitalization of an MPA recruit. FOP alleges, "On February 1, 2008, despite handling the situation as prescribed by Department and MPA procedures, Sergeant Daniels was ordered by Captain Mark Carter and Inspector Brito to complete a PD119, explaining his response to the hospitalized recruit situation." (Complaint ¶ 15). PD119 is a "Complainant/Witness Statement." (Complaint Attachment 5). Also on February 1, 2008, FOP filed a formal step 1 grievance on Daniels's behalf regarding the change in leave policy. (Complaint ¶ 16 & Attachment 6). The complaint further alleges, "On February 12, 2008, Sergeant Daniels learned that he was the subject of a Department investigation into his handling of the hospitalized MPA recruit. . . ." (Complaint ¶ 17).

Complainant contends that the reprisals for the grievances violated D.C. Code § 1-617.04(a)(1) and (4). (Complaint ¶ 19). Complainant asserts, "the Respondent[ ] demonstrated its unlawful motivation by, among other things, taking reprisals against Sergeant Daniels despite his appropriate actions in connection with the timely handling of the hospitalized MPA recruit; its decision to implement an unreasonable policy for requesting leave against Sergeant Daniels in retaliation for filing a group grievance; and opening an investigation against Sergeant Daniels despite indisputable evidence that he followed all applicable Department procedures, clearly for engaging in union activities and asserting his union rights." (Complaint ¶ 21). As relief, the Complainant seeks a finding that the Respondent "engaged in an unfair labor practice in violation of D.C. Code § 1-617(a)(1) [*sic*] and (4);" an order that the Department cease investigating Daniels; notices of the violation posted in each Department building; and an award of costs and fees.

The Respondent's answer denied the alleged acts of retaliation except that it admitted that "Sergeant Daniels completed a PD 119 (Witness Statement) explaining his response to the hospitalized recruit situation." (Answer ¶ 15). The Respondent asserts that the Complainant failed to allege a *prima facie* case.

II. Discussion

Section 1-617.04(a)(1) of the D.C. Code prohibits "[i]nterfering with, restraining, or coercing any employee in the exercise of the rights guaranteed by this subchapter." Section 1-617.04(a)(4) prohibits "[d]ischarging or otherwise taking reprisal against an employee because

he or she has signed or filed an affidavit, petition, or complaint or given any information or testimony under this subchapter." Filing a grievance constitutes the exercise of a right guaranteed by the subchapter ("CMPA") for purposes of section 1-617.04(a)(1) as well as the filing of a complaint for purposes of section 1-617.04(a)(4). *See Council of Sch. Officers, Local 4 v. D.C. Pub. Schs.*, 59 D.C. Reg. 3274, Slip Op. 803 at pp. 14-15, PERB Case No. 04-U-38 (2007).

To establish a *prima facie* case that the Department retaliated against the Grievant for engaging in the protected activity of filing grievances, the Complainant must show that (1) the Grievant engaged in the protected activity, (2) the Department knew about the Grievant's protected activity, (3) the Department exhibited anti-union or retaliatory animus, and (4) as a result, the Department took adverse employment actions against the Grievant. *See FOP/Metro. Police Dep't Labor Comm. v. D.C. Metro. Police Dep't*, Slip Op. No. 1391 at p. 24, PERB Case Nos. 09-U-52 and 09-U-53 (May 28, 2013). Citing *Rink v. D.C. Department of Health*, 52 D.C. Reg. 5174, Slip Op. No. 783, PERB Case No. 03-U-09 (2005), the Department contends that the Complainant had the burden of establishing a *prima facie* case by demonstrating that these elements occurred. "While the Department denies that there was any animus, the Complainant has failed to meet its burden by demonstrating that *any* action has been taken against Sergeant Daniels." (Answer at p. 4). The Department concludes, "Since Complainant has failed to allege a *prima facie* case of retaliation by demonstrating that any action had been taken against Sergeant Daniels at the time the Complaint was filed, Complainant has failed to meet its burden and the Complaint should be dismissed." (Answer at p. 5).

In *Rink* the Board was considering whether the complainant in that case had met her burden of proof *after* a hearing had been held and a report and recommendation had been submitted. A complainant is not required to demonstrate or prove its complaint at the pleading stage as long as the complaint asserts allegations that, if proven, would demonstrate a violation of the CMPA. *FOP/Metro. Police Dep't Labor Comm. v. D.C. Metro. Police Dep't*, 60 D.C. Reg. 9245, Slip Op. No. 1392 at p. 4, PERB Case No. 11-U-25 (2013); *Hatton and FOP/Dep't of Corrs. Labor Comm.*, 47 D.C. Reg. 769, Slip Op. No. 451 at p. 6 n.7, 95-U-02 (1995).

Applying that test, the Board cannot say that the complaint fails to allege "that *any* action was taken against Sergeant Daniels." The complaint alleges that Daniels was the subject of a Department investigation. The Board has held that an investigation of an employee can be an adverse action giving rise to a claim of retaliation. *FOP/Metro. Police Dep't Labor Comm. v. D.C. Metro. Police Dep't*, 59 D.C. Reg. 5461, Slip Op. No. 988 at p. 8, PERB Case No. 08-U-41 (2009). Although the Board has not previously ruled on a claim that merely changing a procedure for leave requests or requiring the completion of a witness statement is an adverse action, the Board has allowed a variety of claims of adverse action to reach a hearing, including a claim that an adverse action occurred where employees who failed to obtain certifications for their positions were required to use annual leave while awaiting transfer to positions that did not require certifications. *See AFGE, Local 631 v. D.C. Water & Sewer Auth.*, 51 D.C. Reg. 11379,

Slip Op. No. 734 at pp. 3, 6, PERB Case No. 03-U-52 (2004). Similarly, the U.S. Supreme Court has construed the "antiretaliation provision [of the National Labor Relations Act] to 'prohibi[t] a wide variety of employer conduct that is intended to restrain, or has the effect of restraining, employees in the exercise of protected activities'. . . ." *Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 66-67 (2006) (quoting *Bill Johnson's Restaurants, Inc. v. NLRB*, 461 U.S. 731, 740 (1983)).

Here, issues of fact exist concerning whether the actions of the Department constitute adverse employment actions and whether they were intended to restrain, or had the effect of restraining, the Grievant in the exercise of protected activities. Whether the Department'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 Karim v. D.C. Pub. Schs.*, 59 D.C. Reg. 12655, Slip Op. No. 1310 at p. 6, PERB Case No. 10-U-17 (2012). Prior to the hearing, the Parties will participate in mandatory mediation, pursuant to Board Rule 558.4.

ORDER

IT IS HEREBY ORDERED THAT:

1. The unfair labor practice claim will be referred to a hearing examiner for an unfair labor practice hearing. That dispute 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. 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.

July 29, 2013

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 08-U-26 is being transmitted via U.S. Mail to the following parties on this the 30th day of July, 2013.

Marc L. Wilhite
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VIA U.S. MAIL

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VIA U.S. MAIL

Adessa Barker
Administrative Assistant

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
American Federation of Government Employees, AFL-CIO, Local 1403 and Clifford Pulliam,	
Complainants,	
v.	PERB Case No. 13-U-16
District of Columbia Housing Authority,	Opinion No. 1404
Respondent.	

DECISION AND ORDER

I. Statement of the Case

On February 7, 2013, the American Federation of Government Employees, AFL-CIO Local 1403 ("Local 1403") and Clifford Pulliam ("Pulliam") (collectively "Complainants") filed an unfair labor practice complaint ("Complaint") against the D.C. Housing Authority ("Respondent" or "DCHA"). Complainants allege that DCHA discharged Pulliam because of his union activity. Respondent filed an answer with affirmative defenses ("Answer").

The Complaint alleges that Pulliam was employed in DCHA's Office of the General Counsel. The Complaint further alleges that Pulliam assisted in various ways known to DCHA with a petition for recognition that Local 1403 filed with the Board. Through the recognition petition (PERB Case No. 11-RC-01), Local 1403 sought to become the exclusive bargaining representative of attorneys and paralegals in the Office of the General Counsel. Pulliam also assisted in the preparation of comments and a motion in support of certification. Pulliam signed the motion. Management of the Office of General Counsel received a copy of the motion. The Complaint alleges, "In or about May 2011, after the filing of the Comments with PERB, Pulliam's supervisor, General Counsel Hans Froelicher called Pulliam and other staff to a meeting in which he expressed the DCHA's dismay with DCHA OGC employees and threatened them to 'work smarter, or we will find people who will.'" (Complaint ¶15). On October 23, 2012, employees of the putative bargaining unit elected Pulliam shop steward. On November 13, 2012, DCHA presented Pulliam with a letter notifying him that he would be discharged in ten business days. On November 27, 2012, he was discharged. Nicole Mason, another DCHA employee who had worked with Pulliam in the recognition effort, had been discharged the

previous March. The Complaint states that an unfair labor practice complaint brought on her behalf has been settled and withdrawn. The Complaint alleges that "[b]y the foregoing conduct, DCHA engaged in a pattern of reprisals against supporters of AFGE Local 1403 to discourage support for the union and to punish them for their activities at the PERB." (Complaint ¶24).

The Complaint presents three "counts" of unfair labor practices. First, the Complaint alleges that Pulliam's discharge discriminated against him in regard to the tenure and terms of his employment to discourage union membership in violation of D.C. Code section 1-617.04 (a)(1) and (3). Second, the Complaint alleges that DCHA discharged and otherwise took reprisals against Pulliam because he signed or filed an affidavit, petition, or complaint or gave information or testimony, in violation of section 1-617.04(a)(1) and (4). Third, the Complaint alleges DCHA interfered with, restrained, or coerced its employees including Pulliam in violation of section 1-617.04(a)(1).

The Respondent's Answer admitted that the Respondent was aware of Pulliam's recognition efforts and admitted that he was terminated. The Respondent denies that it engaged in a pattern of reprisals and denied the allegations of the three counts. As affirmative defenses, the Answer asserts that the Complaint "or portions thereof" failed to state a claim and was untimely and that it "should be stayed pending the final resolution of all related unfair labor practice complaints." Finally, the Answer asserts that DCHA's actions were justified. (Answer at p. 6).

II. Analysis

The Answer provides no grounds for the affirmative defenses. In particular, the Answer does not identify any pending unfair labor practice complaints that are related to this case nor does the Complaint. The Answer does not indicate which portions of the Complaint it maintains are untimely. Pulliam was discharged November 27, 2012, and the Complaint was filed less than 120 days later on February 27, 2013. With regard to the discharge, the Complaint was timely filed. Paragraph 15 of the Complaint alleges that the general counsel threatened Pulliam and other staff in May 2011. It is unclear whether Local 1403 alleges that this incident was a violation. If so, the Complaint was not timely filed with regard to the May 2011 alleged violation. However, that alleged incident could be relevant to show anti-union or retaliatory animus. *See FOP/Metro. Police Dep't Labor Comm. v. D.C. Metro. Police Dep't*, Slip Op. No. 1391 at pp. 25-26, PERB Case Nos. 09-U-52 and 09-U-53 (May 28, 2013).

To establish a *prima facie* case the Complainants must show that (1) Pulliam engaged in protected activity, (2) DCHA knew about the protected activity, (3) DCHA exhibited anti-union or retaliatory animus, and (4) as a result, DCHA took adverse employment action against him. *See Id.* at p. 24. The Complaint alleges facts which, if proven, would establish these elements. The Answer denies that DCHA took action against Pulliam as a result of his protected activities. Therefore, the pleadings present questions of fact warranting a hearing. Accordingly we direct the development of a factual record through an unfair labor practice hearing at which the Complainants will have the burden of proving the allegations of the Complaint by a

preponderance of the evidence as provided by Rule 520.11. Prior to the hearing, the parties will participate in mandatory mediation, pursuant to Board Rule 558.4.

ORDER

IT IS HEREBY ORDERED THAT:

1. The unfair labor practice claim will be referred to a hearing examiner for an unfair labor practice hearing. That dispute 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. 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.

July 29, 2013

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 13-U-16 was transmitted to the following parties on this the 30th day of July, 2013.

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VIA FILE & SERVEXPRESS

David McFadden
Attorney-Advisor

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
District of Columbia Nurses Association,	
Complainant,	PERB Case Nos. 04-UM-03, 05-U-17, 06-RC-02, and 08-UC-02
v.	
District of Columbia Department of Mental Health	Opinion No. 1405
and	
Government of the District of Columbia,	
Respondents.	

DECISION AND ORDER

I. Statement of the Case

This Decision and Order regarding a Report and Recommendation on Remand ("Remand Report"[1]) stems from four consolidated cases filed with the Board between February 20, 2004, and September 19, 2008. In PERB Case No. 05-U-17, Respondent D.C. Department of Mental Health ("DMH") alleged that the Union was representing registered nurses in violation of their collective bargaining agreement, whom DMH asserted were explicitly excluded. (Remand Report at 1) In PERB Case No. 04-UM-03, Complainant District of Columbia Nurses Association ("DCNA" or "Union") sought a modification in the description of a bargaining unit to reflect changes in the agencies employing its bargaining unit members, and the parties jointly requested that the D.C. Child and Family Services Agency ("CFSA"), an independent personnel

[1] The initial Report and Recommendation, dated September 28, 2009, will be referred to as the "Report and Recommendation." The Report and Recommendation on Remand, dated July 16, 2012, will be referred to as the "Remand Report."

authority, be included in a city-wide compensation unit composed of registered nurses employed by various agencies under mayoral personnel authority.[2] *Id.*; Report and Recommendation at 20. In PERB Case No. 06-RC-02, DCNA requested the Board certify the Union as the exclusive representative of the registered nurses. (Remand Report at 2). PERB Case No. 08-UC-02, a unit clarification petition, was consolidated with the other cases upon the agreement of the parties. *Id.*

The consolidated case was heard by Hearing Examiner Lois Hochhauser on four days between November 5, 2008, and January 27, 2009. The Hearing Examiner recommended: (1) with regard to PERB Case No. 08-UC-02, the Board should conclude that "When Actually Employed" ("WAE") or "temporary" registered nurses were not currently part of the bargaining unit; (2) with regard to PERB Case No. 05-U-17, the Board should concluded that DMH did not meet its burden of proof that an unfair labor practice occurred; (3) with regard to PERB Case No. 06-RC-02, the Board should order an election to determine if the WAE registered nurses wished to be represented by the Union; and (4) with regard to PERB Case No. 04-UM-03, the Board should modify the existing unit to include a unit of DMH registered nurses, and a city-wide unit of registered nurses that included CFSA registered nurses. (Remand Report at 2; Report and Recommendation at 11).

On August 11, 2011, the Board issued a "Direction of Election and Remand Order," adopting the Hearing Examiner's recommendations in PERB Case Nos. 05-U-17, 06-RC-02, and 08-UC-02. *District of Columbia Nurses Association v. D.C. Dep't of Mental Health and Government of the District of Columbia*, 59 D.C. Reg. 6089, Slip Op. No. 1013, PERB Case Nos. 04-UM-03, 05-U-17, 06-RC-02, and 08-UC-02 (2011). In PERB Case No. 04-UM-03, the Board agreed with the Hearing Examiner that the DMH registered nurses should be placed in a separate bargaining unit, but found "insufficient evidence to make a determination as to whether the remaining agencies[3] should be included in a city-wide bargaining unit consisting of registered nurses together with the Child and Family Services Agency." Slip Op. No. 1013 at 19. The Board remanded that question to the Hearing Examiner, and directed her to develop a record regarding whether there was a community of interest among the registered nurses at CFSA, an

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[2] At the time 04-UM-03 was filed, DCNA was the exclusive representative of:

> All registered nurses employed by the Commission on Mental Health Services, including registered nurses transferred from St. Elizabeth's Hospital, U.S. Department of Health and Human Services, pursuant to P.L. 98-621, excluding nurses working at the Rehabilitation Center for Alcoholics, management executives, confidential employees, supervisors, employees engaged in a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978. *See* PERB Case No. 87-R-12, Certification No. 43.

DCNA was also the exclusive representative of "all other registered nurses in Compensation Unit 13." *See* PERB Case Nos. 80-R-08, 90-R-03, and 90-R-07.

[3] The Board noted that at the time the petition was filed, the unit included the Department on Disability Services, the Department of Healthcare Finance, the Department of Youth Rehabilitation Services, the Department of Health, and the Office of the Chief Medical Examiner. The Board further stated that other agencies could be covered by a city-wide unit in the future if they were to hire nurses. (Slip Op. No. 1013 at p. 18, fn. 22).

independent agency, and a city-wide unit of registered nurses employed by the Government of the District of Columbia. *Id.*

A remand hearing was held on August 26, 2011, and the resulting Remand Report is before the Board for disposition. Neither party filed exceptions.

II. Discussion

A. Hearing Examiner's Findings On Remand

The Hearing Examiner found the following undisputed facts:

1. DCNA represents registered nurses in the bargaining unit certified in PERB Case No. 87-R-12, Certification 43. It is also the exclusive representative of registered nurses in Compensation Unit 13, employed by the Department of Health. DCNA was also certified as the exclusive representative for all registered nurses employed by CFSA.

2. DMH, the governmental entity responsible for providing inpatient and outpatient mental health services to District of Columbia residents, employs registered nurses. Registered nurses are also employed at the Department of Health Care Finance, the Department on Disability Services, and the Office of the Chief Medical Examiner, all of which are governmental agencies.

3. CFSA, the public child welfare agency in the District of Columbia responsible for protecting child victims and children at risk of abuse and neglect and assisting their families, also employs registered nurses. Unlike the other agencies identified in the previous paragraph, CFSA is an independent agency and is not under the Mayor's personnel authority.

4. This Board placed CFSA registered nurses in Compensation Unit 13 in 2006. In *DCNA and District of Columbia Child & Family Services Agency*, Slip Op. No. 854, PERB Case No. 06-CU-02 (2006), the Board concluded:

> The Board, having considered the "Compensation Unit Determination Petition" filed by the District of Columbia Nurses Association and the Office of Labor Relations and Collective Bargaining, hereby determines that the appropriate compensation unit for all registered nurses employed by the District of Columbia Child and Family Services Agency is Compensation Unit 13.

5. At the time of the initial proceeding, Compensation Unit 13 consisted of all registered nurses "who work as registered nurses" employed by the District of Columbia Government, including registered nurses at CFSA, Department of Health, Department on Disability Services, and the Office of the Chief Medical Examiner. Only DMH

> nurses were excluded from that unit and this was the basis for the modification petition.

(Remand Report at 5-6) (internal citations omitted).

On remand, the Hearing Examiner was asked to determine whether sufficient evidence existed to determine that a community of interest exists among the registered nurses at CFSA and a city-wide unit of registered nurses employed by the Government of the District of Columbia. (Remand Report at 3). In her Remand Report, the Hearing Examiner notes that the parties maintain that the Board placed CFSA registered nurses in Compensation Unit 13 in Slip Op. No. 854 in 2006, and that Slip Op. No. 854 constitutes "direct, controlling precedent" in the instant matter. (Remand Report at 7). Further, the parties assert that since approximately January 2007, DCNA registered nurses have been part of Compensation Unit 13, and have therefore been included in the compensation and non-compensation collective bargaining agreement. (Remand Report at 8). The Hearing Examiner noted testimony from the CFSA Acting Human Resources Director, Dexter Starkes, who testified that the CFSA registered nurses perform the same type of work as registered nurses at other District agencies, are classified in the same series, utilize the same pay scale, are subject to the same leave policies, and receive the same health and retirement benefits. (Remand Report at 7). Mr. Starkes also testified that CFSA registered nurses collaborate with registered nurses employed by other District agencies, and that the CFSA registered nurses share a community of interest with those nurses. *Id.*

The Hearing Examiner explained that the reason the evidence on the issue of registered nurses at CFSA was not thoroughly developed at the initial hearing is because "the evidence established that the Board has placed CFSA registered nurses in [Compensation Unit 13] several years earlier" in Slip Op. No. 854. (Remand Report at 8). The Hearing Examiner goes on to note that at the initial hearing, the parties stipulated "that CFSA was already a part of the Unit and would be included in the modified unit," and that "[i]t was assumed by all, including the Hearing Examiner, that the Board had determined to its satisfaction that all criteria had been met when it placed CFSA in the Unit, despite the fact that it had independent personnel authority." *Id.*

The Hearing Examiner recognized the general practice of establishing a separate compensation unit when an agency has independent personnel and bargaining authority. (Remand Report at 8). However, she found that the "rule is not without exceptions, particularly where there is an effort to minimize the number of different pay systems, or where pay schemes for occupation groups are considered unique." *Id.*; *citing SEIU, Local 722 v. D.C. Dep't of Human Services, Home Service Bureau*, 48 D.C. Reg. 8493, Slip Op. No. 383, PERB Case No. 93-R-01 (1994). Stating that the CFSA registered nurses and the other registered nurses in Compensation Unit 13 have the same license requirement, perform the same type of work, are classified in the same series, utilize the same pay scale, and share the same leave and benefits policies, the Hearing Examiner concluded that the record developed at the remand hearing "now contains sufficient evidence that the registered nurses at CFSA share a 'community of interest' with the other registered nurses in [the city-wide unit]." (Remand Report at 8-9). Additionally, the Hearing Examiner noted that the CFSA registered nurses have been part of Compensation

Unit 13 for a number of years without issue, the parties to this matter argued that the *status quo* should be maintained, and CFSA was participating in the contract negotiations occurring at the time of the remand hearing. (Remand Report at 9). The Hearing Examiner recommended that the CFSA registered nurses continue to be part of Compensation Unit 13. *Id.*

B. Analysis

The Board will affirm a Hearing Examiner's findings if those findings are reasonable, supported by the record, and consistent with Board precedent. *See Fraternal Order of Police/Metropolitan Police Dep't Labor Committee v. District of Columbia Metropolitan Police Dep't*, 59 D.C. Reg. 11371, Slip Op. No. 1302 at p. 18, PERB Case Nos. 07-U-09, 08-U-13, and 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 p. 3, PERB Case no. 95-U-20 (1996).

In the instant case, the Board instructed the Hearing Examiner on remand to determine whether a sufficient community of interest exists between the CFSA registered nurses and the city-wide unit of registered nurses. Slip Op. No. 1013 at p. 19. The Hearing Examiner credited and gave weight to the testimony of the CFSA's Acting Human Resources Director, who listed the commonalities between the CFSA registered nurses and the registered nurses employed by other District agencies, and opined that the nurses share a community of interest. (Remand Report at 7). In addition, the Hearing Examiner relied on the parties' joint agreement that the CFSA registered nurses belonged in the Unit, and their urging to maintain the status quo. (Remand Report at 7-9). Finally, the Hearing Examiner relied on Board precedent in Slip Op. No. 854, in which the Board ordered that "the appropriate compensation unit for all registered nurses employed by the District of Columbia Child and Family Services Agency is Compensation Unit 13." (Remand Report at 8-9).

The Board finds that the Hearing Examiner's conclusion that there is sufficient evidence to show that a community of interest exists among the CFSA registered nurses and the city-wide unit of registered nurses employed by the District of Columbia is reasonable, supported by the record, and consistent with Board precedent. Therefore, the existing bargaining unit will be modified, and the remaining agencies in the bargaining unit and the CFSA will be included in a city-wide bargaining unit consisting of registered nurses.

ORDER

IT IS HERBY ORDERED THAT:

1. With respect to PERB Case No. 04-UM-03, we adopt the Hearing Examiner's recommendation that a community of interest exists among the registered nurses at the District of Columbia Child and Family Services Agency and a city-wide unit of registered nurses employed by the Government of the District of Columbia.

2. Pursuant to Board Rule 504.5, the following unit of full-time registered nurses is appropriate:

> All full-time registered nurse positions at all agencies under the personnel authority of the Mayor of the District of Columbia, and the District of Columbia Child and Family Services Agency, excluding management executives, confidential employees, supervisors, employees engaged in a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978.

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.

July 30, 2013

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case Nos. 04-UM-03, 05-U-17, 06-RC-02, and 08-UC-02 was transmitted via U.S. Mail and/or e-mail to the following parties on this the 31st day of July, 2013.

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Public Employee Relations Board

In the Matter of:	
District of Columbia Public Schools,	
Petitioner,	PERB Case No. 12-A-08
and	Opinion No. 1406
Washington Teachers' Union - Local 6, American Federation of Teachers (on behalf of Lyntrel Smith),	
Respondent.	

DECISION AND ORDER

I. Statement of the Case

On September 24, 2012, the District of Columbia Public Schools ("DCPS" or "Agency") filed an Arbitration Review Request ("Request") of an Arbitration Award ("Award") by Arbitrator Salvatore Arrigo ("Arbitrator"). The Agency seeks reversal of the Award on the basis that the Award is contrary to law and public policy. (Request at 4). On October 31, 2012, the Washington Teachers' Union, Local 6 of the American Federation of Teachers ("WTU" or "Union") filed an Opposition to the Agency's Arbitration Review Request ("Opposition").

II. The Award

The matter before the Arbitrator concerned "the termination of the grievant Lyntrel Smith, a teacher at Dunbar High School, Washington D.C., effective September 26, 2011, for alleged grave misconduct in office involving a female student." (Award at 1). The Grievant Lyntrel Smith ("Grievant" or "Mr. Smith") was a teacher at Dunbar High School ("Dunbar"). (Award at 2). On September 9, 2011, the Grievant was sent a Notice of Termination for

violating 5-E DCMR § 1401.2(b) grave misconduct in office clause.[1] (Award at 6). The underlying termination concerned an alleged "inappropriate relationship" between the Grievant and an 18-year old student in his history class. (Award at 2).

The Arbitrator noted that neither the Grievant nor the student appeared before him as a witness, and summarized the record as follows::

> The record of events is taken largely from two sources. One is the investigative report of Geneve Couser, an investigator with the D.C. Public Schools (DCPS), Office of Security since 2004 with substantial prior experience as an officer and detective with the D.C. Metropolitan Police Department. Ms. Couser took written statements from various people, including the grievant and the student, on various dates between May 24, 2011, and August 13, 2011. She conducted her investigation pursuant to a request by the school system concerning an allegation that Mr. Smith had engaged in an inappropriate relationship with a student and she concluded that the allegation of grave misconduct was substantial.
>
> The other source is a hearing conducted on December 7, 2011, before a Hearing Officer under Article 6 of the Collective bargaining agreement (CBA) between the Union and the Agency at which testimony was given by the grievant, Investigator Couser and the Principal and Assistant Principal of Dunbar High School. In his decision the Hearing Officer presented the testimony in summary form. The Hearing Officer, found the emails of April 26, 2011, disclosed the existence of an "inappropriate" relationship between teacher and student. After considering various other factors the Hearing Officer rejected termination as a penalty and concluded that the grievant should be given a thirty (30) day suspension without pay and reinstated to his prior employment. The Agency did not adopt the Hearing Officer's disposition of the grievant thus leading to the arbitration herein.

(Award at 2). The April 26, 2011, emails in question were brought to the attention of the Assistant Principal Tameka McKenzie, when they were discovered by another Dunbar teacher, with whom the Grievant had had a personal relationship. (Award at 3).

Before the Arbitrator, the Union presented the issue as "whether DCPS has met its burden for 'just cause' as required by the CBA regarding 'the termination of a permanent employee for the alleged act of grave misconduct.'" (Award at 4). The Agency presented two issues: "One, did Mr. Lyntrel Smith violate DCMR (District of Columbia Municipal Regulations) Section 1401.2(b), Grave Misconduct, by engaging in an inappropriate relationship

[1] Chapter 5-E DCMR §1401 – Grounds for Adverse Actions provides: "1401.2 For purposes of this 'just cause for adverse action' may include, but is not necessarily limited to one (1) or more of the following grounds: (a) Inefficiency, (b) Grave misconduct in office; ...."

with his student? And two, if Mr. Smith did commit grave misconduct by engaging in this relationship, was termination appropriate?" *Id.*

The Arbitrator found that the teachers at Dunbar were notified at a various meetings that teachers were not to provide email addresses to students, although there was no written prohibition. (Award at 6). The Grievant indicated that he was unaware of this email policy until March 11, 2011, by which time he had posted his email address on a classroom board so that students could contact him after hours about school matters. (Award at 7). The student stated during the investigation that was how she obtained the Grievant's email address. *Id.*

The Arbitrator considered various factors in his determination of an appropriate disciplinary action. (Award at 7-8). The Arbitrator determined that the emails sent between the Grievant and the student were "highly inappropriate for a teacher-student relationship." (Award at 7). Notwithstanding, the Arbitrator found that the Grievant was regarded as a "good teacher" by Principal Jackson, and that the Grievant was involved in extracurricular activities for the students. (Award at 8). The Grievant had no disciplinary history at Dunbar prior to his termination. *Id.*

The Arbitrator stated he "considered...the contractual requirements of progressive discipline and that discipline should be corrective and not punitive." (Award at 9). The Arbitrator determined the issue to be "whether, on balance a lesser penalty than discharge might be more appropriate and be more in accord with the requirement of just cause for discipline." *Id.* As stated by the Arbitrator, "the gravity of the punishment must be equated with the gravity of the offensive conduct." *Id.* The Arbitrator noted that "just cause" was not defined in the CBA. *Id.* Both Parties had argued various points concerning Arbitrator Caroll Daugherty's seven-prong test ("Daugherty test") in *Enterprise Wireless Co.*, 46 LA 359 (1966); the Arbitrator noted that "such a mechanistic test has been widely criticized and just cause is generally conceded to be regarded as a flexible concept, taking specific shape on the facts and circumstances of the particular case." *Id.*

The Arbitrator then considered "the three prior cases of a termination of a teacher cited by the Agency...." (Award at 9). The Arbitrator found: "All three of these cases were significantly more detrimental to the student's well-being than the situation herein where no express statement of sexual liaison occurred. Nor was the language particularly graphic." (Award at 10). The Arbitrator reached the following decision:

> Considering all the relevant factors herein, including the nature of the inappropriate conduct of Mr. Smith, the lack of any evidence of personal, non-classroom contact between the grievant and the student, the grievant's employment history, the facts concerning the other teacher terminations, and all the attendant circumstances herein, I conclude that the discipline of termination for Mr. Smith's inappropriate conduct was excessive. However, the discipline should be a sufficiently substantial one in order to assure it is corrective for this conduct. Accordingly, I am of the view that the termination should be reduced to a disciplinary suspension without pay

> from the time of his initial termination until ten (10) days from the date of issuance of this decision and award, at which time Mr. Smith should be reinstated to his former or a substantially equivalent position of employment.

Id. The Arbitrator ordered that the "Agency shall rescind the disciplinary termination" of the Grievant; that the "Agency shall replace the disciplinary termination of Mr. Lyntrel Smith with a disciplinary suspension for inappropriate conduct as found;" that the "disciplinary suspension will be without pay from the time of Mr. Smith's termination in September 2011, until ten (10) days from the date" of the Award; and that the Agency within "ten (10) days from the date of this decision and Award ... will offer Mr. Smith reemployment to his former position or a substantially equivalent position of employment, employment to being no later than ten (10) days form the date of this decision and award." (Award at 10-11).

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.).

The Agency requests reversal of the Award on the basis that the Award is contrary to law and public policy. (Request at 3). The Agency argues that the Arbitrator ignored "prior precedent [of other terminations] and public policy and reduced Mr. Smith's termination to a disciplinary suspension despite finding that Mr. Smith had committed a grave misconduct in office." (Request at 4). The Agency argues: "District law – in the form of the DCMR – particularly 5-E DCMR 1401.2(b), prohibits such conduct as grave misconduct." *Id.* Underlying the Agency's argument that the Grievant's conduct required termination is its public policy argument that "[t]he conduct exhibited by Mr. Smith goes beyond the normal teacher-student relationship thus creating a negative effect on the teaching environment for all students and can pose a danger to the particular student involved. Public policy would dictate that DCPS must ensure that such relationships will not, and do not exist within its schools." *Id.*

The Union opposes the Agency's request on the grounds that the "Agency has failed to show where the arbitrator's decision is contrary to District law or public policy." (Opposition at 3).

A. Contrary to law argument

The Agency argues that the Award is contrary to law and public policy, because "[j]ust cause for adverse action may include grave misconduct in office." (Request at 4). Therefore, the Agency argues that the Arbitrator was required to uphold the termination of the grievant, pursuant to 5-E DCMR § 1401.2(b). *Id.*

Chapter 5-E DCMR §1401 – Grounds for Adverse Actions provides: "1401.2 For

purposes of this 'just cause for adverse action' may include, but is not necessarily limited to one (1) or more of the following grounds: (a) Inefficiency, (b) Grave misconduct in office; ...."

Nothing in the plain reading of 5-E DCMR § 1401.2(b) states that termination is required in the Grievant's case. The Agency had the opportunity and, in fact, asserted its argument that 5-E DCMR § 1401.2(b) and arbitration precedent supported the Grievant's termination before the Arbitrator. (Award at 9-10). Notwithstanding, the Arbitrator distinguished the Grievant's case from the cases presented by the Agency, and interpreted 5-E DCMR § 1401.2(b) and the Parties' CBA, to reach the conclusion that the Grievant's termination was inappropriate. *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). 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 Agency's argument that the Award is contrary to District law based on 5-E DCMR § 1401.2(b) is not persuasive. The Agency's Request constitutes only a disagreement with the Arbitrator's evidentiary findings and application of relevant law. "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).

The Agency's disagreement with the Arbitrator's penalty reduction does not contravene any District law. The Board has held that an arbitrator does not exceed his authority by exercising his equitable power, unless it is expressly restricted by the parties' collective bargaining agreement. *See District of Columbia Metropolitan and Fraternal Order of Police/Metropolitan Police Department Labor Committee*, 39 D.C. Reg. 6232, Slip Op. No. 282, PERB Case No. 92-A-04 (1992). *See also 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) (upholding an arbitrator's award when the arbitrator concluded that MPD had just cause to discipline grievant, but mitigating the penalty, because it

was excessive). Furthermore, the Supreme Court held in *United Steelworkers of America v. Enterprise Wheel & Car Corp.*, that arbitrators bring their "informed judgment" to bear on the interpretation of collective bargaining agreements, and that is "especially true when it comes to formulating remedies." 363 U.S. 593, 597 (1960). No argument has been asserted that there was a contractual prohibition on the Arbitrator to assert his equitable powers.

The Board finds that the Agency's argument is merely a disagreement with the Arbitrator's findings and conclusions. Therefore, the Agency's Request that the Award is contrary to law is denied.

B. Contrary to public policy argument

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).

The Agency has not provided any public policy that the Award contravenes. The Board finds that the Agency's Request is merely a disagreement with the Arbitrator's findings and conclusions. Therefore, the Agency's Request on the basis the Award is contrary to public policy is denied.

IV. Conclusion

The Board finds that the Agency's Arbitration Review Request is based on the Agency's mere disagreement with the Arbitrator's findings and conclusions. The Board has previously stated that a "disagreement with the Arbitrator's interpretation . . . does not make the award contrary to law and public policy." *District of Columbia Metropolitan and Fraternal Order of Police/Metropolitan Police Department Labor Committee*, Slip Op. No. 933, PERB Case No. 07-A-08 (2008) (quoting *AFGE, Local 1975 and Dept. of Public Works*, 48 D.C. Reg. 10955, Slip Op. No. 413, PERB Case No. 95-A-02 (1995)).

DCPS submitted itself to arbitration and to the Arbitrator's interpretation of the contract and relevant laws, as well as the Arbitrator's factual findings. DCPS has not asserted any law or public policy that would require the Arbitrator to have arrived at a different result. Therefore, the Board denies DCPS's Arbitration Review Request.

ORDER

IT IS HEREBY ORDERED THAT:

1. The District of Columbia Public Schools' 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.

July 29, 2013

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order for PERB Case No. 12-A-08 was transmitted to the following Parties on this the 30th day of July, 2013.

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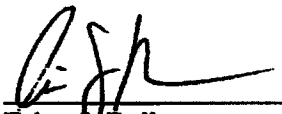

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Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
Teamsters Local Union No. 639, a/w International Brotherhood of Teamsters,	
Complainant,	PERB Case No. 12-U-29
and	Opinion No. 1407
District of Columbia Public Schools,	
Respondent.	

DECISION AND ORDER

I. Statement of the Case

On June 13, 2012, Teamsters Local Union 639, a/w International Brotherhood of Teamsters ("Teamsters" or "Union") filed an Unfair Labor Practice Complaint against District of Columbia Public Schools ("DCPS" or "Agency"), alleging violations of D.C. Code § 1-617.04 (1) and (5) of the Comprehensive Merit Personnel Act ("CMPA"). On July 3, 2012, DCPS filed an Answer to Unfair Labor Practice Complaint ("Answer"), asserting that the Complaint failed to state a cause of action for which relief may be granted by the Board. (Answer at 4).

II. II. Background

Through PERB Certifications Nos. 35-39, the Board jointly certified Teamsters Local 639 and Teamsters Local 730 as the exclusive bargaining agents for DCPS employees in the bargaining units: Operating Engineer Unit, Custodian Unit, Transportation and Warehouse Service Unit, Cafeteria Manager Unit, and Cafeteria Worker Unit.

The Union and the Agency both agree on the following:

> The Teamster Locals and DCPS have been parties in a continuous collective bargaining relationship, embodied in various collective bargaining agreements, covering a variety of classifications and units, including those referenced above [in PERB Certifications Nos. 35-39]. After their certification, the Teamsters Locals initially adopted a collective bargaining agreement negotiated between DCPS and a predecessor union. Subsequently, the Teamster Locals entered into a collective bargaining agreement for the period of 1987-1990. Successor agreements have been entered into up to the present time. Until recently the labor contracts negotiated between DCPS and the Union included all of the classifications set forth above.

(Complaint at 2, Answer at 2). The Parties agree that there is a current labor contract concerning the "maintenance unit," titled "Agreement Between the District of Columbia Public Schools and Teamsters Locals 639 and 730 Covering Wage Grade Employees." (Complaint at 2, Complaint Exhibit 2, Answer at 2).

The Parties further agree that:

> On or about May 30, 2012, DCPS notified a maintenance unit employee that it [the Agency] was changing his scheduled and established shift and requiring him to work a split shift from 6 a.m. to 10 a.m. and then again from 4 p.m. to 9 p.m. ....DCPS indicated that it was relying on Article XXX of the parties' collective bargaining agreement, despite the fact that DCPS had only applied this provision to transportation unit employees and never to maintenance unit employees.

(Complaint at 3, Answer at 3).

The Union alleges:

> At the time DCPS and the Union negotiated the present collective bargaining agreement, the parties did not create an entirely new labor contract, but left in place many of the provisions from their prior contract, despite the fact that many of the classifications covered by the previous labor contract were not covered by the current contract. One of the provisions in the previous labor contract covered split shifts for transportation unit employee workers (bus drivers and bus attendants)....The parties had agreed that such split shifts could be used for these employees because of the nature of their work – driving students to schools in the early morning and picking these students up in the late afternoon. When the parties negotiated a labor contract to cover the maintenance unit employees, they mistakenly and inadvertently included the split shift provision despite the fact that this provision had only been

> intended to apply to the transportation unit employees, who were no longer covered by the contact (sic)....Indeed, the parties did not even renumber the inapplicable contract provision, nor did either side raise this specific provision during the collective bargaining negotiations.

(Complaint at 2-3).

The Union alleges that the "unilateral change by DCPS to the work schedule of a maintenance unit employee is an unfair labor practice," in violation of D.C. Code § 1-617.04(a)(1) and (5). (Complaint at 3). The Union argues that "by altering the work schedule of a bargaining unit employee without bargaining with the Union, DCPS is interfering with and restraining the rights of the employee and the Union to engage in collective bargaining over the terms and conditions of the individual's employment." (Complaint at 3-4). The Union alleges the Agency violated D.C. Code § 1-617.04(a)(1) and (5) "by seeking to invoke a provision of the parties' labor contract that was not intended by the parties to be applied to maintenance unit employees" and "applying it to a classification of employees without discussing this with the Union or obtaining the Union's consent." (Complaint at 4). The Union argues that the Agency's actions were intended to undermine the Union's status as the exclusive collective bargaining agent. *Id.*

The Agency disputes the Union's allegations. (Answer at 2). The Agency asserts that "at the time that DCPS and the Union negotiated the present collective bargaining agreement, the Parties had a meeting of the minds and did, in fact, create a new labor contract despite the fact that many of the provisions were similar to the prior contract." *Id.* The Agency admits that Article XXX in the previous contract covered split shifts, however, the Agency denies that the provision only applied to transportation unit employees. *Id.* The Agency denies that the split shift provision in the Parties' current contract was inadvertent or a mistake, and asserts that the inclusion of the provision in the Parties' current contact was the result of an agreement by both Parties. (Answer at 3). The Agency asserts that the Agency complied with the Parties' current collective bargaining agreement, and denies the Union's allegations that it unilaterally changed the employee's work schedule and failed to bargain in good faith with the Union. *Id.* The Agency asserts that the contract has been in place for two years, and that the Union cannot argue that the contract provision is a mistake. *Id.*

III. Discussion

The Union argues that the Agency's change to the work schedule of the maintenance worker was a unilateral change in the terms and conditions of the employee's employment, which required the Agency to engage in good-faith, collective bargaining. (Complaint at 3-4). The Union alleges that the Agency relied on a contractual provision that the Agency knew was inapplicable and applied it the employee. (Complaint at 4). The Union argues that the Agency's action interfered with and restrained the rights of bargaining unit employees and the rights of the Union, in violation of D.C. Code § 1-617.04(a)(1) and (5). *Id.* The Union contends that the Agency was obligated to engage in good-faith, collective bargaining over the employee's terms and conditions of the employment, before instituting the change in work schedule. *Id.* In addition, the Union argues that the Agency's actions through its unilateral change in an

employee's terms and conditions of employment without engaging in good-faith, collective bargaining undermined the Union's role as the collective bargaining representative, in violation of D.C. Code § 1-617.04(a)(1) and (5). *Id.*

The Agency denies the Union's allegations that altering the employee's work schedule was a unilateral change to the employee's terms and conditions of employment. (Answer at 3). The Agency asserts that the change to the employee's schedule was made pursuant to the Parties' collective bargaining agreement, which "was negotiated in good faith and executed by" the Parties. *Id.*

Under the CMPA, agencies have a management right to determine the "number, types, and grades of positions of employees assigned to an agency's organizational unit, work project, or tour of duty." D.C. Code § 1-617.08(a)(5)(B). The Board has held that "an exercise of management rights does not relieve the employer of its obligation to bargain over impact and effect of, and procedures concerning, the implementation of [that right]." *American Federation of Government Employees, Local 2978 v. D.C. Department of Health*, 59 D.C. Reg. 9783, Slip Op. No. 1267 at p. 2, PERB Case No. 11-U-33 (2012); *International Brotherhood of Police Officers, Local 446 v. District of Columbia General Hospital*, 41 D.C. Reg. 2321, Slip Op. No. 312, PERB Case No. 91-U-06 (1994). The Board has upheld a hearing examiner's determination that an unfair labor practice occurred, when an agency failed to bargain with a union "upon request, over the impact and effects of changes to employees' working conditions, including hours of work, shift schedules, and policies concerning use of personal vehicles to perform work related duties." *American Federation of Government Employees, Local 383 v. D.C. Department of Mental Health*, 52 D.C. Reg. 2527, Slip Op. No. 753 at p. 1, PERB Case No. 02-U-16 (2004).

In the present case, the Parties dispute whether or not bargaining had occurred over the split shift schedule for the affected maintenance worker. As material facts are in dispute affecting the issue as whether the Agency's actions rise to the level of violations of the CMPA is a matter best determined after the establishment of a factual record, through an unfair labor practice hearing.

IV. Conclusion

In accordance with the Board's finding that the Parties' pleadings present 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. Prior to hearing, the Union and the Agency are ordered to attend mandatory mediation, pursuant to Board Rule 558.4.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Complaint will be referred to a hearing examiner for an unfair labor practice hearing. The dispute 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. 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.

July 29, 2013

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order for PERB Case No. 12-U-29 was transmitted to the following Parties on this the 30th day of July, 2013.

Mark J. Murphy — **via File&ServeXpress**
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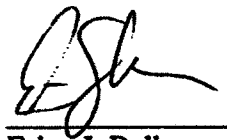

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Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
American Federation of Government Employees, Local 3721,	PERB Case No. 12-U-33
Complainant,	Opinion No. 1408
	(CORRECTED COPY)
v.	
	Motions to Amend Complaint
District of Columbia Department of Fire and Emergency Medical Services,	Motion to Dismiss Amended Complaint Motion for Decision
	Motion to Reply
and	
District of Columbia Office of Labor Relations And Collective Bargaining,	
Respondents.	

DECISION AND ORDER

I. Statement of the Case

Petitioner American Federation of Government Employees, Local 3721 ("Complainant" or "AFGE" or "Union") filed an Unfair Labor Practice Complaint ("Complaint") against the District of Columbia Department of Fire and Emergency Medical Services ("FEMS" or "Agency"), and the District of Columbia Office of Labor Relations and Collective Bargaining ("OLRCB" or collectively, "Respondents") alleging FEMS violated D.C. Code §§ 1-617.04(a)(1) and (5) of the Comprehensive Merit Personnel Act ("CMPA") by refusing and failing to comply with the Public Employee Relations Board's ("PERB") Order in *District of Columbia Department of Fire and Emergency Medical Services v. American Federation of Government Employees, Local 3721*, 59 D.C. Reg. 9757, Slip Op. No. 1258, PERB Case No. 10-A-09 (2012) ("Order"), and by failing and refusing to provide documents in response to an

information request. (Complaint, at 1-8). In addition, AFGE stated that it believes OLRCB's attorneys advised FEMS to not comply with the Order and thus further violated the CMPA. *Id.*, at 5-6.

In their Answer, FEMS and OLRCB denied that either had refused to comply with the Order and information requests. (Answer, at 1-7). FEMS and OLRCB asserted that much of the requested information had been provided and that more time was needed to accumulate the information necessary to be able to comply with the remainder of the information requests and the Order as a whole. (Answer, at 5, 7). FEMS and OLRCB denied the allegation that OLRCB's attorneys advised FEMS not to comply with the Order. *Id.*, at 5. In addition, FEMS & OLRCB raised the affirmative defense that AFGE failed to state a cause of action for which relief may be granted. *Id.*, at 7.

The parties thereafter filed numerous other pleadings and motions in this matter, as detailed below. Furthermore, the parties participated in mediation, but were unable to reach a resolution.

II. Background

On November 24, 2009, AFGE prevailed over FEMS in an arbitration proceeding regarding uncompensated overtime hours for approximately 232 paramedics and EMT's dating back to October 31, 2006 ("Award"). (Complaint, at 1-3, 7). Specifically, the Arbitrator ordered:

> The Agency shall compensate the FEMS paramedics and EMT's appropriate overtime pay for the previously uncompensated hours worked over 40 hours in a workweek from October 31, 2006, forward. An amount equal to the overtime [backpay] ordered herein is ordered to be paid those employees as liquidated damages. The Agency is directed to pay the Union reasonable attorney's fees and costs associated with this grievance. *Id.*, at 3.

FEMS thereafter filed an Arbitration Review Request asking PERB to review the Award. *Id.*, at 4. On April 25, 2012, PERB issued its Order sustaining the award. *Id.*; and Slip Op. No. 1258, *supra*. FEMS did not appeal the Order. *Id.* In the months that followed, AFGE sent multiple emails to FEMS demanding compliance with the Order. *Id.*, at 4-5. Additionally, AFGE submitted an information request to OLRCB seeking documents to help it determine for itself the exact amounts owed pursuant to the Award. *Id.*

On August 13, 2012, AFGE filed the instant Complaint, alleging that Respondents had failed to comply with both the Order and the information request. *Id.*, at 5. AFGE further alleged that, upon its own information and belief, OLRCB's Director, Natasha Campbell ("Director Campbell"), and OLRCB Attorney-Advisor Dennis Jackson ("Mr. Jackson"), "advised DC FEMS that it should not pay the amounts owed to the employees until the PERB issues an enforcement order[1] of [Slip Op. No. 1258, *supra*]." *Id.*, at 5-6.

In addition, AFGE contended that the Respondents' on-going refusal or failure to comply with the award, without a legitimate reason, constituted a failure to bargain in good faith, in violation of D.C. Code §§ 1-617.04(a)(1) and (5). *Id.*, at 6 (citing *American Federation of Government Employees, Local 872, AFL-CIO v. District of Columbia Water and Sewer Authority*, 46 D.C. Reg. 4398, Slip Op. No. 497 at p. 3, PERB Case No. 96-U-23 (1996)). Further, AFGE contended that the Respondents' failure and refusal to timely respond to the information request also constituted a failure to bargain in good faith, in violation of D.C. Code §§ 1-617.04(a)(1) and (5). *Id.*, at 7-8 (citing *American Federation of Government Employees, Local 2725 v. District of Columbia Department of Health*, 59 D.C. Reg. 6003, Slip Op. 1003, PERB Case No. 09-U-65 (2009); and *American Federation of Government Employees, Local 2725 v. District of Columbia Housing Authority*, 46 D.C. Reg. 8356, Slip Op. No. 597 at p. 2, PERB Case No. 99-U-23 (1999)).

To remedy these alleged violations, AFGE requested that PERB order Respondents to cease and desist from failing and refusing to comply with the Award and Order and the information request. *Id.*, at 8. Further, AFGE requested that PERB order Respondents to post a notice detailing their alleged violations of the CMPA. *Id.*

In their Answer, filed on September 4, 2012, Respondents denied that they had "refused" to comply with either the Order or the information request. (Answer, at 1-6). Rather, Respondents asserted that they fully intended to comply with both, but needed more time to do so. *Id.*, at 5-6. Respondents contended that the large amount of data that needed to collected and calculated made it unreasonable for AFGE to expect full compliance with the Order within three (3) months after it became final. *Id.* Respondents further asserted that on August 14, 2012, FEMS provided AFGE "with a large amount of the information requested, and advised the Union that the remainder would be provided once it was retrieved from the former D.C. [payroll] system[.]" *Id.*, at 6-7. Respondents denied that OLRCB, Director Campbell, or Mr. Jackson ever advised FEMS to not comply with PERB's Order and alleged that AFGE's allegation of the same was "defamatory" and "not supported by any evidence." *Id.*, at 5. Lastly, Respondents

[1] In addition to the instant Unfair Labor Practice Complaint, AFGE also filed an Enforcement Petition ("PERB Case No. 12-E-06") with PERB on August 10, 2012, alleging that FEMS had failed to comply with the Order by the deadline set by PERB's Rules.

raised the affirmative defense that the Complaint failed to state a cause of action for which relief may be granted by PERB. *Id.*, at 7.

On December 21, 2012, AFGE filed an Amended Complaint to add the additional allegations that: 1) Respondents had "continued to fail to bargain in good faith [in violation of the CMPA] ... by refusing and failing to comply with [the Arbitrator's Award] as to the payment of attorney fees owed in the instant case, the amount[2] of which has been certain and owing from September 27, 2012"; and 2) Respondents had failed to provide documents and information in accordance with another information request AFGE had sent on September 27, 2012. (First Amended Complaint, at 1-2). In regard to the attorneys' fees, AFGE stated that when it filed its original Complaint in August 2012, the exact amount owed in attorneys' fees under the Award and Order was not yet known. *Id.*, at 2. AFGE alleged that it sent several emails to FEMS demanding that the amount be paid after the amount was determined on September 27, and that FEMS did not respond to any of those demands. *Id.* In regard to the information request, AFGE asserts that it requested that Respondents provide "the formula for the overtime payouts to the employees that are owed pursuant to the [Award,]" but that Respondents had failed to provide the information. *Id.* AGFE contended that these refusals and failures constituted an additional violation of the CMPA that were not addressed in its original Complaint. *Id.*, at 2-3. In addition to these new allegations, AFGE restated all of the allegations and requests that were listed in its original Complaint. *Id.*, at 3-8. Lastly, AFGE stated that if this new filing "cannot be properly considered an amendment to the earlier complaint, [then] AFGE seeks to file a new unfair labor practices complaint." *Id.*, at 1, 3.

On January 3, 2013, Respondents moved PERB to dismiss AFGE's proposed amended complaint. (Motion to Dismiss Amended Complaint, at 1-2). Respondents contended that the proposed amended complaint failed to allege any new allegations and "merely [recited] facts and law from the Union's original petition." *Id.*, at 1. Respondents further argued that PERB should dismiss the proposed amended complaint because it had been filed "absent any instruction by the PERB[,]" reasoning that because PERB's Rules "do not provide for the submission of an Amended Complaint, one may not be filed absent instruction by the Board to cure a deficiency in the pleading." *Id.*, at 2 (citing Letter from Ondray T. Harris, Exec. Director, PERB, to Earnest Durant, Jr., Complainant, and Kevin Stokes, Esq., Respondent's Representative, OLRCB, PERB Case Nos. 10-U-39 and 10-E-07 (July 9, 2012) (in which then PERB Executive Director Harris stated that "[t]he Board's Rules do not provide for the submission of an amended complaint absent instruction by the Board to cure a deficiency in the pleading")). Respondents reasoned that because PERB had not directed AFGE to file an amended complaint and no deficiency in the original complaint had been noted, the Board must dismiss AFGE's proposed amended complaint. *Id.*

[2] $49,000. (First Amended Complaint, Exhibit A).

On January 8, 2013, AFGE filed an opposition to Respondents' motion to dismiss its proposed amended complaint and further moved PERB for a decision without a hearing on grounds that Respondents did not file a timely answer to its proposed amended complaint. (Opposition to Motion to Dismiss and Request for Decision Without a Hearing, at 1-6). AFGE stated that Respondents' contention that the proposed amended complaint failed to present any new allegations should be rejected because even Respondent's own pleading admitted that the proposed amended complaint alleged "additional details regarding the amount of attorney's fees" that were not present in the original Complaint. *Id.*, at 2 (quoting Motion to Dismiss Amended Complaint, at 1). Furthermore, AFGE argued that its original Complaint did not address the September 27 information request because such had not yet been sent when the original Complaint was filed. *Id.*, at 3.

In addition, AFGE rejected Respondents' reliance on the then Executive Director's July 9, 2012, Letter as misguided because PERB case law allows for amendments under a variety of scenarios such as a change in circumstances and other factors. *Id.*, at 3 (citing *American Federation of Government Employees, Locals 631, 872, 1972, and 2553 v. District of Columbia Department of Public Works*, 43 D.C. Reg. 1394, Slip Op. No. 306 at p. 2, PERB Case Nos. 94-U-02 and 94-U-08 (1994)). AFGE asserted that its proposed amended complaint was valid because it reflected significant changes in the parties' circumstances that had occurred since the original Complaint was filed. *Id.*

AFGE further moved PERB to issue a final decision without a hearing based on its allegation that Respondents failed to file a new response to AFGE's proposed amended complaint within fifteen (15) days as per PERB Rule 520.6.[3] *Id.*, at 5-6. AFGE argued that, as a result, the allegations in the proposed amended petition should be deemed admitted and Respondents should be deemed to have waived their rights to a hearing as per PERB Rule 520.7.[4] *Id.*, at 6.

[3] PERB Rule 520.6: A respondent shall file, within fifteen (15) days from service of the complaint, an answer containing a statement of its position with respect to the allegations set forth in the complaint. The answer shall also include a statement of any affirmative defenses, including, but not limited to, allegations that the complaint fails to allege an unfair labor practice or that the Board otherwise lacks jurisdiction over the matter.

The answer shall include a specific admission or denial of each allegation or issue in the complaint or, if the respondent is without knowledge thereof, the answer shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation but shall clearly meet the substance of the allegation.

[4] PERB Rule 520.7: A respondent who fails to file a timely answer shall be deemed to have admitted the material facts alleged in the complaint and to have waived a hearing. The failure to answer an allegation shall be deemed an admission of that allegation.

On January 15, 2013, Respondents filed an opposition to AFGE's motion for decision arguing that the motion should be denied because the time period for Respondents to respond to AFGE's proposed amended complaint will not run until PERB rules on Respondents' motion to dismiss the proposed amended complaint. (Opposition to Motion for Decision, at 1-2) (citing Letter from Ondray T. Harris, Exec. Director, PERB, to Kevin Stokes, Esq., OLRCB, PERB Case No. 12-U-37 (November 5, 2012) (in which then PERB Executive Director Harris stated that "the limitations period prescribed in PERB Rule 520.6 does not begin to run until the Board rules on [a party's pending] Motion to Dismiss")).

On March 4, 2013, AFGE filed another motion to amend its Complaint ("Second Motion to Amend") to "clarify that it seeks as part of the relief interest upon the backpay owed." (Second Motion to Amend, at 2). In the motion, AFGE stated:

> The reason this is necessary is because, at the time the Union filed the [Complaint], the Agency was continuing to fail to pay the paramedics and emergency medical technicians according to the requirements of the Arbitrator's Award. That award required the Agency not only to compensate the employees for backpay and liquidated damages, ... but to pay them properly on a going forward basis. The reason it is significant is that the Agency was still failing to pay the employees pursuant to the Award's requirements at the time the Union filed the [Complaint] is that the employees were then continuing at that point to accumulate liquidated damages, which is in part a substitute for interest under the Fair Labor Standards Act. However, once the Agency began to pay the employees properly for [overtime hours] beginning on October 7, 2012 (the employees were paid on October 30, 2012 for that pay period), the employees no longer accumulated liquidated damages pursuant to the Award for time after that. *Id.*

AFGE further contended that because FEMS still had not paid the employees' backpay under the Award and Order, "the District of Columbia and the Agency, and not these employees, have enjoyed the benefit of keeping the employees' hard-earned money and the employees will not receive any compensation for the fact that the Agency and the District of Columbia have done so, unless the PERB awards the statutory interest for all time periods after October 2012, when the employees no longer accumulated liquidated damages." *Id.* AFGE asserted that not including interest would "unfairly award the District and the Agency" and "unfairly deprive the employees from the use of their money during this period[.]" *Id.* In addition, AFGE argued that the Respondents' arguments that they needed more time to calculate what is owed under the Award and Order is "unavailing, as the District and the Agency could have simply put more resources into this matter." *Id.*, at 3.

On March 11, 2013, Respondents filed an opposition to AFGE's Second Motion to Amend. (Opposition to Second Motion to Amend, at 1-3). Respondents contended that AFGE's

motion was untimely under PERB Rule 520.4, governing the timeliness of unfair labor practice complaints.[5] *Id.*, at 1. Respondents reasoned that, according to AFGE's own statements in its Second Motion to Amend, AFGE became aware that the employees were no longer accumulating liquidated damages on October 30, 2012. *Id.*, at 2. As such, Respondents argued that the motion was untimely when it was filed more than 120 days later on March 4, 2013. *Id.*, at 1-3 (citing *Pitt v. District of Columbia Department of Corrections, et al.*, 59 D.C. Reg. 5554, Slip Op. No. 998 at p. 5, PERB Case No. 09-U-06 (2009); *Watson v. District of Columbia Housing Authority and American Federation of Government Employees, Local 2725*, 60 D.C. Reg. 58, Slip Op. No. 1342 at p. 2, PERB Case No. 12-U-32 (2012); and *American Federation of Government Employees, Local 1000 v. District of Columbia Department of Employment Services*, Slip Op. No. 1323 at p. 8, PERB case No. 10-U-54 (Aug. 27, 2012)).

Additionally, FEMS asserted that it had "substantially complied" with the Award and Order by: 1) paying all EMT's and Paramedics overtime for time worked over forty (40) hours in a work week; 2) having processed an attorneys' fee payment in the amount of $49,000 to the Union; 3) "steadfastly and diligently" continuing to gather the data in order to calculate the amount of back overtime pay owed to affected employees; and 4) providing AFGE with status updates along the way. *Id.*, at 3. FEMS further reiterated its denial that it "refused" to comply with the Award and Order. *Id.* (citing *American Federation of Government Employees, AFL-CIO, Local 872 v. District of Columbia Water and Sewer Authority*, 54 D.C. Reg. 2967, Slip Op. No. 858, PERB Case No. 07-U-02 (2006)). As a result, Respondents asserted that even if AFGE's motion was timely, an award of interest would not be warranted in this case. *Id.*

On March 13, 2013, AFGE moved PERB to allow it to reply to Respondents' opposition to its Second Motion to Amend. (Motion to Reply, at 1-2). In this proposed Reply, AFGE argued that Respondents' timeliness argument does not avail because the purpose of its Second Motion to Amend was "only [to **clarify**] that which is inherent in the original petition, namely that once the amount of the debt was fully established and liquidated damages under the FLSA no longer applied, interest must be awarded under [D.C. Code §§ 28-3302 and 15-108] ... regardless of whether it [was] specifically requested." *Id.* (citing *University of the District of Columbia Faculty Association/NEA v. University of the District of Columbia*, 39 D.C. Reg. 8594, Slip Op. No. 285, PERB Case No. 86-U-16 (1992); and *University of the District of Columbia Faculty Association/NEA v. University of the District of Columbia*, 41 D.C. Reg. 1914, Slip Op. No. 307, PERB Case No. 86-U-16 (1992)) (emphasis in original).

In addition, AFGE argued that PERB Rule 520.4 only applies to the original cause of action and Complaint, and not to "the particularities of the remedy." *Id.*, at 2. AFGE reasoned

[5] PERB Rule 520.4: Unfair Labor Practice Complaints shall be filed not later than 120 days after the date on which the alleged violations occurred.

that even if the Rule applied, the 120 days would expire "later in March 2013 at the earliest and the Union filed this clarification amendment on March 4, 2013." *Id.*

Lastly, AFGE denied Respondents' claim that FEMS had "substantially complied" with the Award and Order. *Id.*, at 2-3. AFGE asserted that "of the approximately 200 employees who should receive substantial backpay and liquidated damages pursuant to the award and PERB's Decision and Order not one single person has received any backpay whatsoever." *Id.* AFGE further argued:

> ...regardless of any effort by the Agency to comply—which has been, at the very best, extremely lackluster—the fact that approximately ten and a half months have passed since the PERB Decision and Order establishes that interest should be paid. The Agency has had the benefit of these employees' money. The employees have not had the benefit of their money. As such, interest is required by statute. *Id.*, at 3.

III. Discussion

In regard to the allegations in AFGE's original Complaint, Respondents do not deny that FEMS must comply with the Award and Order and AFGE's information request. (Answer, at 5-6). Rather, Respondents contend that they have not violated the CMPA because, due to the voluminous and complicated nature of the information, AFGE has not given FEMS a reasonable amount of time to fully comply with the Award and Order and the information request. *Id.* Furthermore, Respondents claim that they already provided "a large amount" of the information required by AFGE's information request, but that the remainder of the requested information is more difficult to obtain and that more time is needed to compile and provide it to Complainant. *Id.*, at 6-7. In a later pleading, Respondents claimed that as of March 11, 2013, FEMS had "substantially complied" with the Award and Order—a claim AFGE denies. (Opposition to Second Motion to Amend, at 3); and (Motion to Reply, at 2-3).

In regard to the allegations against OLRCB, Respondents deny that OLRCB and/or its agents advised FEMS to not comply with the Award and Order in violation of the CMPA. (Complaint, at 5-6); and (Answer, at 5).

A. AFGE's Motion to Reply

In regard to AFGE's motion for permission to reply to Respondents' Opposition to Second Motion to Amend, Respondents did not file anything opposing the motion. Furthermore, the Board finds that PERB's interests are generally best served by considering all of the

information available to the parties insofar as such is filed in a timely manner and in accordance with PERB's Rules. See *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. 10-11, PERB Case No. 09-U-23 (2013). Therefore, AFGE's motion to reply to Respondents' Opposition to Second Motion to Amend is granted and the reply attached thereto will be considered in the Board's investigation and final disposition of this matter.

B. AFGE's First Motion to Amend the Complaint and Respondents' Motion to Dismiss the Proposed First Amended

In regard to AFGE's proposed amendments to the Complaint, the Board generally allows complainants to amend a complaint as a matter of course if the proposed amendment is properly filed prior to the respondent having filed an answer to the original complaint, and by leave of the Board if the amendment is filed after the original complaint has been answered. See *National Association of Government Employees, Local R3-07 v. District of Columbia Office of Unified Communications*, Slip Op. No. 1393 at p. 1, PERB Case No. 13-U-20 (May 28, 2013); and *American Federation of Government Employees, Locals 631, 872, 1972 and 2553 v. District of Columbia Department of Public Works*, 43 D.C. Reg. 1394, Slip Op. No. 306 at p. 2-3, PERB Case Nos. 94-U-02 and 94-U-08 (1994). When leave to amend a complaint is sought, the Board will generally grant the motion if the proposed amendment: 1) "does not present a problematic issue such as an unrelated or separate and distinct matter"; 2) reflects a change in the remedy sought; 3) reflects a change in circumstances since the original complaint was filed; 4) reflects an attempt to bring the complaint into compliance with PERB's Rules; or 5) is stipulated to by the parties. *AFGE v. DPW*, *supra*, Slip Op. No. 306 at p. 2-3, PERB Case Nos. 94-U-02 and 94-U-08.

In the instant case, AFGE filed its proposed first amended complaint over three (3) months after Respondents filed their Answer to the original Complaint. (First Amended Complaint, at 1); and (Answer, at 1). While the pleading itself was not expressly labeled in the form of a motion, AFGE did state that "if it cannot properly be considered an amendment to the earlier complaint, [then] AGFE seeks to file [the amended version as] a new unfair labor practices complaint[,]" thus indicating that AFGE understood the Board must grant its leave to amend the Complaint before the proposed amendments can be considered in PERB's investigation. (First Amended Complaint, at 1). AFGE asserts, however, that should PERB determine that the amendment was improper and require it to be labeled as a new unfair labor practice complaint, then it (AFGE) would "simply move to consolidate [that new case] with [this case,] PERB Case # 12-U-33, as the matters involve the same parties, the same award, the same

and similar failure to comply with the awards, and related information requests." (Opposition to Motion to Dismiss and Request for Decision Without a Hearing, at 4).

Respondents ask the Board to dismiss AFGE's proposed first amended complaint based on their contentions that the proposed amendment fails to present any new claims and because PERB did not previously direct AFGE to file the amendment. (Motion to Dismiss Amended Complaint, at 1-2). As previously stated, AFGE's proposed amendment does add new claims that Respondents further violated the CMPA by failing to pay the attorneys' fees awarded in the Award and Order, and that Respondents failed to comply with another information request related to the Award and Order. (First Amended Complaint, at 1-2). Therefore, Respondents' argument on that front does not avail. Similarly, Respondents' contention that Complainant could not file an amended complaint absent an instruction by the Board to do so is not supported by PERB precedent, and therefore likewise fails. See *NAGE v. OUC*, *supra*, Slip Op. No. 1393 at p. 1, PERB Case No. 13-U-20; and *AFGE v. DPW*, *supra*, Slip Op. No. 306 at p. 2-3, PERB Case Nos. 94-U-02 and 94-U-08. As a result, Respondents' motion to dismiss AFGE's proposed first amended complaint is denied.

The Board finds that because the new claims and allegations raised in AFGE's proposed first amended complaint involve the same parties, depend on the same nexus of facts, and arise out of the same Award and Order as those raised in the original Complaint, they do not present a problematic issue such as an unrelated or separate and distinct matter. *AFGE v. DPW*, *supra*, Slip Op. No. 306 at p. 2-3, PERB Case Nos. 94-U-02 and 94-U-08. In addition, because AFGE stated in its original Complaint that it would seek to amend the Complaint should Respondents fail to pay the attorneys' fees awarded in the Award and Order once the amount was determined, the Board finds that the proposed amendments reflect nothing more than a change in the parties' circumstances since the original complaint was filed. (Complaint, n.1); (Opposition to Motion to Dismiss and Request for Decision Without a Hearing, at 2-3); and *AFGE v. DPW*, *supra*, Slip Op. No. 306 at p. 2-3, PERB Case Nos. 94-U-02 and 94-U-08. Finally, the Board agrees with AFGE that PERB's processes would not be served by bifurcating AFGE's new allegations from those stated in its original Complaint only to have to address a motion to consolidate the two (2) cases later on down the road. (Opposition to Motion to Dismiss and Request for Decision Without a Hearing, at 4). Therefore, the Board grants AFGE leave to amend its Complaint as proposed in its First Amended Complaint.

C. AFGE's Second Motion to Amend Complaint

In regard to AFGE's Second Motion to Amend, in which AFGE moves PERB to allow it to amend the Complaint to request an additional remedy of interest from the time that liquidated

damages under the Award and Order ceased to accumulate, Respondents argue that the motion should be denied on grounds that it does not comply with PERB Rule 520.4, which requires unfair labor practice complaints to "be filed not later than 120 days after the date on which the alleged *violations* occurred." (Emphasis added). The Board agrees with AFGE that the proposed amendment does not allege any additional "violations" of the CMPA that would invoke the 120-day time period, but rather reflects nothing more than a change in the remedy AFGE is seeking. (Motion to Reply, at 2); and *AFGE v. DPW, supra*, Slip Op. No. 306 at p. 2-3, PERB Case Nos. 94-U-02 and 94-U-08. As a result, Respondents' timeliness argument fails. *Id.* Furthermore, since the proposed amendment involves the same parties, depends on the same nexus of facts, and potentially arises out of the same Award and Order as those raised in the original Complaint, the Board finds that AFGE's motion does not present a problematic issue such as an unrelated or separate and distinct matter. *AFGE v. DPW, supra*, Slip Op. No. 306 at p. 2-3, PERB Case Nos. 94-U-02 and 94-U-08. Therefore, AFGE's Second Motion to Amend the complaint is granted.

D. AFGE's Motion for Decision Without a Hearing

In regard to AFGE's motion for a decision without a hearing, the Board finds that Respondents' reliance on PERB's former Executive Director's November 4, 2012, letter (cited above) in surmising that they were not obligated to file an updated answer to AFGE's proposed first amended complaint until after the Board ruled on its pending motion to dismiss the proposed amendment was not unreasonable. (Opposition to Motion for Decision, at 1-2). In addition, AFGE's Complaint was not considered officially "amended" until this Decision and Order. *AFGE v. DPW, supra*, Slip Op. No. 306 at p. 2-3, PERB Case Nos. 94-U-02 and 94-U-08. As a result, AFGE's argument that the Respondents failed to file a timely response to the proposed first amended complaint fails. Therefore, AFGE's motion for a decision without a hearing is denied. Furthermore, because the Complaint is now officially amended, as noted herein, the Board grants Respondents fifteen (15) days from the date of service of this Decision and Order[6] to file an answer[7] to the amended complaint.[8] Said answer will be subject to the requirements and guidelines set forth in PERB Rules 520.6 and 520.7, as well as all other pertinent PERB Rules, including but not limited to Rules 501 and 561 *et. seq.*

[6] The fifteen day (15) period will begin to run from the date of service of this Corrected Copy.
[7] Because the Respondents will file an answer to the amended complaint, it is not necessary for the Board to address in the instant Decision and Order the affirmative defense that Respondents raised in their original Answer.
[8] Respondent's amended complaint includes: 1) the allegations, arguments, and requested remedies articulated in the original Complaint (filed on August 13, 2012); 2) the allegations, arguments, and requested remedies articulated in AFGE's first amended complaint (filed on December 21, 2012); and 3) the additional requested remedies and related arguments articulated in AFGE's Second Motion to Amend (filed on March 4, 2013).

The Board defers addressing the merits of this matter—and any other remaining issues not heretofore addressed—until after Respondents file, or fail to file, an answer to the new amended complaint, as detailed herein.

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondents' motion to dismiss Complainant's proposed First Amended Complaint is denied.

2. The Board grants Complainant leave to amend its Complaint as proposed in its First Amended Complaint.

3. Complainant's Second Motion to Amend is granted.

4. Complainant's motion for decision without a hearing is denied.

5. Respondents are granted fifteen (15) days from the date of service[9] of this Decision and Order to file a new answer to the new amended complaint. Said answer will be subject to the requirements and guidelines set forth in PERB Rules 520.6 and 520.7, as well as all other pertinent PERB Rules, including but not limited to Rules 501 and 561 *et. seq.*

6. Complainant's motion to reply to Respondents' Opposition to Second Motion to Amend is granted and the reply attached thereto will be considered in the Board's investigation and final disposition of this matter.

7. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

July 29, 2013

[9] The fifteen day (15) period will begin to run from the date of service of this Corrected Copy.

CERTIFICATE OF SERVICE

This is to certify that the attached Corrected Copy of the Decision and Order in PERB Case No. 12-U-33, Slip Op. No. 1408, was transmitted via File & ServeXpress™ and e-mail to the following parties on this the 6th day of August, 2013.

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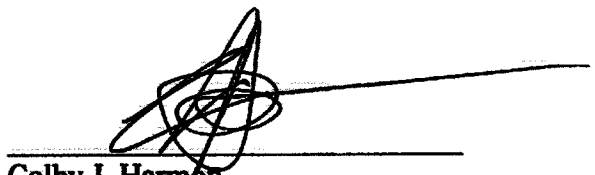

Colby J. Harmon
Attorney-Advisor

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. 12-U-37
v.	Opinion No. 1409
	(CORRECTED COPY)
District of Columbia Office of Unified Communications,	Motion to Dismiss
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 Unfair Labor Practice Complaint ("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 allowing a rival union to use Agency property and resources to collect signatures for a representation petition, to spread misrepresentations of material facts to bargaining unit members, to meet with bargaining unit members, and to distribute flyers, pamphlets, and brochures, all of which AFGE alleged interfered with its rights as the exclusive representative. (Complaint, at 2-3). NAGE further alleged that OUC improperly failed to recognize NAGE as the exclusive representative when one of its Watch Commanders endorsed the rival union during a morning meeting. *Id.*, at 2. Lastly, NAGE alleged that OUC improperly failed to negotiate the parties' Collective Bargaining Agreement ("CBA") and failed to engage in impact and effects bargaining over the implementation of a new 12-hour shift schedule for bargaining unit members. *Id.*, at 3.

OUC filed a Motion to Dismiss the Complaint, in which it contended that NAGE violated PERB Rule 561.8(a) which requires, in part, that "[a]ll parties or their representatives shall make service upon other parties electronically through [PERB's designated Vendor, File & ServeXpress™ ("Vendor")]." (Motion to Dismiss, at 1-4). OUC alleged that NAGE failed to serve the Complaint in this manner, despite being expressly directed to do so in a letter by PERB's then Executive Director, Ondray T. Harris ("Mr. Harris"). *Id.*; and (Motion to Dismiss, Exhibit A). As a result of NAGE's alleged failure, OUC urged PERB to dismiss the Complaint with prejudice. *Id.* In subsequent correspondence between OUC and Mr. Harris, it was stated that the OUC's time to file an answer to the Complaint under PERB Rule 520.6 would not begin to run until PERB ruled on OUC's Motion to Dismiss. (Letter from Kevin M. Stokes, Attorney Advisor, OLRCB, to Ondray T. Harris, Exec. Director, PERB, PERB Case Nos. 12-U-37 (October 26, 2012) ("Oct. 26, 2012, Letter"); and (Letter from Ondray T. Harris, Exec. Director, PERB, to Kevin M. Stokes, Esq., Attorney Advisor, OLRCB, PERB Case Nos. 12-U-37 (November 5, 2012) ("Nov. 5, 2012, Letter").

In accordance with PERB Rules 501.5 and 553.2, NAGE filed a timely Response to OUC's Motion to Dismiss in which it averred that it was not possible to comply with PERB Rule 561.8(a) because the Vendor confirmed both to OUC and a PERB Attorney Advisor that "e-service [is] in-fact not possible while initiating a case." (Response to Motion to Dismiss, at 2; and Exhibit 1). As a result of said impossibility, PERB advised NAGE that in addition to service by facsimile, as PERB Rule 561.8 provides, "mailing or e-mailing will also be acceptable." *Id.* NAGE contended that in accordance with this direction, its service of the Complaint on Respondent via U.S. Mail on September 28, 2012, should be deemed sufficient and OUC's Motion to Dismiss should be denied.

Per NAGE, this matter is related to PERB Case No. 12-RC-02, in which the International Union of Public Employees ("IUPE") petitioned PERB for recognition as the Exclusive Representative of the same OUC bargaining unit represented by NAGE, Local R3-07, in the instant proceeding. (Complaint, at 4). NAGE intervened and an election was held, in which NAGE, Local R3-07, prevailed. NAGE, Local R3-07, was certified as the exclusive representative of the bargaining unit in question on January 31, 2013, which Certification was amended on April 26, 2013. *International Union of Public Employees and District of Columbia Office of Unified Communications and National Association of Government Employees, Local R3-07*, PERB Case No. 12-RC-02, Certification No. 153 (Amended) (2013).

Therefore, the matter in 12-RC-02 having fully concluded, the only question before the Board for disposition in the instant case is OUC's Motion to Dismiss.

II. Discussion

OUC's Motion to Dismiss is based solely on its argument that NAGE did not comply with PERB Rule 561.8(a). (Motion to Dismiss, at 1-4). Because of PERB's determination that electronic service via the Vendor is currently not possible when initiating an action, and because of the then Executive Director's determination that service by facsimile, mail, or e-mail would each be considered an appropriate alternative for service of an initial pleading in an action, the Board finds that NAGE's service of the Complaint on OUC via U.S. Mail on September 28, 2012, was proper. OUC's Motion to Dismiss is therefore denied.

Because of OUC's reliance on the Nov. 5, 2012, Letter, the Board grants OUC fifteen (15) days from the date of service[1] of this Decision and Order to file an answer to the Complaint. Said answer will be subject to the requirements and guidelines set forth in PERB Rules 520.6 and 520.7, as well as all other pertinent PERB Rules, including but not limited to Rules 501 and 561 *et. seq.*

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent's Motion to Dismiss the Complaint is denied.

2. Respondent is granted fifteen (15) days from the date of service[2] of this Decision and Order to file an answer to the Complaint. Said answer will be subject to the requirements and guidelines set forth in PERB Rules 520.6 and 520.7, as well as all other pertinent PERB Rules, including but not limited to Rules 501 and 561 *et. seq.*

3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

July 29, 2013

[1] The fifteen day (15) period will begin to run from the date of service of this Corrected Copy.
[2] See Footnote 1.

CERTIFICATE OF SERVICE

This is to certify that the attached Corrected Copy of the Decision and Order in PERB Case No. 12-U-37, Slip Op. No. 1409, was transmitted via File & ServeXpress™ and e-mail to the following parties on this the 6th day of August, 2013.

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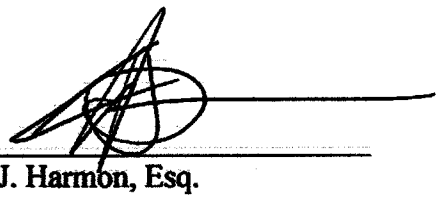

Colby J. Harmon, Esq.
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Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
Fraternal Order of Police, District of Columbia Housing Authority Labor Committee,	
Complainant,	PERB Case No. 11-U-23
v.	Opinion No. 1410
District of Columbia Housing Authority	
Respondent.	

DECISION AND ORDER

I. Statement of the Case

On February 24, 2011, Complainant Fraternal Order of Police, District of Columbia Housing Authority Labor Committee ("FOP/DCHA") filed an unfair labor practice complaint ("Complaint") against Respondent District of Columbia Housing Authority ("DCHA"). FOP/DCHA alleged that DCHA violated D.C. Code § 1-617.01 and § 1-617.04 by "interfering with the exercise of [FOP/DCHA]'s rights, by falsely accusing it of failing to represent its members, by undermining its leadership, and by encouraging discord within its membership". (Complaint at 2). Specifically, FOP/DCHA claimed that DCHA did this through its supervisor Paul Sinclair, who allegedly made "derogatory comments" about FOP/DCHA and its chairman Yvonne Smith, and urged an FOP/DCHA member to oppose Smith "in an effort to remove her from office". *Id.* DCHA denied violating the Comprehensive Merit Personnel Act ("CMPA") in its Answer ("Answer") and requested that the Board dismiss the Complaint. (Answer at 1-3). The Board denied DCHA's request, stating that FOP/DCHA had asserted allegations that would constitute a statutory violation if proven, and refused to settle the factual disputes of the case based solely on the pleadings. *Fraternal Order of Police, District of Columbia Housing Authority Labor Committee v. District of Columbia Housing Authority*, 59 D.C. Reg. 6503, Slip Op. No. 1107, PERB Case No. 11-U-23 at 5 (2011).

A hearing was conducted by Hearing Examiner Lois Hochhauser on January 17, 2012. Both parties submitted closing briefs in March 2012, and the Hearing Examiner issued her

Report and Recommendation ("Report") on May 8, 2012. The Hearing Examiner recommended that the Complaint be dismissed, and found that FOP/DCHA failed to meet its burden of proof and that the evidence did not establish that DCHA violated § 1-617.04 "by interfering in any employee's rights to participate in the union." (Report at 8-9). The Report and Recommendation is now before the Board for disposition.

II. Factual Record

The parties agree that they finalized a collective bargaining agreement ("CBA") on September 28, 2007, and were negotiating a successor agreement when this case arose. (Complaint at 2; Answer at 1). There are multiple disputes of fact in this case.

Four witnesses testified in this case. The first was Phyllis Grimes, a chief shop steward for the Department of Corrections Labor Committee, who testified that she saw Sinclair and Officer Tameika Massey looking through FOP/DCHA's file cabinets.[1] (Report at 3-4; Respondent's Closing Brief at 5). She further testified that about a month later, Sinclair tried to open one of the cabinets again and used profanities when he found it was locked, stating "Damn, that bitch [Smith] locked the cabinet" and "I'm going to get that bitch, I'm going to get all them mother fuckers." (Report at 4). Grimes did not know whether Sinclair was a member of the bargaining unit when this incident occurred, but said she was told by Smith that he was not. *Id.* Grimes was also uncertain about the exact dates of the incidents. *Id.*

The second witness was Floyd Favors, Jr., Vice Chairman of FOP/DCHA. *Id.* He testified that Sinclair and Massey approached him and Sinclair encouraged him to run for chairman of FOP/DCHA, saying they "needed to get [Smith] out of the office." *Id.* This incident occurred after Sinclair's promotion to sergeant. *Id.* However, Favors stated that he "really shut them off because [he] didn't want to hear it" and told Sinclair that he didn't think he would be a better candidate than Smith. *Id.*

Smith was the third witness. She testified that Sinclair became a member of FOP/DCHA around 2005 and was elected Vice Chairman in 2009; he was also given "the responsibility to look at some taxes" around 2008, but was never chosen as Treasurer. *Id.* Smith stated that around 2010, Sinclair was removed from membership "because of his conduct in violation of the bylaws". *Id.* However, Smith also testified that Sinclair was removed from his position as Vice Chairman through a petition recall around October or November 2010; this decision came after learning that investigators, of which Sinclair was the only one, were not considered to be part of the bargaining unit. *Id.* at 5. She also stated that she "had a series of interferences" from Sinclair while he was still a member, but that the Complaint was not designed to retaliate against him for his actions or his earlier complaint with the Board during his membership. *Id.* Smith also testified that Grimes told her about Sinclair going into FOP/DCHA's cubicles in February or March 2011, and that she spoke with Favors about his conversation with Sinclair and Massey prior to the April 2011 elections. *Id* at 4. She further stated that Sinclair had told a union member that she had a right to bereavement donations. (Petitioner's Closing Argument at 2).

[1] Grimes was a member of the Fraternal Order of Police, but in a different collective bargaining unit than Complainant.

Sinclair was the fourth and final witness. He testified that he joined FOP/DCHA around 2000, served as Interim Treasurer around the end of 2008, and was elected Vice Chairman in 2009; during the same election, Massey became the new Treasurer. (Report at 5). He further stated that he filed a complaint with the Board concerning "[u]nauthorized expenditures or spending the union's money without permission" by certain FOP/DCHA officials.[2] *Id.* In regards to the aforementioned incidents, Sinclair stated he went to the union offices in 2011 after his promotion to renew his application for membership based on being a retired MPD officer, not as a FOP/DCHA member. *Id.* at 6. He claimed he did not "go into any file cabinets" or make any derogatory statements as Grimes had testified. *Id.* He also claimed he did not talk to Favors about running against Smith for the chairman position, and that after his promotion he did not make "any derogatory comments about the union or Ms. Smith and did not interfere with the Union or its business." *Id.* He admitted discussing an entitlement to bereavement donations with Holt after his own membership was revoked. *Id.*

III. Hearing Examiner's Findings

A. Witness Credibility

Due to the conflicting testimony, the Hearing Examiner had to resolve issues of credibility. *Id.* The Hearing Examiner considered the witnesses' demeanor and character, the improbability of their versions, inconsistencies in their statements, and their opportunity and capacity to observe the event or act at issue. *Id.*; (*citing Hillen v. Department of the Army*, 35 M.S.P.R. 453 (1987)). The Hearing Examiner cited the District of Columbia Court of Appeals in *Stevens Chevrolet Inc. v. Commission on Human Rights* to show the importance of credibility evaluations being done by an individual who sees the witnesses "first hand". *Id.*; (*citing* 498 A.2d 546, 549 (D.C. 1985)).[3]

The Hearing Examiner concluded that Grimes was credible in her testimony that Sinclair entered FOP/DCHA's cubicle twice, leaving with some documents the first time and uttering profanities against Smith when he could not open the file cabinet the second time. *Id.* The Hearing Examiner also credited Favor's testimony that Sinclair urged him to run for office against Smith. *Id.* at 7. Additionally, the Hearing Examiner credited Sinclair's testimony that after his promotion, he did not attempt to interfere with FOP/DCHA's activities. *Id.* The Hearing Examiner held that she could accept part of a witness's testimony even if other parts are discredited. *Id.*; (*citing DeSarno v. Department of Commerce*, 761 F.2d 657, 661 (Fed. Cir. 1985)).

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[2]The current status of Sinclair's earlier complaint is unknown. The parties were asked to provide information in their final written arguments, but they did not do so. The Hearing Examiner did not consider the allegations of fiscal mismanagement in the Report and Recommendation, stating they were unrelated to this Complaint, but included the testimony because it may provide the reason why Sinclair and Massey entered the file cabinet, if that allegation is true. (Report at 5, n. 4).

[3] The Board notes that the Hearing Examiner incorrectly cited the case here as *Stevens Chevrolet Inc. v. Commission on Human Rights*, 498 A.2d at 440-450 (D.C. 1985). 498 A.2d 546, 549 is the correct citation for the cited passage. (Report at 6).

The Board has repeatedly upheld the findings and conclusions of hearing examiners, so long as they are reasonable, supported by the record, and consistent with Board precedent. *See FOP/MPD Labor Committee v. D.C. Metropolitan Police Department*, Slip Op. No. 1358, PERB Case No. 07-U-21 at p. 7 (2013) (*citing AFGE Local 1403 v. D.C. Office of the Attorney General*, 60 D.C. Reg. 2574, Slip Op. No. 873, PERB Case Nos. 05-U-32 and 05-UC-01 (2011)). When there are "issues of fact concerning the probative value of evidence and credibility resolutions", the Board will typically reserve them for the hearing examiner to decide. *See DC MPD*, Slip Op. No. 1358 at p. 8; *see also Hatton v. FOP/Department of Corrections Labor Committee*, 47 D.C. Reg. 769, Slip Op. No. 451, PERB Case No. 95-U-02 (1995); *University of the District of Columbia Faculty Association/NEA v. UDC*, 39 D.C. Reg. 8594, Slip Op. No. 285, PERB Case No. 86-U-16 (1992); *Bagenstose v. D.C. Public Schools*, 38 D.C. Reg. 4154, Slip Op. No. 270, PERB Case No. 88-U-34 (1991).

In light of the Hearing Examiner's thoughtful and specific discussion of resolving the issues of credibility in this case, there is no evidence that her conclusions were unreasonable. Board precedent clearly supports deference to the Hearing Examiner on these issues, and the record of the case shows nothing to call the Hearing Examiner's findings into question. As a result, the Board will uphold the Hearing Examiner's assessment of the witnesses' credibility in this case.

B. Findings and Conclusions

The Hearing Examiner identified two charges made by the Complaint: that Sinclair "approached at least one member of the Union and made derogatory remarks about it and its current chairman," and that he "urged that at least one member undertake to oppose Chairman Smith in an effort to remove her from office". (Report at 8). In regards to the first charge, the Hearing Examiner concluded that there was not enough evidence to support the Complaint, as the specifics of the charge were unclear. *Id.*

While the Hearing Examiner credited Grimes' testimony into the incident at the FOP/DCHA offices, Grimes' uncertainty of when Sinclair's two visits took place made it unclear as to whether Sinclair was still a member of the bargaining unit or not. *Id.* at 6-7. Smith's testimony was unclear as to when Sinclair was removed from membership and for what cause; the Hearing Examiner stated that "the timeframes of these decisions were not established so that findings of fact can be made." *Id.* at 8. In any case, the Hearing Examiner held that, according to the evidence, the only bargaining unit member who would have heard Sinclair's remarks was Massey, who was his ally, as Grimes herself was not in the same bargaining unit. *Id.* at 7.

PERB precedent states that derogatory remarks concerning a union official's representation of bargaining unit employees, even ones made by management officials, do not on their own constitute a violation of the union's representation rights under the CMPA. *See AFGE, Local 2741 v. D.C. Department of Recreation and Parks*, 45 D.C. Reg. 5078, Slip Op. No. 553, PERB Case No. 98-U-03, p. 3 (1998); *Jones v. D.C. Department of Corrections*, Slip Op. No.

100, 32 D.C. Reg. 1704, PERB Case No. 84-U-14, p. 2 (1985).[4] The Hearing Examiner cited *Corrie Corp. v. NLRB* in stating that the proper test for further interference was "whether the conduct in question had a reasonable tendency in the totality of circumstances to intimidate". 375 F.2d 149, 153 (4thCir. 1967); *see also McClatchy Newspapers, Inc. v. NLRB*, 131 F.3d 1026, 1036 (D.C. Cir. 1997). The Hearing Examiner did not find enough evidence to suggest Sinclair or Massey's attempts to access the file cabinets was improper; that Massey, as the Treasurer of FOP/DCHA, did not have the right to be present; or that Sinclair's presence would be enough to form an unfair labor practice if he was there at Massey's invitation. (Report at 6). The only person the remarks may have been directed at was Massey. *Id.* at 7. The visits to the FOP/DCHA offices may have been in relation to Sinclair's prior complaint. *Id.* Based on the totality of circumstances, the Hearing Examiner concluded that the statements overheard by Grimes and Sinclair's visits to the FOP/DCHA offices could not be the subject of the "derogatory remarks" charge. *Id.* at 7-8. As for the other two allegations concerning FOP/DCHA's elections and the bereavement funds, the Hearing Examiner found no evidence that those comments reached the level of "derogatory remarks." *Id.*

Based upon the testimony and evidence presented, the Hearing Examiner concluded that FOP/DCHA failed to show that Sinclair's remarks constituted an unfair labor practice. The Board finds that the Hearing Examiner's findings and conclusions related to the first charge are reasonable, supported by the record, and consistent with Board precedent. Therefore, the conclusion is affirmed.

In regard to the second charge, the Hearing Examiner concluded that Sinclair's statements to Favors, standing alone, did not constitute an unfair labor practice. *Id* at 7. As stated above, Favors testified that he "shut" the conversation down and told Sinclair that he felt Smith could do a better job as Chairman than he could. *Id.* The Hearing Examiner found no evidence that Favors felt intimidated or threatened by Sinclair. *Id.* at 8. As previously stated, the Hearing Examiner found no evidence that Sinclair's remarks to Favors reached the level of "derogatory remarks", and even if they did, those remarks alone could not constitute a violation of the CMPA. *See AFGE*, Slip Op. No. 553 at p. 3; *Jones*, Slip Op. No. 100 at p. 2.

Based upon the testimony and evidence presented, the Hearing Examiner concluded that FOP/DCHA failed to show that Sinclair's remarks to Favors constituted an unfair labor practice. (Report at 8). The Board finds that the Hearing Examiner's findings and conclusions are reasonable, supported by the record, and consistent with Board precedent. Therefore, the conclusion is affirmed.

IV. Conclusion

Pursuant to Board Rule 520.14, the Board finds the Hearing Examiner's conclusions and recommendations to be reasonable, supported by the record, and consistent with Board precedent. Therefore, the Board adopts the Hearing Examiner's Report, and the Complaint is dismissed.

[4] The Board notes that the Hearing Examiner incorrectly cited *Jones* as PERB Case No. 85-U-14; when 84-U-14 is the correct citation.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/District of Columbia Housing Authority Labor Committee's Unfair Labor Practice Complaint is dismissed.

2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

July 31, 2013

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 11-U-23 was transmitted via U.S. Mail to the following parties on this the 31st day of July, 2013.

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