

District of Columbia

REGISTER

HIGHLIGHTS

- DC Council passes Resolution 20-329, Cost-of-Living Adjustment Personal Income Tax Standard Deduction and Exemption Technical Clarification Emergency Declaration Resolution of 2013
- DC Council schedules a public hearing on Bill 20-320, Shared Use of School Property in the District Act of 2013
- Board of Elections schedules a public hearing on the proposed voting precinct boundary changes
- District Department of the Environment schedules a public hearing on the Fiscal Year 2014 Weatherization Assistance Program Draft State Plan
- Department of Consumer and Regulatory Affairs establishes guidelines for issuing graphic display permits for the Gallery Place Project
- Metropolitan Police Department proposes guidelines for renewing firearm registrations
- Public Employee Relations Board publishes opinions

DISTRICT OF COLUMBIA REGISTER

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

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-210

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 7, 2013

To amend, on an emergency basis, the District of Columbia Election Code of 1955 to permit the election of officials of political parties during any regularly scheduled primary election and to extend the deadline local party committees can file written communication with the Board of Elections identifying the offices to be filled during the April 1, 2014, primary election.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Party Officer Elections 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(1)(1) (D.C. Official Code § 1-1001.08(1)(1)) is amended by striking the number "180" and inserting the number "130" in its place.

(b) Section 10(a)(1) (D.C. Official Code § 1-1001.10(a)(1)) is amended by striking the phrase "on either the 2nd Tuesday in February of each presidential election year or the 1st Tuesday in April of each presidential election year if there is" and inserting the word "during" in its place.

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.

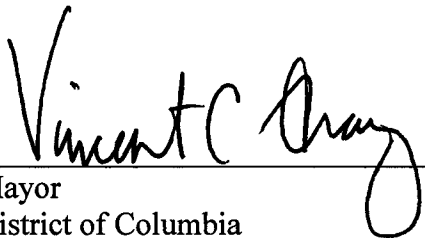
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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
November 7, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-209IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
NOVEMBER 7, 2013

To amend, on an emergency basis, the District of Columbia Election Code of 1955 to establish that each nominating petition circulator must make and sign an affidavit that states that he or she is a qualified petition circulator as that term is defined in the Election Code.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Board of Elections Nominating Petition Circulator Affidavit Emergency Amendment Act of 2013".

Sec. 2. Section 8(b)(3) of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 701; D.C. Official Code § 1-1001.08(b)(3)), is amended by striking the phrase "circulator is a registered voter" and inserting the phrase "circulator is a qualified petition circulator" in its place.

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.

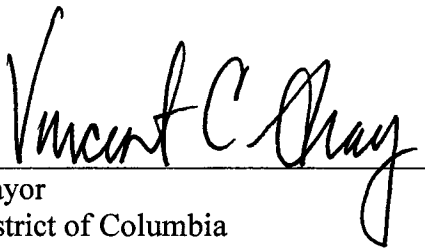
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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
November 7, 2013

ENROLLED ORIGINAL

A RESOLUTION

20-314

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency, due to Congressional review, with respect to the need to create 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.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "CCNV Task Force Congressional Review Emergency Declaration Resolution of 2013".

Sec. 2. (a) There exists an immediate need to create an advisory task force to develop proposals regarding 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 on the same city block by the Center for Creative Non-Violence ("CCNV") located adjacent to the District property.

(b) The building occupied by CCNV at 425 2nd Street, N.W., is dilapidated, and the conditions for the over 1300 individuals who are sheltered there are in need of substantial improvement. There is an urgent need to establish better shelter space and improved homeless services.

(c) The value of the real estate creates new opportunities to explore options for improved shelter and better services as well as affordable workforce housing and transitional housing for homeless District residents.

(d) The Committee on Human Services held a public oversight hearing on the subject of CCNV on June 27, 2013. Twenty-three public witnesses testified. It became clear as a result of the hearing that the need for improvement is pressing and the stakeholders are ready to participate in a process to develop recommendations together.

(e) An advisory task force comprised of representatives of the Mayor's office, the Council, CCNV, and other stakeholders to develop a single set of recommendations is critical to determination of the best future use of the properties owned by the District located at 425 2nd Street, N.W., and adjacent property owned by CCNV.

(f) The emergency legislation that established the Center for Creative Non-Violence and District Government Task Force is charged with developing a written proposal no later than 6 months after the Task Force's first meeting.

(g) The CCNV Task Force Emergency Act of 2013, effective August 2, 2013 (D.C. Act 20-147), expired on October 31, 2013. Temporary legislation, the CCNV Task Force Temporary

ENROLLED ORIGINAL

Act of 2013 (D.C. Act 20-184), is pending Congressional review with a projected D.C. Law date of December 12, 2013.

(h) This Congressional review emergency is necessary to prevent a gap in the law.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-315

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency, due to Congressional review, 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 Congressional Review Emergency Declaration Resolution of 2013”.

Sec. 2. (a) 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 had been introduced at the close of June 2013, there was insufficient time to complete the full Council process and meet the current statutory mandate.

(b) As such, emergency legislation, D.C. Act 20-105, was adopted by the Council on June 25, 2013, in order to change the initial appointment date from July 1, 2013, to January 2, 2014, allowing sufficient time to properly vet appointees to the board. The emergency measure expired on October 7, 2013, and the identical temporary measure, D.C. Act 20-155, is not projected to become law until December 2, 2013.

(c) Thus, this Congressional review emergency is necessary to prevent a gap in the law.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Washington Metropolitan Area Transit Authority Board of Directors Congressional Review Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. The resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-316

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To confirm the reappointment of Ms. Monica Parchment to the Contract Appeals Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract Appeals Board Monica Parchment Confirmation Resolution of 2013”.

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

Ms. Monica Parchment
8153 East Beach Drive, N.W.
Washington, D.C. 20012
(Ward 4)

as a member of the Contract Appeals Board, established by section 1001 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-360.01), for a term to end July 28, 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

20-317

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to approve Change Orders No. FY13-015 through No. FY13-023 to Contract No. GM-10-S-0707D-FM between the District of Columbia government and HRGM Corporation for On-Call Small Capital Projects, and to authorize payment to HRGM Corporation, in the aggregate amount of \$1,594,309.60 for the goods and services to be received under these change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Change Orders No. FY13-015 through No. FY13-023 to Contract No. GM-10-S-0707D-FM Approval and Payment Authorization Emergency Declaration Resolution of 2013”.

Sec. 2.(a) There exists an immediate need to approve Change Orders No. FY13-015 through No. FY13-023 to Contract No. GM-10-S-0707D-FM for On-Call Small Capital Projects in the aggregate amount of \$1,594,309.60 and to authorize payment for the goods and services to be received under these change orders.

(b) The underlying contract was competitively bid and awarded to HRGM Corporation (“HRGM”), and the Council previously approved option year 2 with a not-to-exceed amount of \$2,985,000 (CA 19-0459). The Council then approved Change Orders No. FY13-001 through FY13-014 with an aggregate value of \$1,941,489 (B20-0355). Thereafter, the Department of General Services issued Change Orders FY13-015 through FY13-022. The aggregate value of Change Orders No. FY13-015 through No. FY13-022 was under \$1 million; thus, these change orders did not require Council approval.

(c) Change Order No. FY13-023 will cause the aggregate value of change orders issued, after Council approval of Option Year #002 of Contract No. GM-10-S-0707D-FM and approval of Change Orders No. FY13-001 through FY13-014, to exceed the \$1 million threshold pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval of Change Orders No. FY13-015 through No. FY13-023 in the aggregate amount of \$1,594,309.60 is necessary to compensate HRGM for work to be completed pursuant to its Contract No. GM-10-S-0707D-FM for On-Call Small Capital Projects.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders No. FY13-015 through No. FY13-023 to Contract No. GM-1 0-S-0707D-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

20-318

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to approve Change Orders No. FY13-007 through No. FY13-013 to Contract No. GM-10-S-0707A-FM between the District of Columbia government and Keystone Plus Construction Corporation for On-Call Small Capital Projects, and to authorize payment to Keystone Plus Construction Corporation, in the aggregate amount of \$1,352,252.58 for the goods and services to be received under these change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Change Orders No. FY13-007 through No. FY13-013 to Contract No. GM-10-S-0707A-FM Approval and Payment Authorization Emergency Declaration Resolution of 2013”.

Sec. 2.(a) There exists an immediate need to approve Change Orders No. FY13-007 through No. FY13-013 to Contract No. GM-10-S-0707A-FM for On-Call Small Capital Projects in the aggregate amount of \$1,352,252.58 and to authorize payment for the goods and services to be received under these change orders.

(b) The underlying contract was competitively bid and awarded to Keystone Plus Construction Corporation (“Keystone”), and the Council previously approved option year 2 with a not-to-exceed amount of \$2,450,000 (CA 19-0460). The Council then approved Change Orders No. FY13-001 through FY13-006 with an aggregate value of \$2,168,675.58 (B20-0351). Thereafter, the Department of General Services issued Change Orders FY13-007 through FY13-012. The aggregate value of Change Orders No. FY13-007 through No. FY13-012 was under \$1 million; thus, these change orders did not require Council approval.

(c) Change Order No. FY13-013 will cause the aggregate value of change orders issued after Council approval of Option Year 2 of Contract No. GM-10-S-0707A-FM and approval of Change Orders No. FY13-001 through FY13-006 to exceed the \$1 million threshold pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval of Change Orders No. FY13-007 through No. FY13-013 in the aggregate amount of \$1,352,252.58 is necessary to compensate Keystone for work to be completed pursuant to Contract No. GM-10-S-0707A-FM for On-Call Small Capital Projects.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders No. FY13-007 through No. FY13-013 to Contract No. GM-10-S-0707A-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- 319

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to approve Change Orders No. 8-9 of Contract No. GF-2011-C-0030 with Parkinson/Forrester JV, LLC, and to authorize payment in the aggregate amount of \$13,613,106 for goods and services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. GF-2011-C-0030 and Change Orders No. 8-9 Approval and Payment Authorization Emergency Declaration Resolution of 2013".

Sec. 2. (a) There exists an immediate need to approve Contract No. GF-2011-C-0030 and Change Orders No. 8-9 with Parkinson/Forrester JV, LLC ("PF/JV") for Construction of the New Student Center located at the Van Ness Campus of the University of the District of Columbia, located at 4200 Connecticut Avenue, N.W., and to authorize payment in the amount of \$13,613,106 for goods and services received under the contract.

(b) Contract No. GF-2011-C-0030 in the amount of \$29,899,000 was awarded to PF/JV on January 21, 2011.

(c) Additional scope of work under Change Order's No. 8-9 to the contract will cause the aggregate value of the contract to exceed \$1 million in a 12-month period.

(d) Approval of Contract No. GF-2011-C-0030 and Change Orders No. 8-9 in the aggregate amount of \$13,613,106 is necessary to compensate PF/JV for work performed and to be performed in completing the Construction of the New Student Center Van Ness Campus.

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. GF-2011-C-0030 and Change Orders No. 8-9 Approval and Payment Authorization Emergency Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-320

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to approve Change Orders No. FY13-010 through No. FY13-017 to Contract No. GM-10-S-0707C-FM between the District of Columbia government and Broughton Construction Company for On-Call Small Capital Projects, and to authorize payment to Broughton Construction Company in the aggregate amount of \$1,552,561.60 for the goods and services to be received under these change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Change Orders No. FY13-010 through No. FY13-017 to Contract No. GM-10-S-0707C-FM Approval and Payment Authorization Emergency Declaration Resolution of 2013”.

Sec. 2.(a) There exists an immediate need to approve Change Orders No. FY13-010 through No. FY13-017 to Contract No. GM-10-S-0707C-FM for On-Call Small Capital Projects in the aggregate amount of \$1,552,561.60 and to authorize payment for the goods and services to be received under these change orders.

(b) The underlying contract was competitively bid and awarded to Broughton Construction Company (“Broughton”), and the Council previously approved option year 2 with a not-to-exceed amount of \$2,450,000 (CA 19-0458). Council then approved Change Orders No. FY13-001 through FY13-009 with an aggregate value of \$1,554,151.81 (B20-0354). Thereafter, the Department of General Services issued Change Orders FY13-010 through FY13-016. The aggregate value of Change Orders No. FY13-010 through No. FY13-016 was under \$1 million; thus, these change orders did not require Council approval.

(c) Change Order No. FY13-017 will cause the aggregate value of change orders issued, after Council approval of Option Year 2 of Contract No. GM-10-S-0707C-FM and approval of Change Orders No. FY13-001 through FY13-009, to exceed the \$1 million threshold pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval of Change Orders No. FY13-010 through No. FY13-017 in the aggregate amount of \$1,552,561.60 is necessary to compensate Broughton for work to be completed pursuant to its Contract No. GM-10-S-0707C-FM for On-Call Small Capital Projects.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders No. FY13-010 through No. FY13-017 to Contract No. GM-10-S-0707C-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

20-321

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To approve the borrowing of funds by the District through the issuance and sale of income tax secured revenue bonds and general obligation bonds in an aggregate principal amount not to exceed \$1,262,153,835.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Fiscal Year 2014 Income Tax Secured Revenue Bond and General Obligation Bond Issuance Approval Resolution of 2013".

Sec. 2.(a) Pursuant to and in accordance with D.C. Official Code § 47-335.01, the General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 1999 -2004 Authorization Act of 1999, effective July 29, 1999 (D.C. Law 13-22; D.C. Official Code § 1-204.61, note); the General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 2002 -2007 Authorization Act of 2002, effective March 25, 2003 (D.C. Law 14-214; D.C. Official Code § 1-204.61, note); the General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 2007-2012 Authorization Act of 2006, effective March 6, 2007 (D.C. Law 16-212; D.C. Official Code § 1-204.61, note), and the General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 2013-2018 Authorization Act of 2012, effective March 19, 2013 (D.C. Law 19-231) (the "Bond Acts"), and Subchapter II-D of the District of Columbia Official Code (§ 47-340.26 *et seq.*) ("Income Tax Bond Act"), the Council approves the issuance and sale of:

(1) Income tax secured revenue bonds and general obligation bonds in an aggregate principal amount not to exceed \$1,087,263,835 to fund the following capital projects, as that term is defined in the Income Tax Bond Act or the Bond Acts, plus all costs and expenses authorized by the Income Tax Bond Act or the Bond Acts, including, but not limited to, reimbursing amounts temporarily advanced from the General Fund of the District of Columbia, any enterprise fund, or other fund or account of the District, and all costs and expenses of issuing and delivering the bonds, including, but not limited to, underwriting, rating agency fees, legal fees, accounting fees, financial advisory fees, bond insurance and other credit enhancements, liquidity enhancements, printing costs and expenses, capitalized interest, establishment of debt service or other reserve funds related to the bonds, the payment of costs of contracts described in the Income Tax Bond Act or the Bond Acts, and the payments of other debt program related costs as provided in the related agreements:

Owner Agency Title	Project Number	Project Title	Implementing Agency	Borrowing \$
Department of General Services	AA3	Consolidated Laboratory Facility	DGS	23,831,970
Department of General Services	BC1	Facility Condition Assessment	DGS	1,000,000
Department of General Services	BC4	Hill East Relocation of Government Facility & Functions	DGS	500,000
Department of General Services	N14	Renovation Of Government Centers	DGS	2,882,904
Department of General Services	PL1	Various Pool Projects (Roofs, HVAC, Etc.)	DGS	7,779,856
Department of General Services	PL106 C	Government Centers	DGS	1,324,189
Department of General Services	PL4	Enhancement of Communications Infrastructure	DGS	3,000,000
Department of General Services	PL6	HVAC and Roof Replacements	DGS	111,855
Department of General Services	PL9	Energy Retrofitting of District Buildings	DGS	9,973,231
Department of General Services	PR1	One Judiciary Square Roof	DGS	566,687
Total DGS				50,970,692
Office of the Chief Financial Officer	BF3	SOAR Modernization	OCFO	807,507
Office of the Chief Financial Officer	CSP	Integrated Tax System Modernization	OCFO	3,433,313
Total OCFO				4,240,820
Office of The Secretary	AB1	New Archives Building	DGS	3,500,000
Total Office of the Secretary				3,500,000
Office of Municipal Planning	PLN	Public Plans & Studies	OMP	7,176,568
Total Office of Planning				7,176,568
Office of Zoning	JM1	Rewriting of Zoning Regulations	OZ	212,374
Total Office of Zoning				212,374
Commission on the Arts & Humanities	AH7	Subgrants to Cultural Organizations	CAH	5,000,000
Total Comm. On Arts and Humanities				5,000,000
Office on Aging	A05	Ward 6 Senior Wellness Center	OOA	1,194,931
Office on Aging	EA3	Washington Center for Aging Services Renovation	OOA	158,515
Total Office on Aging				1,353,446
DC Public Library	ANL	Anacostia Neighborhood Library	DCPL	825
DC Public Library	FGR	Francis A. Gregory Library	DCPL	1,161,614
DC Public Library	FS2	Petworth Library	DCPL	2,938
DC Public Library	ITM	Information Technology Modernization	DCPL	150,000
DC Public Library	LB2	Library Improvements	DCPL	6,536
DC Public Library	LB3	General Improvement including HVAC, ADA and Security	DCPL	5,552,166
DC Public Library	MCL	Martin Luther King Jr. Memorial Central Library	DCPL	3,000,000
DC Public Library	TEN	Tenley-Friendship Branch Library	DCPL	1,831
DC Public Library	TPL	Temporary Space for DC Public Library	DCPL	23,064
DC Public Library	WAH	Washington Highlands Library-Substantial Renovation	DCPL	2,450,940
DC Public Library	WOD	Woodridge Library	DCPL	4,800,000
DC Public Library	WTD	Watha T. Daniel Library Renovation	DCPL	3,000
Total DC Public Library				17,152,914
Department of Employment Services	UIM	Unemployment Insurance Modernization Project-Federal	DCPL	5,000,000
Total Dept. of Employment Services				5,000,000
Dept. of Consumer and Regulatory	ISM	IT Systems Modernization	DCRA	2,936,806

Affairs				
Dept. of Consumer and Regulatory Affairs	EB3	Property Inspection and Abatement	DCRA	1,500,000
Total DCRA				4,436,806
Dept. of Housing and Community Development	503	Redevelopment of Public Housing Development	DHCD	1,554,787
Total DHCD				1,554,787
Deputy Mayor for Economic Development	040	Affordable Housing	DMPED	618,162
Deputy Mayor for Economic Development	AMS	McMillan Site Redevelopment	DMPED	1,400,000
Deputy Mayor for Economic Development	AWR	Saint Elizabeths East Campus Infrastructure	DMPED	18,715,927
Deputy Mayor for Economic Development	AWT	Walter Reed Redevelopment	DMPED	1,000,000
Deputy Mayor for Economic Development	EB0	New Communities Projects	DMPED	11,709,209
Deputy Mayor for Economic Development	EB3	Neighborhood Revitalization	DMPED	389,947
Deputy Mayor for Economic Development	EB4	Community Economic Development Initiatives	DMPED	5,957,665
Deputy Mayor for Economic Development	EDP	Economic Development Pool	DMPED	1,118,862
Total DMPED				40,909,772
Metropolitan Police Department	CTV	Tactical Village Training Facility	DGS	3,597,782
Metropolitan Police Department	PDR	6th District Relocation	DGS	4,000,000
Metropolitan Police Department	PEQ	Specialized Vehicles	MPD	5,500,000
Metropolitan Police Department	PL1	Scheduled Capital Improvements at Community Police Stations, Police Academy and other Facilities	DGS	3,739,374
Metropolitan Police Department	PLT	Crime Fighting Technology	MPD	2,000,000
Total MPD				18,837,156
Fire and Emergency Medical Services	206	Firetrucks, Ambulances and Support Vehicles	FEMS	4,000,000
Fire and Emergency Medical Services	F34	Emergency Communication Systems	FEMS	27,327
Fire and Emergency Medical Services	LB7	Engine Company 16 Renovation	DGS	70,829
Fire and Emergency Medical Services	LC3	Engine Company 21 Renovation	DGS	59,498
Fire and Emergency Medical Services	LC4	Engine Company 22 Firehouse Replacement	DGS	3,000,000
Fire and Emergency Medical Services	LC5	Engine Company 23 Renovation	DGS	3,000,000
Fire and Emergency Medical Services	LD2	Engine Company 29 Complete Renovation	DGS	1,648,175
Fire and Emergency Medical Services	LF1	Asbestos Abatement	DGS	113,130
Fire and Emergency Medical Services	LF2	Scheduled Capital Improvements at Various Facilities	DGS	5,497,600
Fire and Emergency Medical Services	LG3	Fire Training Simulators	FEMS	1,650,000
Fire and Emergency Medical Services	LI2	Integrated Information Management System	DGS	290,797
Total FEMS				19,357,356
Department of Corrections	CEV	Elevator Refurbishment	DGS	1,600,000
Department of Corrections	CR0	Inmate Processing Center	DGS	2,000,000
Department of Corrections	CR1	HVAC Replacement	DGS	5,600,000
Department of Corrections	CRF	Roof Refurbishment at DOC Facilities	DGS	2,500,000
Department of Corrections	MA2	Inmate Shower Renovations	DGS	304
Department of Corrections	MA5	Steam Supply and Return System	DGS	203,923
Total Dept. of Corrections				11,904,227
District of Columbia Public Schools	BRK	Brookland MS Modernization	DGS	35,651,000

District of Columbia Public Schools	CHA	Challenger Center For Space Education	DGS	500,000
District of Columbia Public Schools	GAH	Healthy School Yards	DGS	254,021
District of Columbia Public Schools	GI5	Rose-Reno Historic School Modernization	DGS	8,918,442
District of Columbia Public Schools	GM1	General Miscellaneous Repairs at Various Sites	DGS	29,531,454
District of Columbia Public Schools	GM3	Stabilization Capital Labor - Program Management	DGS	16,268,000
District of Columbia Public Schools	JOH	Johnson MS Renovation/Modernization	DGS	11,000,000
District of Columbia Public Schools	LL3	Langley ES Modernization	DGS	279,366
District of Columbia Public Schools	MH1	Dunbar HS Modernization	DGS	48,407,114
District of Columbia Public Schools	MJ1	Janney ES Modernization	DGS	6,462,721
District of Columbia Public Schools	MO3	Moten ES Modernization	DGS	4,593,153
District of Columbia Public Schools	MR3	Maury ES Modernization	DGS	757,244
District of Columbia Public Schools	N80	IT Infrastructure Upgrade	OCTO	4,500,000
District of Columbia Public Schools	NA6	Ballou HS Modernization	DGS	80,153,000
District of Columbia Public Schools	ND4	Deal JHS Modernization	DGS	107,862
District of Columbia Public Schools	NG3	Hart MS Modernization	DGS	595,064
District of Columbia Public Schools	NQ9	Wheatley ES Modernization	DGS	96,096
District of Columbia Public Schools	NR6	Woodson HS Modernization	DGS	1,688,557
District of Columbia Public Schools	NR9	Roosevelt HS Modernization	DGS	23,686,000
District of Columbia Public Schools	NX3	Cardozo HS Revitalization	DGS	32,400,329
District of Columbia Public Schools	NX4	Anacostia HS	DGS	828,470
District of Columbia Public Schools	NX6	Wilson HS Modernization	DGS	425,923
District of Columbia Public Schools	PE3	Drew ES Modernization	DGS	25,650
District of Columbia Public Schools	PK3	Martin Luther King ES Modernization	DGS	1,704,114
District of Columbia Public Schools	SG1	Window Replacement at Various Sites	DGS	3,039,000
District of Columbia Public Schools	SG3	School Modernization	DGS	179,084
District of Columbia Public Schools	T22	DC Stars	DGS	764,365
District of Columbia Public Schools	TB2	Student Information System	DGS	2,069,912
District of Columbia Public Schools	TK3	Takoma ES Renovation	DGS	597,241
District of Columbia Public Schools	TU3	Turner ES Modernization	DGS	9,917,016
District of Columbia Public Schools	WT3	Whittier ES Modernization	DGS	561,187
District of Columbia Public Schools	YY1	School Modernization/Renovations	DGS	178,863,461
Total DCPS				504,824,846
State Superintendent of Education (OSSE)	GD2	SOAR Replacement Systems Interface	OSSE	142,326
State Superintendent of Education (OSSE)	SIS	Single State-Wide Student Information System	OSSE	2,000,000
Total OSSE				2,142,326
University of The District of Columbia	ET9	Higher Education Back Office	UDC	89,070
University of The District of Columbia	UG7	Renovation of University Facilities to Enhance Sustainability	UDC	4,493,248
Total UDC				4,582,318
Special Education Transportation	BU0	Vehicle Replacement for Bus Fleet	SET	7,859,061
Total Special Ed Transportation				7,859,061
Department of Education	CES	Language Immersion MS/HS Facility Grant	DOE	3,000,000
Department of Education	YY6	Planning for Public & Charter Schools	DOE	698,535
Total Dept. of Education				3,698,535
Department of Parks and Recreation	AW3	Marvin Gaye Park	DGS	228
Department of Parks and Recreation	QB3	Roper / Deanwood Recreation Center	DGS	202,698

Department of Parks and Recreation	QE2	Ridge Road Recreation Center	DGS	74,100
Department of Parks and Recreation	QE5	ADA Compliance	DGS	1,000,000
Department of Parks and Recreation	QF1	Recreation Center Ward 8	DGS	23,393
Department of Parks and Recreation	QG6	Kenilworth Parkside Recreation Center	DGS	28,453
Department of Parks and Recreation	QI1	Northwest One Recreation Center	DGS	14,900
Department of Parks and Recreation	QI4	Site Improvement	DGS	103,880
Department of Parks and Recreation	QI8	Guy Mason Recreation Center	DGS	499,182
Department of Parks and Recreation	QI9	Rosedale Recreation Center	DGS	8,216,748
Department of Parks and Recreation	QJ8	Friendship Park	DGS	500,000
Department of Parks and Recreation	QJ9	Purchase and Renovate Boys and Girls Clubs	DGS	54,412
Department of Parks and Recreation	QK3	Fort Stanton Recreation Center	DGS	7,671,932
Department of Parks and Recreation	QM5	Shepherd Field	DGS	38,442
Department of Parks and Recreation	QM6	Raymond Recreation Center	DGS	7,255,565
Department of Parks and Recreation	QM7	Various Pool Projects (Roofs, HVAC, Etc.)	DGS	2,774
Department of Parks and Recreation	QM8	Community Recreation Center -	DGS	7,000,000
Department of Parks and Recreation	QN1	7th and N Park	DGS	10,620
Department of Parks and Recreation	QN5	Langdon Community Center Redevelopment	DGS	330,116
Department of Parks and Recreation	QN7	Athletic Field Improvements	DGS	7,921,304
Department of Parks and Recreation	QP1	1st and Florida Playground	DGS	7,438
Department of Parks and Recreation	QP2	11th and Monroe Park	DGS	137,851
Department of Parks and Recreation	QS4	New York Avenue Day Care Redevelopment	DGS	190,717
Department of Parks and Recreation	QS5	Barry Farm Recreation Center	DGS	5,885,000
Department of Parks and Recreation	R67	Bald Eagle Recreation Center	DGS	3,022,965
Department of Parks and Recreation	RE0	Parkview Recreation Center	DGS	1,991,323
Department of Parks and Recreation	RG0	General Improvements	DGS	7,485,000
Department of Parks and Recreation	SET	Southeast Tennis and Learning Center	DGS	8,000,000
Department of Parks and Recreation	URA	Urban Agriculture	DGS	500,000
Total Dept Parks and Rec				68,169,041
Department of Health	HC1	DC Animal Shelter	DGS	178,029
Department of Health	R23	Laboratory Re-Engineering - IT	DGS	60,500
Total Dept. of Health				238,529
Department of Health Care Finance	MPM	Medicate Mgmt Info System (MMIS) Upgraded	DHCF	3,526,078
Department of Health Care Finance	UMC	United Medical Center Facility	DHCF	2,000,000
Total Dept. of Health Care Finance				5,526,078
Department of Human Services	CMS	Case Management System	DHS	3,000,000
Department of Human Services	SG1	Replacement of Automated Determination System (ACEDS)	DHS	96,777
Total Dept. of Human Services				3,096,777
Depart of Youth Rehabilitation Services	SH7	DYRS Campus Upgrades	DGS	8,969,062
Total DYRS				8,969,062
Department of Transportation	6EQ	Parking Meters	DDOT	5,000,000
Department of Transportation	AD3	Streetlight Management	DDOT	3,217,426
Department of Transportation	BRI	Parkside Pedestrian Bridge	DDOT	10,000,000
Department of Transportation	CA3	Stormwater Management	DDOT	250,000
Department of Transportation	CAL	Curb and Sidewalk Rehab	DDOT	4,118,000
Department of Transportation	CE3	Street Marking & Traffic Calming	DDOT	4,559,300
Department of Transportation	CEL	Alley Rehabilitation	DDOT	3,608,600
Department of Transportation	CG3	Local Roadside Improvements	DDOT	10,817,354
Department of Transportation	CIR	Circulator Buses	DDOT	4,725,000
Department of Transportation	ED1	Rhode Island Avenue NE Small Area Plan	DDOT	2,000,000
Department of Transportation	ED3	Local Streets Parking Studies	DDOT	1,849,658
Department of Transportation	EDL	Local Economic Development	DDOT	1,546,090

		Streetscape		
Department of Transportation	EDS	Great Streets Initiative	DDOT	708,934
Department of Transportation	EW0	11th Street Bridge	DDOT	1,401,945
Department of Transportation	FLD	Prevention of Flooding in Bloomingdale/LeDroit Park	DDOT	2,000,000
Department of Transportation	NP0	Non-Participating Highway Trust Fund Support	DDOT	6,000,000
Department of Transportation	PED	Economic Development of Pedestrian Bridge	DDOT	461,716
Department of Transportation	PM0	Administrative Cost Transfer	DDOT	300,000
Department of Transportation	PM3	Planning and Management System	DDOT	2,120,000
Department of Transportation	PRT	TOPS Permit System Enhancement	DDOT	400,000
Department of Transportation	SA3	H Street / Benning / K Street Line	DDOT	52,000,000
Department of Transportation	SR0	Reconstruction/Resurfacing/Upgrading	DDOT	13,901
Department of Transportation	SR3	Local Wards Reconstruction and Resurfacing	DDOT	3,717,841
Department of Transportation	TRL	Klingle Trail Completion	DDOT	2,250,000
Total DDOT				123,065,765
Mass Transit Subsidies	SA2	Metrobus	WMATA	2,503,383
Mass Transit Subsidies	SA3	Metrorail Rehab	WMATA	39,122,573
Mass Transit Subsidies	TOP	Transit Operations and Dedicated Facilities	WMATA	58,905,991
Total WMATA				100,531,947
District Department of the Environment	HMR	Hazardous Material Remediation	DDOE	1,000,000
District Department of the Environment	SUS	Sustainable DC Fund-2	DDOE	2,057,000
District Department of the Environment	SWM	Storm Water (MS4) Project (DDOT)	DDOE	196,324
Total Dept. of Environment				3,253,324
Department of Public Works	EQ9	Heavy Equipment Acquisition	DPW	5,316,000
Department of Public Works	FM6	Operations Center	DPW	2,332,606
Department of Public Works	FMS	Faster System Upgrade	DPW	400,000
Department of Public Works	FS1	Upgrade to Fueling Sites	DPW	746,078
Department of Public Works	GD1	Fleet Management Pool and Carwash	DPW	12,843
Department of Public Works	PS1	Upgrade to Fueling Sites	DPW	3,639,557
Department of Public Works	SW2	Benning Road Solid Waste Transfer	DPW	681,003
Total DPW				13,128,087
Department of Motor Vehicles	RID	Secure Credentialing	DPW	77,198
Department of Motor Vehicles	WA5	System Infrastructure/Link System	DPW	79,933
Total DMV				157,131
Department of Behavioral Health	HX4	Housing Initiatives	DBH	3,000,000
Department of Behavioral Health	HX5	New Mental Health Hospital	DBH	731,182
Department of Behavioral Health	XA5	Renovation of St. Elizabeths Buildings	DBH	221,722
Department of Behavioral Health	XA6	Avatar Upgrade	DBH	425,000
Department of Behavioral Health	XA8	Integrated Care Applications Management (ICAM)	OCTO	695,000
Total Dept. of Behavioral Health				5,072,904
Office of Chief Technology Officer	1BT	DC Community Access Network	OCTO	1,666,294
Office of Chief Technology Officer	EAM	Enterprise Architecture	OCTO	74,084
Office of Chief Technology Officer	EQ1	Credentialing and Wireless	OCTO	500,000
Office of Chief Technology Officer	HIP	National Provider ID	OCTO	68,248
Office of Chief Technology Officer	N16	District Reporting System	OCTO	597,491
Office of Chief Technology Officer	N17	Unified Communications Center	OCTO	3,657,719
Office of Chief Technology Officer	N18	Share Computer Center Upgrade	OCTO	272,133

Office of Chief Technology Officer	N25	Data Center Relocation	OCTO	2,006,111
Office of Chief Technology Officer	N27	Enterprise Messaging & Communication Platform	OCTO	564,059
Office of Chief Technology Officer	N31	Data Transparency and Accountability (Capstat)	OCTO	120,000
Office of Chief Technology Officer	N36	Service Modernization Program (SMP)	OCTO	2,379,651
Office of Chief Technology Officer	N38	Procurement System	OCTO	1,000,000
Office of Chief Technology Officer	N48	Data Center 2 (ODC2) Relocation	OCTO	28,675
Office of Chief Technology Officer	N60	Transportation Infrastructure Modernization	OCTO	1,000,000
Office of Chief Technology Officer	ZA1	DC GIS Capital Investment	OCTO	1,686,479
Office of Chief Technology Officer	ZB1	Enterprise Resource Planning	OCTO	2,720,242
Total OCTO				18,341,186
Office of Unified Communications	PL4	Underground Commercial Power Feed to UCC	DGS	3,000,000
Office of Unified Communications	UC2	IT and Communications Upgrades	OCTO	20,000,000
Total Office of Unified Communications				23,000,000
Grand Total				1,087,263,835

(2)(A) Income tax secured revenue bonds in the aggregate principal amount not to exceed \$174,890,000 to refund all or a portion of:

(i) The District of Columbia Certificates of Participation, Series 2003, issued by Wells Fargo Bank Minnesota, N.A., as trustee, in the original aggregate principal amount of \$71,455,000 for a portion of the cost of design, construction, and installation of DC-Net, a high-capacity, high-speed telecommunications network, and a portion of the cost of design and construction of the Unified Communications Center, the District’s public safety and emergency preparedness communications and command center, both located on the East Campus of the Saint Elizabeths Hospital in the District (“2003 COPs”); and

(ii) The District of Columbia Certificates of Participation, Series 2006, issued by Manufacturers and Traders Trust Company, as trustee, in the original aggregate principal amount of \$211,680,000 for a portion of the cost for the design and construction of a new psychiatric hospital facility on the District-owned land on the campus of Saint Elizabeths Hospital and a portion of the cost for acquiring and renovating a building that would house a full-service location and the agency headquarters for the District’s Department of Motor Vehicles (“2006 COPs”).

(B) General obligation bonds will not be issued to refund the 2003 COPs or the 2006 COPs.

(b) The capital projects listed in subsection (a) of this section have been authorized pursuant to section 446 of the District of Columbia Home Rule Act, approved December 24, 1973 (Pub. L. No. 93-198; 87 Stat. 801; D.C. Official Code § 1-204.46), the District of Columbia Appropriations Act, 2000, approved November 29, 1999 (Pub. L. No. 106-113; 113 Stat. 1501), the District of Columbia Appropriations Act, 2001, approved November 22, 2000 (Pub. L. No. 106-522; 114 Stat. 2457), the District of Columbia Appropriations Act, 2002, approved December 21, 2001 (Pub. L. No. 107-96; 115 Stat. 923), the District of Columbia Appropriations Act, 2003, approved February 20, 2003 (Pub. L. No. 108-7; 117 Stat. 11), the District of Columbia Appropriations Act, 2004, approved January 23, 2004 (Pub. L. No. 108-199; 118 Stat. 3), the District of Columbia Appropriations Act, 2005, approved October 18, 2004 (Pub. L. No.

108-335; 118 Stat. 1322), the District of Columbia Appropriations Act, 2006, approved November 30, 2005 (Pub. L. No 109-115; 119 Stat. 2508), the Revised Continuing Appropriations Resolution, 2007, approved February 15, 2007 (Pub. L. No. 110-5; 121 Stat. 8), the Continuing Appropriations Resolution, 2008, approved September 29, 2007 (Pub. L. No. 110-92; 121 Stat. 989), the District of Columbia Appropriations Act, 2008, approved December 26, 2007 (Pub. L. No. 110-161; 121 Stat. 1990), the Continuing Appropriations Resolution, 2009, approved September 30, 2008 (Pub. L. No. 110-329; 122 Stat. 3574), the District of Columbia Appropriations Act, 2009, approved March 11, 2009 (Pub. L. No.111-8; 123 Stat. 524), the Continuing Appropriations Resolution, 2010, approved October 1, 2009 (Pub. L. No. 111-68; 123 Stat. 2023), the Further Continuing Appropriations Resolution, 2010, approved October 30, 2009 (Pub. L. No. 111-88; 123 Stat. 2904), the District of Columbia Appropriations Act, 2010, approved December 16, 2009 (Pub. L. No. 111-117; 123 Stat. 3034), as extended by the Department of Defense and Full-Year Continuing Appropriations Act, 2011, approved April 15, 2011 (Pub. L. No. 112-10; 125 Stat. 38), the District of Columbia Appropriations Act, 2012, approved December 23, 2011 (Pub. L. No.112-74, 125 Stat. 903); the Continuing Appropriations Resolution 2013, approved September 28, 2012 (Pub. L. No. 112-175; 126Stat. 1313); the Consolidated and Further Continuing Appropriations Act, 2013, approved March 26, 2013 (Pub. L. No. 113-6; 127 Stat. 198); the Continuing Appropriations Act, 2014, approved October 17, 2013 (Pub. L. No. 113-46; 127 Stat 558); and are capital projects for which the District of Columbia is authorized to incur indebtedness under the Bond Acts, and the Income Tax Bond Act.

(c) The Chief Financial Officer shall determine whether income tax secured bonds or general obligation bonds will be issued to finance the capital projects listed in subsection (a) of this section.

Sec. 3. If the funds allocated to any agency pursuant to this resolution exceed the amount required by that agency to complete any authorized capital project listed in section 2(a) for that agency, the excess funds shall be made available to finance other capital projects approved by a prior or subsequent Council bond issuance resolution or act.

Sec. 4. Pursuant to sections 7 and 8 of the Bonds Acts, section 2 of the Income Tax Bond Act, and other applicable law, the Council approves the execution and delivery by the Mayor, or the Chief Financial Officer, on behalf of the District, of any agreement, document, contract, and instrument (including any amendment of or supplement to any such agreement, document, contract, or instrument) in connection with the issuance, sale, and delivery of District of Columbia general obligation bonds or income tax secured revenue bonds pursuant to the Bond Acts or the Income Tax Bond Act.

Sec. 5. The Secretary to the Council shall submit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 6. 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. 7. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-322

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To confirm the appointment of Ms. Barbara J. Jones to the Commission on the Arts and Humanities.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Commission on the Arts and Humanities Barbara J. Jones Confirmation Resolution of 2013".

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

Ms. Barbara J. Jones
2411 18th Street, S.E.
Washington, D.C. 20020
(Ward 8)

as a member of the Commission on the Arts and Humanities, established by section 4 of the Commission on the Arts and Humanities Act, effective October 21, 1975 (D.C. Law 1-22; D.C. Official Code § 39-203), succeeding Carl C. Cole, for a term to end June 30, 2016.

Sec. 3. The Secretary to 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

20-323

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To confirm the reappointment of Ms. Rhona Friedman to the Commission on the Arts and Humanities.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Commission on the Arts and Humanities Rhona Friedman Confirmation Resolution of 2013".

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

Ms. Rhona Friedman
2441 Tracy Place, N.W.
Washington, D.C. 20008
(Ward 2)

as a member of the Commission on the Arts and Humanities, established by section 4 of the Commission on the Arts and Humanities Act, effective October 21, 1975 (D.C. Law 1-22; D.C. Official Code § 39-203), for a term to end June 30, 2016.

Sec. 3. The Secretary to 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

20-324

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To confirm the appointment of Mr. Jeffrey S. DeWitt as the Chief Financial Officer of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Chief Financial Officer of the District of Columbia Jeffrey S. DeWitt Confirmation Resolution of 2013".

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

Mr. Jeffrey S. DeWitt
3422 W. Zuni Brave Trail
Phoenix, AZ 85086

as the Chief Financial Officer of the District of Columbia, in accordance with section 424(b)(1)(A) of the District of Columbia Home Rule Act, approved April 17, 1995 (109 Stat. 142; D.C. Official Code § 1-204.24b(a)(1)), replacing Dr. Natwar M. Gandhi, for a term to end June 30, 2017.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-325

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the sense of the Council that the Washington National Football League Team change its name.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Sense of the Council to Rename the Washington National Football League Team Resolution of 2013”.

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

(1) In 1992, 8 members of the Council of the District of Columbia introduced a resolution, P.R. 9-330, requesting a change in the name of Washington’s National Football League (“NFL”) football team. In 2001, the Council adopted a resolution, Res. 14-263, requesting a change in the team’s name. On May 1, 2013, 9 members of the current Council introduced the present resolution.

(2) For more than 80 years, the Washington NFL football team has brought great pride and joy to the metropolitan Washington, D.C., area.

(3) The word “redskins” is objectionable to many Americans who consider it to be racist and derogatory, and the use of the term is increasingly considered to be insensitive in our multi-cultural society.

(4) A quick survey of dictionaries demonstrates this evolution in the meaning of the word. The 1964 edition of the *Webster’s New World Dictionary of the American Language* defined “redskin” to mean: “A North American Indian.” The 1983 edition of the *Webster’s Ninth New Collegiate Dictionary* defines “redskin” to mean: “American Indian – usually taken to be offensive.” The 1983 edition of the *Random House Dictionary of the English Language Second Edition Unabridged* defines “redskin” to mean: “*Slang (often disparaging and offensive)* A North American Indian.”

(5) Some believe that the term “redskins” was derived during a time in our nation when a bounty was offered on Native Americans, those killed by the bounty hunters were scalped as proof of their slaughter, and bounty hunters began referring to the scalps of the dead Native Americans as “redskins.”

(6) By a resolution, Res. 43-01, adopted on November 14, 2001, the Board of Directors of the Metropolitan Washington Council of Governments found that “the term ‘Redskins’ is

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viewed by many sensitive and progressive-minded individuals as a demeaning and dehumanizing racist insult that embodies a history of degradation and slaughter.”

(7) In recent years, prominent sports writers such as Peter King have urged using a name different than “Redskins” for the name of a sports team. Most recently, NBC announcer Bob Costas urged a name change for the Washington NFL football team: “...think for a moment about the term ‘Redskins,’ and how it truly differs from all the others. Ask yourself what the equivalent would be, if directed toward African-Americans, Hispanics, Asians, or members of any other ethnic group. When considered that way, ‘Redskins’ can’t possibly honor a heritage, or noble character trait, nor can it possibly be considered a neutral term. It’s an insult, a slur, no matter how benign the present-day intent.”

(8) A number of sports teams have changed names that reference Native Americans. St. John’s (New York) changed its mascot from the Redmen to the Red Storm, and the Miami University (Ohio) Redskins are now the Red Hawks – to list 2 among many.

(9) On October 15, 2013, the Anti-Defamation League called on professional sports teams to “seriously consider moving away from the use of hurtful and offensive names, mascots and logos,” and specifically cited the Washington Redskins.

(10) Ten days earlier, President Barack Obama said he would consider changing the Washington NFL football team’s name if he owned the football team, saying such names offend “a sizable group of people.” He further added: “I don’t know whether our attachment to a particular name should override the real legitimate concerns that people have about these things.”

(11) Changing the long-standing name of the professional sports team might have an economic cost—the cost of losing a well-known brand. However, profit should not trump doing what is morally right.

(12) In 1995, Abe Pollin, the owner of Washington’s professional basketball team, announced he was changing the team’s name because the word “bullets” was associated with violence, an association with which he was uncomfortable in part because of the high number of homicides and gun-related violence at that time in Washington, D.C. As a result, the team’s name was changed.

(13) Last month the San Francisco Chronicle joined a growing list of publications that no longer use the word “redskins” when referring to Washington’s NFL football team. Other publications include the Portland Oregonian, Kansas City Star, Slate.com, Washington City Paper, and Richmond Free Press.

(14) The Council of the District of Columbia is in an important position to acknowledge the controversy over our local NFL football team’s name, and to urge the football team’s owners to end the controversy and rectify what many believe to be an insult by changing the name of the Washington NFL football team.

Sec. 3. It is the sense of the Council that:

(1) Out of respect for the multi-racial and cultural makeup of this nation, our city, and the team’s fans, the Washington NFL football team should change its name;

(2) Changing the name of an NFL franchise, while not a simple task, is the right and prudent thing to do in this case; and

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(3) The owner of the Washington NFL football team is hereby urged to change the name of the football team to a name that is not offensive to Native Americans or any other ethnic group.

Sec. 4. The Chairman of the Council shall transmit copies of this resolution to the principal owner of the Washington NFL football team, Dan Snyder, and to NFL Commissioner Roger Goodell.

Sec. 5. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A RESOLUTION

20-326

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To confirm the reappointment of Ms. Vera Abbott to the Office of Employee Appeals.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Office of Employee Appeals Vera Abbott Confirmation Resolution of 2013".

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

Ms. Vera Abbott
102 Brandywine Place, S.W.
Washington, D.C. 20032
(Ward 8)

as a member of the Office of Employee Appeals, established by section 601 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 § 1-606.01), for a term to end April 6, 2019.

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

20-327

COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the District's ability to continue to provide nutritional home delivery services to individuals living with cancer and other life-threatening diseases.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Department of Health Grant-Making Authority for Clinical Nutritional Home Services Emergency Declaration Resolution of 2013".

Sec. 2. Enactment of the Department of Health Grant Making Authority for Clinical Nutritional Home Services Emergency Amendment Act of 2013 will enable the District to continue to provide nutritional home delivery services to individuals living with cancer and other life-threatening diseases.

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 Department of Health Grant-Making Authority for Clinical Nutritional Services Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-328

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to establish mandatory controlled substance and alcohol testing and criminal background checks and a background investigation program for applicants, appointees, employees, volunteers, and contractual workers of the Consolidated Forensic Sciences Laboratory.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Emergency Declaration Resolution of 2013".

Sec. 2. (a) There exists an immediate need to amend 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.*), to establish a mandatory controlled substance and alcohol testing program, criminal background check, and background investigation program for applicants, appointees, employees, volunteers, and contractual workers who have a duty station at the Consolidated Forensic Sciences Laboratory ("CFL").

(b) The CFL officially opened on October 1, 2012, and will serve as the central location for several of the District's public health and safety lab operations, such as the Office of the Chief Medical Examiner, the Department of Forensic Sciences ("DFS"), and divisions under the Metropolitan Police Department that include the Firearms and Fingerprint Examination Division, DNA Laboratory, and the Forensic Sciences Services Division. The Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code § 5-1501.01 *et. seq.*) ("Act"), requires that DFS provide security and protection for evidence and samples in its custody. To ensure compliance with the Act, a mandatory controlled substance and alcohol testing program, criminal background check, and background investigation program for applicants, appointees, employees, volunteers, and contractual workers who have a duty station at the CFL is necessary.

(c) A similar emergency measure, D.C. Act 19-582, was adopted by the Council on December 4, 2012, along with an identical temporary measure, D.C. Act 19-616, which is set to expire on December 1, 2013. A permanent version of the legislation was introduced last Council

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period. This emergency measure is being noticed in order to prevent these provisions from expiring.

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 Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-329

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to amend section 47-1801.04 of the District of Columbia Official Code and the Fiscal Year 2014 Budget Support Act of 2013 to clarify that the base year for cost-of-living adjustments related to the personal income tax standard deduction and exemption is 2011.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Cost-of-Living Adjustment Personal Income Tax Standard Deduction and Exemption Technical Clarification Emergency Declaration Resolution of 2013”.

Sec. 2. (a) Section 47-1801.04(11) of the District of Columbia Official Code was inadvertently amended in the Fiscal Year 2014 Budget Support Act of 2013, signed by the Mayor on August 28, 2013 (D.C. Act 20-157; 60 DCR 12472) (“BSA”), and in the concomitant emergency versions of the BSA, to state that the base year for cost-of-living adjustments related to the personal income tax standard deduction and exemption is 2007. The current base year is 2011.

(b) Emergency legislation is necessary to amend section 47-1801.04(11) of the District of Columbia Official Code directly to ensure that the law immediately reflects the accurate date of 2011 and to amend the BSA, which is projected to become law on November 19, 2013, so that upon its effectiveness it contains the accurate base year of 2011.

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 Cost-of-Living Adjustment Personal Income Tax Standard Deduction and Exemption Technical Clarification Emergency Act of 2013 be adopted after a single reading.

Sec. 4. The resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-330

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to amend the District of Columbia Administrative Procedure Act to exempt from disclosure certain critical infrastructure information.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Critical Infrastructure Freedom of Information Emergency Declaration Resolution of 2013”.

Sec. 2. (a) On February 12, 2013, the President of the United States, Barack Obama, issued an Executive Order regarding Improving Critical Infrastructure Cybersecurity.

(b) The Executive Order noted that the Nation’s critical infrastructure has suffered repeated cyber intrusions, and that the cyber threat represents one of the most serious national security challenges to the United States.

(c) There is a heightened need to protect critical infrastructure in the District of Columbia given its saturation of federal agencies.

(d) In assessing rate change cases the Public Service Commission has a need to receive and consider information regarding improvements to the critical infrastructure of certain utilities it regulates.

(e) The National Association of Regulatory Utility Commissioners, in a February 2013 report, noted that proceedings before regulatory bodies can be a valuable source of information for cyber attackers because the proceedings may be subject to lax FOIA laws.

(f) Currently, there is no means by which information regarding critical infrastructure may be redacted from responses to Freedom of Information Act (FOIA) requests.

(g) Thus, the Public Service Commission is presented with the choice of receiving little to no useful information regarding critical infrastructure improvements, or potentially exposing critical information.

(h) Several states have enacted critical infrastructure statutes to protect against this vulnerability.

(i) The proposed emergency and temporary acts are narrowly tailored to protect sensitive critical infrastructure information from being released, thus protecting the District from this potential vulnerability.

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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 Critical Infrastructure Freedom of Information Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A Resolution

20-331

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to amend the District of Columbia Election Code of 1955 to reflect and establish that each nominating petition circulator must make and sign an affidavit that states that he or she is a qualified petition circulator as that term is defined in the Election Code.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Elections Nominating Petition Circulator Affidavit Emergency Declaration Resolution of 2013".

Sec. 2. (a) The Board of Elections Petition Circulation Requirements Amendment Act of 2013 (D.C. Law 20-31; 60 DCR 11535) ("Circulator Act"), became effective on October 17, 2013.

(b) The Circulator Act abolished the registration and residency requirements for nominating and ballot measure petition circulators and established a requirement that non-resident petition circulators register with the Board of Elections and consent to being subject to the subpoena power of the District of Columbia prior to circulating petitions.

(c) The Circulator Act inadvertently neglected to amend the statements required in a petition circulator's affidavit pursuant to section 8(b)(3) of the District of Columbia Election Code of 1955.

(d) The Board of Elections Nominating Petition Circulator Affidavit Emergency Amendment Act of 2013 corrects this error.

(e) An emergency exists to amend section 8(b)(3) of the District of Columbia Election Code because the nominating petition circulation period for the primary election to be held on April 1, 2014, begins on November 8, 2013.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Board of Elections Nominating Petition Circulator Affidavit Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-332

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to amend the District of Columbia Official Election Code to permit, on an emergency basis, the election of officials of political parties during any regularly scheduled primary election and to extend the deadline by which local party committees may file written communication with the Board of Elections identifying the offices to be filled during the April 1, 2014, primary election.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Party Officer Elections Emergency Declaration Resolution of 2013”.

Sec. 2. (a) The District of Columbia Official Election Code of 1955 states that elections for political party officers “shall be held, at the request of the party, on either the 2nd Tuesday in February of each presidential election year or the 1st Tuesday in April of each presidential election year if there is a primary election already scheduled for other purposes on the date requested.”

(b) This provision is not a requirement for the Board of Elections to properly administer local elections.

(c) The election of major party committee officials are required to take place in a primary election already scheduled for other purposes. This requirement was established so that the Board of Elections could efficiently administer elections and expend resources.

(d) Mayoral primary election years qualify as “already scheduled elections” and removing the requirement will not harm any major parties.

(e) Major parties whose national rules require the election of party officials to take place in a presidential election year will not be harmed as those parties may elect to hold those elections in presidential election years.

(f) Political parties whose national rules do not require that their primary election take place in a presidential election year are restricted unnecessarily. Unforeseen circumstances may prevent the political party from holding an election during a presidential election year at all. Officers whose terms are set to expire may feel compelled to continue to serve beyond the end of their terms, lest they leave their positions vacant.

(g) Extended terms prevent the District residents from timely electing their party officers.

(h) Currently, some officers of major parties are serving even though their terms have expired.

ENROLLED ORIGINAL

(i) The date 180 days prior to the April 1, 2014, primary election has passed. Consequently, there is an emergency need to pass this provision in emergency form to extend the deadline for local party committees to file written communication with the Board of Elections identifying the offices to be filled during the April 1, 2014, primary election

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 Party Officer Elections Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-333

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to amend the Transportation Infrastructure Improvements GARVEE Bond Financing Act of 2009 to include the financing of the replacement and realignment of the Frederick Douglass Memorial Bridge as a qualified transportation project for GARVEE Bonds supported by grants to be received from the Federal Highway Administration.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Transportation Infrastructure Improvements GARVEE Bond Financing Emergency Declaration Resolution of 2013".

Sec. 2. The accompanying emergency legislation is necessary to allow the District to issue GARVEE Bonds for the Frederick Douglass Memorial Bridge project. Without this legislation, the Frederick Douglass Memorial Bridge project may not be completed on time, raising additional safety concerns.

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 Transportation Infrastructure Improvements GARVEE Bond Financing Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20- 334

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to approve the negotiated compensation collective bargaining agreement for District of Columbia Department of General Services employees who are represented by the Teamsters Locals 639 and 730, affiliated with the International Brotherhood of Teamsters.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Compensation Agreement between the District of Columbia Department of General Services and Teamsters Locals 639 and 730, affiliated with the International Brotherhood of Teamsters Emergency Declaration Resolution of 2013”.

Sec. 2. (a) The District of Columbia Department of General Services negotiated a compensation agreement with Teamsters Locals 639 and 730 that requires certain wage increases and other compensation and benefits over a period of 4 years. The Mayor proposes, as agreed with the union, that the first such compensation increase is made effective April 1, 2013, which constitutes a change to the pay schedule and a resulting minimum increase of 3% in each bargaining unit member’s gross salary. To comply with section 1717(f) 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 § 1-617.17(f)(1)), which provides “that negotiations shall be completed prior to submission of a budget” for the years covered by the agreement, this agreement must be acted on by the Council immediately.

(b) To effectuate the terms of the compensation agreement in fiscal year 2013, the Mayor recommends that the Compensation Agreement between the District of Columbia Department of General Services and Teamsters Locals 639 and 730, affiliated with the International Brotherhood of Teamsters Emergency Approval Resolution of 2013 be approved on an emergency basis.

(c) Failure to effectuate the express terms of the negotiated agreement may result in undermining the confidence of union members in the District of Columbia government and its leadership.

(d) Failure to act in an expedited manner may jeopardize the future relationship between labor and management in the District of Columbia and the success of collaborative efforts, as agreed to under the terms of the negotiated agreement.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Compensation Agreement between the District of Columbia Department of General Services and Teamsters Locals 639 and 730, affiliated with the International Brotherhood of Teamsters Emergency Approval Resolution of 2013 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20- 335

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To approve, on an emergency basis, the negotiated compensation collective bargaining agreement submitted by the Mayor for employees employed by the District of Columbia Department of General Services who are represented by Teamsters Locals 639 and 730, affiliated with the International Brotherhood of Teamsters.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Compensation Agreement between the District of Columbia Department of General Services and Teamsters Locals 639 and 730, affiliated with the International Brotherhood of Teamsters Emergency Approval Resolution of 2013”.

Sec. 2. Pursuant to section 1717(j) 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 § 1-617.17(j)), the Council approves the compensation agreement and related pay schedules negotiated through collective bargaining between the District of Columbia government and the Teamsters Locals 639 and 730, affiliated with the International Brotherhood of Teamsters, which was transmitted to the Council by the Mayor on October 10, 2013.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Teamsters Locals 639 and 730, and the Mayor.

Sec. 4. Fiscal impact statement.

The Council adopts the June 26, 2013, 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

20-336

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to clarify the Department of Corrections' authority over the management and operation of the Central Cellblock at 300 Indiana Avenue, N.W., to include persons detained at a medical facility in the District.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Department of Corrections Central Cellblock Management Clarification Emergency Declaration Resolution of 2013".

Sec. 2. (a) There exists an immediate need to clarify recent amendments to section 2 of An Act To create a Department of Corrections in the District of Columbia, approved June 27, 1946 (60 Stat. 320; D.C. Official Code § 24-211.02).

(b) The recent amendments transferred the management and operation of the Central Cellblock at 300 Indiana Avenue, NW, from the Metropolitan Police Department to the Department of Corrections.

(c) The transfer will take effect on October 1, 2013.

(d) The language establishing the transfer did not include express authority for the Department of Correction to be responsible for persons detained by MPD at medical facilities in the District prior to an initial court appearance. The proposed clarification would clearly establish that authority.

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 Department of Corrections Central Cellblock Management Clarification Emergency Amendment Act of 2013 be adopted after a single reading.

Sec 4. The resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-337

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to approve certain modifications to human care agreements to provide residential services to District residents with intellectual and developmental disabilities and to authorize payment for the services received and to be received under those contracts.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Omnibus Residential Services Human Care Agreements Modifications Approval and Payment Authorization Emergency Declaration Resolution of 2013".

Sec. 2. (a) On September 30, 2013, by Modification No. 6, the Department of Disability Services ("DDS") exercised option year 4 of Human Care Agreement DCJM-2009-H-0020-09 with Ward & Ward Mental Health Services, Inc., to provide residential services in the amount of \$1,282,750.37 for the period from October 1, 2013, through September 30, 2014.

(b) On September 30, 2013, by Modification No. 5, DDS exercised option year 4 of Human Care Agreement DCJM-2009-H-0020-08 with Multi-Therapeutic Services, Inc., to provide residential services in the amount of \$1,299,317 for the period from October 1, 2013, through September 30, 2014.

(c) On September 30, 2013, by Modification No. 1, DDS exercised option year one of Human Care Agreement DCJM-2012-H-0004-02 with Capital Care, Inc., to provide residential services in the amount of \$1,146,300.96 for the period from October 1, 2013, through September 30, 2014.

(d) Approval is necessary to allow the continuation of these vital services. Without this approval, Ward & Ward Mental Health Services, Inc., Multi-Therapeutic Services, Inc., and Capital Care, Inc., cannot be paid for services provided in excess of \$1 million for option years.

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 Omnibus Residential Services Human Care Agreements Modifications 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

20-338

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to approve Modification No. 2 and proposed Modification No. 3 to Contract No. DCHT-2011-C-0001 with Policy Studies, Inc., to provide enrollment broker services to administer the managed care enrollment process and provide related services for Medicaid beneficiaries and State Children’s Health Insurance Program beneficiaries and to authorize payment for the goods and services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. DCHT-2011-C-0001 Modifications Approval and Payment Authorization Emergency Declaration Resolution of 2013”.

Sec. 2. (a) There exists an immediate need to approve Modification No. 2 and proposed Modification No. 3 to Contract No. DCHT-2011-C-0001 with Policy Studies, Inc., to provide enrollment broker services to administer the managed care enrollment process and provide related services for Medicaid beneficiaries and State Children’s Health Insurance Program beneficiaries and to authorize payment for the goods and services received and to be received under the contract.

(b) On August 9, 2013, by Modification No. 2, the Office of Contracting and Procurement (“OCP”) exercised a partial option of option year two of Contract No. DCHT-2011-C-0001 with Policy Studies, Inc., in the amount of \$750,000.00 for the period from August 12, 2013 through October 31, 2013.

(c) OCP now proposes Modification No. 3 which will exercise the remainder of option year two of Contract No. DCHT-2011-C-0001 for a total amount of \$2,278,037.00.

(d) Council approval is necessary to allow the continuation of these vital services. Without this approval, Policy Studies, Inc., cannot be paid for services provided in excess of \$1,000,000.00 for option year one.

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-2011-C-0001 Modifications 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

20-339

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to approve Contract No. DCHT-2013-C-0135 to conduct utilization reviews of health care services provided to the District’s Medicaid recipients and to authorize payment for the services received under that contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. DCHT-2013-C-0135 Approval and Payment Authorization Emergency Declaration Resolution of 2013”.

Sec. 2. (a) There exists an immediate need to approve Contract No. DCHT-2013-C-0135 and to authorize payment for the services received under that contract.

(b) On April 30, 2013, the Office of Contracting and Procurement (“OCP”), on behalf of the Department of Health Care Finance, entered into a letter contract with Delmarva Foundation for Medical Care, Inc. (“Delmarva”) to conduct utilization reviews of health care services provided to the District’s Medicaid recipients from May 1, 2013 through June 30, 2013, in an amount not to exceed of \$757,855.96.

(c) On June 25, 2013, the OCP extended the letter contract from July 1, 2013 through July 15, 2013 and increased the not to exceed amount to \$959,626.98.

(d) By Order dated June 26, 2013, the Contract Appeals Board ordered OCP to terminate the contract no later than July 31, 2013.

(e) On July 15, 2013, OCP definitized Contract No. DCHT-2013-C-0135.

(f) On July 31, 2013, OCP terminated the contract and increased the total not to exceed amount to \$1,174,626.98 for the period from May 1, 2013 through July 31, 2013.

(g) Council approval is necessary because the value of Contract No. DCHT-2013-C-0135 is more than \$1,000,000.00 during a 12-month period.

(h) Approval is necessary to allow the continuation of these vital services. Without this approval, Delmarva cannot be paid for services provided in excess of \$1,000,000.00.

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-2013-C-0135 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

20-340

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To declare the existence of an emergency with respect to the need to approve a multiyear contract with Brad Hall & Associates to provide fuel to the District under federal contract SP0600-13-D-4009.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. CW23336 Emergency Declaration Resolution of 2013”.

Sec. 2. (a). On July 26, 2013, the Office of Contracting and Procurement (“OCP”), on behalf of the Department of General Services, entered into a letter contract with Brad Hall & Associates to provide fuel to the District under federal contract SP0600-13-D-4009 for 60 days. OCP now desires to definitize a multiyear agreement with Brad Hall & Associates.

(b) The estimated total expenditure under the 4-year term of this multiyear contract with Brad Hall & Associates is \$252,117.55.

(c) Approval is necessary to allow the District to receive and continue to receive the benefit of these vital services from Brad Hall & Associates.

(d) These critical services can only be obtained through an award of the multiyear contract with Brad Hall & Associates.

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. CW23336 Emergency Approval Resolution of 2013 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-341

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

To approve, on an emergency basis, multiyear Contract No. CW23336 with Brad Hall & Associates to provide fuel to the District under federal contract SP0600-13-D-4009.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. CW23336 Emergency Approval Resolution of 2013”.

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), and 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 Contract No. CW23336, a multiyear contract with Brad Hall & Associates to provide fuel to the District under federal contract SP0600-13-D-4009, in the amount of \$252,117.55.

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

Sec. 4. 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. This resolution shall take effect immediately.

COUNCIL OF THE DISTRICT OF COLUMBIA
NOTICE OF INTENT TO ACT ON NEW LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to consider the following legislative matters for final Council action in not less than **15 days**. Referrals of legislation to various committees of the Council are listed below and are subject to change at the legislative meeting immediately following or coinciding with the date of introduction. It is also noted that legislation may be co-sponsored by other Councilmembers after its introduction.

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C. 20004. Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004 Telephone: 724-8050 or online at www.dccouncil.us.

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COUNCIL OF THE DISTRICT OF COLUMBIA	PROPOSED LEGISLATION
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BILLS

B20-543 Industrial Revenue Bond Security Interest Instrument Recordation Tax Exemption Act of 2013

Intro. 11-01-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue

B20-546 Transportation Infrastructure Improvements GARVEE Bond Financing Amendment Act of 2013

Intro. 11-01-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

B20-549 Integrated Premium Transit System Amendment Act of 2013

Intro. 11-04-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

B20-563 District of Columbia Sports and Entertainment Complex Feasibility Study Act of 2013

Intro. 11-05-13 by Councilmembers Orange, Graham, Alexander, Barry, Evans and Bonds and referred sequentially to the Committee on Economic Development and the Committee on Finance and Revenue

Bills con't

- B20-564 New York Avenue Gateway Hotel Development and Financial Incentives Act of 2013
- Intro. 11-05-13 by Councilmembers Orange, Graham, Alexander, Barry, Bonds and Evans and referred sequentially as follows: (1) To the Committee on Transportation and the Environment for section 10 only for 180 days starting November 5, 2013 ending on May 4, 2014. (2) The legislation is thereafter referred to the Committee on Finance and Revenue for the entire bill
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- B20-565 Returning Citizens Business Development Program Act of 2013
- Intro. 11-05-13 by Councilmembers Orange, Graham and Barry and referred to the Committee on Judiciary and Public Safety
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- B20-566 Home Owner Equity Protection Act of 2013
- Intro. 11-05-13 by Councilmembers Orange, Graham and Barry and referred to the Committee on Finance and Revenue
-
- B20-567 Prohibition Against Selling Tobacco Products to Individuals Under 21 Amendment Act of 2013
- Intro. 11-05-13 by Councilmembers McDuffie, Graham, Evans, Bonds, Alexander, Cheh and Barry and referred to the Committee on Judiciary and Public Safety
-
- B20-568 Open Election Amendment Act of 2013
- Intro. 11-05-13 by Councilmember Cheh and referred to the Committee on Government Operations
-
- B20-569 Air Pollution Disclosure and Reduction Act of 2013
- Intro. 11-05-13 by Councilmember Cheh and sequentially referred to the Committee on Economic Development and the Committee on Transportation and the Environment
-
- B20-570 Grocery Store Incentive Clarification Act of 2013
- Intro. 11-05-13 by Councilmember Wells and referred to the Committee on Finance and Revenue
-
- B20-571 Ward 7 Alcohol License Limitations Act of 2013
- Intro. 11-05-13 by Councilmember Alexander and referred to the Committee on Business, Consumer, and Regulatory Affairs
-

Bills con't

B20-572 Commission on Health Disparities Establishment Act of 2013

Intro. 11-05-13 by Councilmembers Alexander, Catania, Barry, Bonds, McDuffie, Grosso, Orange and Chairman Mendelson and referred to the Committee on Health

Proposed Resolutions

PR20-538 State Superintendent of Education Jesus Aguirre Confirmation Resolution of 2013

Intro. 11-01-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education

PR20-551 Fiscal Year 2015 Budget Submission Requirements Resolution of 2013

Intro. 11-05-13 by Chairman Mendelson and retained by the Council

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

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

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

ANNOUNCES A PUBLIC HEARING ON:

**Bill 20-40, the “Organ Donors Saves Lives Act of 2013”
Bill 20-485, the “Meridian International Center Real Property Tax Abatement Act of
2013”**

Wednesday, December 11, 2013

10:00 a.m.

**Room 120 - John A. Wilson Building
1350 Pennsylvania Avenue, NW; Washington, D.C. 20004**

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public hearing to be held on Wednesday, December 11, 2013 at 10:00 a.m., in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Bill 20-40, the “Organ Donors Saves Lives Act of 2013” would provide a tax credit for up to \$25,000 related to live organ donation expenses incurred during the tax year in which the live organ donation occurs, and to classify leave for organ donation as medical leave under the District of Columbia Family and Medical Leave Act of 1990.

Bill 20-485, the “Meridian International Center Real Property Tax Abatement Act of 2013” would amend Chapter 10 of Title 47 of the District of Columbia Official Code to exempt from taxation certain real property (Lots 806, 808, 809 in Square 2568; and Lots 2369-2401, 2413-2417, 2423, 2441, and 2442 in Square 2567) so long as it is used in carrying on the purposes and activities of Meridian International Center.

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

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY
NOTICE OF PUBLIC HEARING**

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

**COUNCILMEMBER TOMMY WELLS, CHAIRPERSON
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY**

ANNOUNCES A PUBLIC HEARING ON

**BILL 20-320, THE “SHARED USE OF SCHOOL PROPERTY IN THE DISTRICT ACT
OF 2013”**

Thursday, January 9, 2014

11 a.m.

John A. Wilson Building, Room 500

1350 Pennsylvania Avenue, NW

Washington, D.C. 20004

Councilmember Tommy Wells, Chairperson of the Committee on the Judiciary and Public Safety, announces a public hearing on January 9, 2014, beginning at 11 a.m. in Room 500 of the John A. Wilson Building.

The purpose of this public is to receive public comment on Bill 20-320, the “Shared Use of School Property in the District Act of 2013.” Bill 20-320 would create limited liability for the District of Columbia government and its employees who allow the public use of indoor and outdoor school property and facilities for recreational and sporting purposes during non-school hours, except for conduct amounting to willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or criminal acts, intentional wrongdoing, gross negligence, or wanton or willful misconduct. This bill may be viewed online at <http://dcclims1.dccouncil.us/images/00001/20130924105439.pdf>.

The Committee invites the public to testify. Individuals and representatives of organizations who wish to testify should contact Tawanna Shuford at 724-7808 or tshuford@dccouncil.us, and furnish their name, address, telephone number, and organizational affiliation, if any, by 5 p.m. on Tuesday, January 7, 2013. Witnesses should bring 15 copies of their testimony. Testimony may be limited to 3 minutes for individuals and 5 minutes for those representing organizations or groups.

If you are unable to testify at the public hearing, written statements are encouraged and will be made part of the official record. Written statements should be submitted by 5 p.m. on Monday, January 24, 2014 to Ms. Shuford, Committee on the Judiciary and Public Safety, Room 109, 1350 Pennsylvania Ave., NW, Washington, D.C., 20004, or via email at tshuford@dccouncil.us.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

**COUNCILMEMBER TOMMY WELLS, CHAIRPERSON
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY**

ANNOUNCES A PUBLIC HEARING ON

BILL 20-461, THE "MARRIAGE LICENSE ISSUANCE AMENDMENT ACT OF 2013"

**BILL 20-475, THE "DOMESTIC PARTNERSHIP TERMINATION RECOGNITION
AMENDMENT ACT OF 2013"**

**BILL 20-467, THE "RECORD SEALING FOR NON-VIOLENT
MARIJUANA POSSESSION ACT OF 2013"**

**Thursday, December 19, 2013
11 a.m.**

**Room 412
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004**

Councilmember Tommy Wells, Chairperson of the Committee on the Judiciary and Public Safety, will convene a public hearing on Thursday, December 19, 2013, beginning at 11 a.m. in Room 412 of the John A. Wilson Building. The purpose of this hearing is to receive public comment on Bill 20-461, Bill 20-475, and Bill 20-467.

Bill 20-461, the "Marriage License Issuance Amendment Act of 2013 would eliminate the three-day waiting period for issuance of a marriage license. This bill may be viewed online at <http://dcclims1.dccouncil.us/images/00001/20130920153031.pdf>.

Bill 20-475, the "Domestic Partnership Termination Recognition Amendment Act of 2013" would amend a provision to allow couple who initiate domestic partnerships in other jurisdictions to terminate their domestic partnership in the District of Columbia and have that termination recognized by other jurisdictions. This bill may be viewed on line at <http://dcclims1.dccouncil.us/images/00001/20130924105439.pdf>.

Bill 20-467, the "Record Sealing for Non-Violent Marijuana Possession Act of 2013" would amend the District of Columbia Uniform Controlled Substances Act of 1981 to require that all criminal history record information and conviction records for non-violent misdemeanor or felony possession of marijuana be sealed by the Metropolitan Police Department and the District of Columbia Superior Court, if the marijuana conviction is the only prior criminal

history. The bill may be viewed online at <http://dcclims1.dccouncil.us/images/00001/20130923163947.pdf>.

The Committee invites the public to testify. Those who wish to testify should contact Tawanna Shuford at 724-7808 or tshuford@dccouncil.us, and furnish their name, address, telephone number, and organizational affiliation, if any, by 5 p.m. on Tuesday, December 17, 2013. Testimony may be limited to 3 minutes for individuals and 5 minutes for those representing organizations or groups. Witnesses should bring 15 copies of their testimony. Those unable to testify at the public hearing are encouraged to submit written statements for the official record. Written statements should be submitted by 5 p.m. on Friday, January 3, 2014 to Ms. Shuford, Committee on the Judiciary and Public Safety, Room 109, 1350 Pennsylvania Ave., NW, Washington, D.C., 20004, or via email at tshuford@dccouncil.us.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY
NOTICE OF PUBLIC HEARING**

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

REVISED

**COUNCILMEMBER TOMMY WELLS, CHAIRPERSON
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY**

ANNOUNCES A PUBLIC HEARING ON

**FEMS APPARATUS ASSESSMENT AND PARAMEDIC VACANCIES
and
Bill 20-523, THE "FIRE AND EMERGENCY MEDICAL SERVICES
MAJOR CHANGES APPROVAL AMENDMENT ACT OF 2013"**

Wednesday, December 4, 2013

11 a.m.

**Council Chamber, Room 500
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004**

Councilmember Tommy Wells, Chairperson of the Committee on the Judiciary and Public Safety, announces a public hearing on Wednesday, December 4, 2013 beginning at 11 a.m. in the Council Chamber, Room 500 of the John A. Wilson Building. This hearing was previously rescheduled from Thursday, November 14, 2013; this revision reflects the addition of Bill 20-523.

The purpose of this hearing is to 1) Review and discuss the results of the third-party assessment recently conducted for the Fire and Emergency Medical Services Department (FEMS); and 2) Receive public comment on Bill 20-523, the "Fire and Emergency Medical Services Major changes Approval Amendment Act of 2013". The internal audit, which was performed over the summer, is expected to produce a framework for FEMS fleet purchasing, employee hiring, and general distribution of emergency medical services for the District. The hearing will also include discussion of the current state of the Department as it relates to paramedic vacancies and the emergency medical services demands of the District. The Committee will also receive public comment on Bill 20-523, the "Fire and Emergency Medical Services Major changes Approval Amendment Act of 2013," which would amend a provision requiring Council approval of major changes in the manner in which the Fire and Emergency Medical Services Department provides emergency medical services, by allowing passive approval. The bill may be viewed online at <http://dcclims1.dccouncil.us/images/00001/20131010132906.pdf>.

The Committee invites the public to testify. Individuals and representatives of organizations who wish to testify should contact Tawanna Shuford at 724-7808 or tshuford@dccouncil.us, and furnish their name, address, telephone number, and organizational affiliation, if any, by 5 p.m. on Monday, December 2, 2013. Witnesses should bring 15 copies of their testimony. Testimony may be limited to 3 minutes for individuals and 5 minutes for those representing organizations or groups. If you are unable to testify at the public hearing, written statements are encouraged and will be made part of the official record. Written statements should be submitted by 5 p.m. on Wednesday, December 18, 2013 to Ms. Shuford, Committee on the Judiciary and Public Safety, Room 109, 1350 Pennsylvania Ave., NW, Washington, D.C., 20004, or via email at tshuford@dccouncil.us.

**Council of the District of Columbia
Committee on Education
Notice of Public Roundtable**

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

**COUNCILMEMBER DAVID A. CATANIA, CHAIRPERSON
COMMITTEE ON EDUCATION**

Announces a Public Roundtable

On

PR20-0538 “State Superintendent of Education Jesus Aguirre Confirmation Resolution of 2013”

On

Friday, November 22, 2013

1 p.m.

Room 123

1350 Pennsylvania Avenue, NW

Washington, D.C. 20004

Councilmember David A. Catania, Chairperson of the Committee on Education, announces a Public Roundtable on PR20-0538 “State Superintendent of Education Jesus Aguirre Confirmation Resolution of 2013” at 1 p.m. on Friday, November 22, 2013 in room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The purpose of this roundtable is to discuss the appointment of Jesus Salvador Aguirre to a four year term as State Superintendent of Education.

Members of the public wishing to testify should contact Jamaal Jordan at 202-724-8061 or jjordan@dccouncil.us no later than 5 p.m. on Wednesday, November 20, 2013. Members of the public unable to testify in person may submit written testimony which will be made part of the official record. Copies of written statements should be submitted to the Committee on Education no later than 5 p.m. on Friday, November 29, 2013.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, NOVEMBER 20, 2013
2000 14TH STREET, N.W., SUITE 400S,
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson
Members:

Nick Alberti, Donald Brooks, Herman Jones, Mike Silverstein

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00136; 301 Romeo, LLC, t/a Romeo & Juliet, 301
Massachusetts Ave NW, License #92684, Retailer CR., ANC 6E
New Application, Substantial Change without Boards Approval

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00128; JC 7, LLC, t/a NY NY Diva, 2406 18th Street NW
License #92380, Retailer CR, ANC 1C
Renewal Application

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00131; Historic Restaurants, Inc. t/a Washington Firehouse
1626 North Capitol Street NW, License #92685, Retailer CT, ANC 5E
New Application

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00130; Lee's Mini Market, Inc., t/a Lee's Mini Market, 3853
Alabama Ave SE, License #84939, Retailer B, ANC 7B
Substantial Change (Change of License from Class B to Class A)

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00120; Adams Morgan F & B, LLC, t/a Jack Rose, 2007 18th
Street NW, License #81997, Retailer CR, ANC 1C
Renewal Application

Show Cause Hearing (Status) **9:30 AM**
Case # 13-AUD-00042; GC Latin Productions, LLC, t/a Sabor Latino Bar &
Grill, 3910 14th Street NW, License #84113, Retailer CR, ANC 4C
Failed to Qualify as a Restaurant

Board's Calendar
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9:30 AM

Show Cause Hearing (Status)

Case # 12-AUD-00058(a); Lalibela, Inc., t/a Lalibella Ethiopian Restaurant
1415 14th Street NW, License #23745, Retailer CR, ANC 2F

**Failed to Qualify as a Restaurant, Failed to Maintain on Premises Three
Years of Adequate Books and Records Showing All Sales**

Show Cause Hearing (Status)

9:30 AM

Case # 12-CMP-00676; Adams Morgan Spaghetti, Inc., t/a Spaghetti Garden
Brass Monkey Peyote Roxanne, 2317 18th Street NW, License #10284, Retailer
CR, ANC 1C

**Violation of Settlement Agreement, Substantial Change without Boards
Approval**

Show Cause Hearing (Status)

9:30 AM

Case # 13-251-00097; Perculus, Inc. t/a The Reef, 2442 18th Street NW
License #60475, Retailer CT, ANC 1C

**Allowed the Establishment to be Used for an Unlawful or Disorderly
Purpose**

Fact Finding Hearing

9:30 AM

Pub Crawl, Date of Event: December 21, 2013, Applicant: Kevin Kirk
Event Name: 3rd Annual Snow Day DC Pub Crawl, Neighborhood: Dupont
Circle, Size of Event: 3000-5000

*The names of the establishments participating in the Pub Crawl are available
upon request*

Show Cause Hearing*Case # 12-CMP-00194 and # 12-251-00123; Sunshine
Bar & Lounge, LLC, t/a Sunshine Bar & Lounge, 7331 Georgia Ave NW,
License #85239, Retailer CR
ANC 4B

10:00 AM

Failed to Comply With the Terms of Board Order No. 2013-068

Show Cause Hearing*

11:00 AM

Case # 12-AUD-00062; Terfneh Kahsay t/a Salina Restaurant, 1936 9th Street
NW, License #82969, Retailer CR, ANC 1B

**Failed to Qualify as a Restaurant, Failed to Maintain on Premises Three
Years of Adequate Books and Records Showing All Sales**

Board's Calendar

Page -3- November 20, 2013

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

Protest Hearing*

1:30 PM

Case # 13-PRO-00115; Cause Operation, LLC, t/a Cause DC, 1936 9th Street
NW, License #90192, Retailer CR, ANC 1B

Substantial Change (Summer Garden)

*This Hearing has been cancelled due to the submission of a Settlement
Agreement by the Parties.*

**The Board will hold a closed meeting for purposes of deliberating these
hearings pursuant to D.C. Official Code §2-574(b)(13).*

*****Rescind**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 8, 2013
Petition Date: December 23, 2013
Hearing Date: January 6, 2014
Protest Date: March 5, 2014

License No.: ABRA-093635
Licensee: Bodogs, LLC
Trade Name: Bodogs
License Class: Retailer’s Class “D” Restaurant
Address: 614 E St., NW
Contact: Joseph Jemal (399) 917-3525

WARD 2 ANC 2C SMD 2C03

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 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. The Protest Hearing Date is scheduled for 1:30 pm on March 5, 2014.

NATURE OF OPERATION

Restaurant serving hot dogs with a seating capacity of 15 and total occupancy load of 15. Sidewalk café with 15 seats.

HOURS OF OPERATION

Sunday through Saturday 9 am – 11 pm

HOURS OF ALCOHOLIC BEVERAGES SALES/SERVICE/CONSUMPTION

Sunday through Saturday 10 am – 11 pm

HOURS OF OPERATION AND ALCOHOLIC BEVERAGES SALES/SERVICE/CONSUMPTION ON SIDEWALK CAFE

Sunday through Saturday 10 am – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

11/15/2013

Notice is hereby given that:

License Number: ABRA-086424

License Class/Type: C Tavern

Applicant: RA - IY LLC

Trade Name: SANKOFA CAFE

SMD: 1B09

Has applied for the renewal of an alcoholic beverages license at the premises:

2714 Georgia AVE NW, WASHINGTON, DC 20001

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

12/30/2013

HEARING WILL BE HELD ON

1/13/2014

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

ENDORSEMENTS: Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7am - 2 am	12 pm -2 am	2pm - 9 am
Monday:	7am - 2am	3 pm - 2 am	-
Tuesday:	7 am - 2am	3 pm - 2 am	-
Wednesday:	7am - 2am	3 pm - 2 am	-
Thursday:	7am - 2am	3 pm - 2 am	2 pm - 9pm
Friday:	7 am - 3 am	12 pm - 3 am	2 pm - 9 pm
Saturday:	7 am - 3 am	12 pm - 3 am	2 pm - 9 pm

Days	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	7 am - 2 am	12 pm - 12 am
Monday:	7 am - 2 am	3 pm - 12 am
Tuesday:	7 am - 2 am	3 pm - 12 am
Wednesday:	7 am - 2 am	3 pm - 12 am
Thursday:	7 am - 2 am	3 pm - 12 am
Friday:	7 am - 3 am	12 pm - 12 am
Saturday:	7 am - 3 am	12 pm - 12 am

CORRECTION*

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 1, 2013
Petition Date: December 16, 2013
Hearing Date: December 30, 2013
Protest Hearing Date: February 26, 2014

License No.: ABRA-093572*
Licensee: KAT, LLC
Trade Name: Cloud Restaurant & Lounge
License Class: Retailer’s Class “C” Tavern
Address: 1919 9th Street NW
Contact: Tesfit Kiflu 703-629-0952

WARD 1 ANC 1B02 SMD 1B02

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 for February 26, 2014 at 1pm.

NATURE OF OPERATION

This is new Lounge –Live Music- DJ- Singers-Traditional Songs and Dancing. Total # of seats is 50 and the occupancy Load is 50.

HOURS OF OPERATION

Sunday through Saturday 11 am – 6 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday 11 am – 2 am Friday and Saturday 11 am -3 am

HOURS OF OPERATION FOR THE SIDEWALK CAFÉ

Sunday through Thursday 7 am – 11 pm Friday and Saturday 7 am – 12 am

HOURS OF LIVE ENTERTAINMENT OCCURING OR CONTINUING AFTER 6 PM

Sunday through Thursday 6 pm – 2 am Friday and Saturday 6 pm – 3 am

CORRECTION*

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 1, 2013
 Petition Date: December 16, 2013
 Hearing Date: December 30, 2013
 Protest Hearing Date: February 26, 2014

License No.: ABRA-093542
 Licensee: EZ Group, LLC
 Trade Name: Creme
 License Class: Retailer’s Class “C” Restaurant
 Address: 2438 14th Street NW
 Contact: Tegist Ayalew 202-234-1884*

WARD 1 ANC 1B05 SMD 1B05

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.

NATURE OF OPERATION

This is new full service restaurant serving American Cuisine. Total # of seats is 60 and the occupancy Load is 60, number of seats for the sidewalk café is 10.

HOURS OF OPERATION

Sunday through Thursday 7 am to 2 am, Friday and Saturday 7 am – 4 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday 10 – 2 am, Monday through Thursday 8 am – 2 am, Friday and Saturday 8 am – 3 am

HOURS OF OPERATION FOR THE SIDEWALK CAFÉ

Sunday through Thursday 7 am – 11 pm, Friday and Saturday 7 am – 12 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION/SIDEWALK CAFÉ

Sunday 10 am – 11 pm, Monday through Thursday 8 am – 11 pm, Friday and Saturday 8 am -12 am

HOURS OF LIVE ENTERTAINMENT OCCURING OR CONTINUING AFTER 6 PM

Sunday 11 am – 4 pm, Monday through Thursday 2 am, Friday and Saturday 10 am – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

11/15/2013

Notice is hereby given that:

License Number: ABRA-092742

License Class/Type: C Restaurant

Applicant: Chloe, LLC

Trade Name: District

ANC: 1C07

Has applied for the renewal of an alcoholic beverages license at the premises:

2473 18TH ST NW, Washington, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

12/30/2013

HEARING WILL BE HELD ON

1/13/2014

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

ENDORSEMENTS: Cover Charge, Dancing, Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	7 pm - 1:30 am
Monday:	11 am - 2 am	11 am - 2 am	7 pm - 1:30 am
Tuesday:	11 am - 2 am	11 am - 2 am	7 pm - 1:30 am
Wednesday:	11 am - 2 am	11 am - 2 am	7 pm - 1:30 am
Thursday:	11 am - 2 am	11 am - 2 am	7 pm - 1:30 am
Friday:	11 am - 3 am	11 am - 3 am	7 pm - 2:30 am
Saturday:	11 am - 3 am	11 am - 3 am	7 pm - 2:30 am

Days	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	11 am - 11 pm	11 am - 11 pm
Monday:	11 am - 11 pm	11 am - 11 pm
Tuesday:	11 am - 11 pm	11 am - 11 pm
Wednesday:	11 am - 11 pm	11 am - 11 pm
Thursday:	11 am - 11 pm	11 am - 11 pm
Friday:	11 am - 1 am	11 am - 1 am
Saturday:	11 am - 1 am	11 am - 1 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

11/15/2013

Notice is hereby given that:

License Number: ABRA-091607

License Class/Type: C Tavern

Applicant: Dunya, LLC

Trade Name: Dunya Restaurant & Lounge

ANC: 1B

Has applied for the renewal of an alcoholic beverages license at the premises:

801 FLORIDA AVE NW, WASHINGTON, DC 20001

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

12/30/2013

HEARING WILL BE HELD ON

1/13/2014

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

ENDORSEMENTS: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Monday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Thursday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Friday:	8 am - 3 am	8 am - 3 am	6 pm - 3 am
Saturday:	8 am - 3 am	8 am - 3 am	6 pm - 3 am

Days	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	8 am - 2 am	8 am - 2 am
Monday:	8 am - 2 am	8 am - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am
Thursday:	8 am - 2 am	8 am - 2 am
Friday:	8 am - 3 am	8 am - 3 am
Saturday:	8 am - 3 am	8 am - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 15, 2013
Petition Date: December 30, 2013
Hearing Date: January 13, 2014

License No.: ABRA-089161
Licensee: Kangaroo Boxing, LLC
Trade Name: Kangaroo Boxing Club
License Class: Retailer's Class "CR"
Address: 3410 11th Street, NW
Contact: Josh Saltzman (202) 505-4522

WARD 1

ANC 1A

SMD 1A06

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 to expand operations to the 2nd floor. Summer Garden (Roof Deck) with 25 seats.

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

Sunday through Thursday 10 am 2 am and Friday & Saturday 10 am - 3 am

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SUMMER GARDEN (ROOF DECK)

Sunday through Thursday 10 am 2 am and Friday & Saturday 10 am - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 15, 2013
Petition Date: December 30, 2013
Hearing Date: January 13, 2014

License No.: ABRA-085617
Licensee: AED, LLC
Trade Name: Rustic Tavern
License Class: Retailer's Class "C" Tavern
Address: 84 T Street, NW
Phone: Ejonta Pashaj 202-290-2936 info@rusticdc.com

WARD 5

ANC 5E

SMD 5E07

Notice is hereby given that this licensee who has applied for a substantial change to his license under the D.C. Alcoholic Beverage Control Act and that objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, NW, Washington, DC, 20009. A petition or request to appear before the Board must be filed on or before the petition date.

LICENSEE REQUESTS THE FOLLOWING SUBSTANTIAL CHANGE TO THE NATURE OF OPERATIONS:

Change of Hours

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

Sunday through Thursday 11 am - 12 am, Friday and Saturday 11 am - 1am

CURRENT HOURS OF LIVE ENTERTAINMENT

Saturday and Sunday 6 pm - 10 pm, Monday through Thursday 8 pm - 10 pm

CURRENT HOURS OF LIVE SIDEWALK CAFÉ

Sunday through Thursday 11 am - 10 pm, Friday and Saturday 11 am - 11 pm

PROPOSED HOURS OF OPERATIONS/ PROPOSED HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES/CONSUMPTION

Sunday through Thursday 10 am - 1 am, Thursday and Friday 10 am - 2 am

PROPOSED HOURS OF OPERATIONS/ PROPOSED HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES/CONSUMPTION FOR THE SIDEWALK CAFÉ

Sunday through Thursday 10 am - 11 pm, Friday and Saturday 10 am - 12 am

BOARD OF ELECTIONS**PUBLIC HEARINGS ON PROPOSED PRECINCT BOUNDARY CHANGES**

The Board of Elections announces two public hearings regarding the proposed precinct boundary changes outlined in the 2013 Precinct Boundary Efficiency Plan.

**Thursday, November 21, 2013
10 a.m. & 6 p.m.
One Judiciary Square
441 4th St NW, Room 280 North**

The Plan proposes to realign all voting precinct boundaries in the District to correspond with existing Advisory Neighborhood Commission (ANC) Single-Member District (SMD) boundary lines and to revise the precinct numbering system to associate each precinct to its designated ward. The majority of the new precinct boundaries will contain the entirety of only two SMDs, while several precincts will contain no more than four SMDs.

The assignment of an SMD to a single precinct:

1. Allows voters in the same SMD to vote at a single polling place on Election Day;
2. Provides a more balanced distribution of voters to polling locations within a precinct;
3. Introduces several efficiencies that will reduce wait times and enhance poll worker performance on Election Day; and
4. Reduces ballot printing and some administrative costs incurred by the Board of Elections.

As a result of this realignment, some physical polling locations may be moved to different facilities. The Plan is available for review on the Board's website at <http://bit.ly/17CwIMq>.

In addition to attending the public hearings, residents may also submit written comments on the proposal to the Board of Elections by November 30, 2013.

Questions about this notice or the Plan may be directed to Tamara Robinson, trobinson@dcboee.org, 202-727-2511.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF PUBLIC HEARING
AND
NOTICE TO COMMENT IN WRITINGWeatherization Assistance Program
Draft State Plan for Fiscal Year 2014**Hearing: Tuesday, November 26, 2013, 10:00 am**

District Department of the Environment
1200 First Street, NE, 5th Floor
NoMa-Gallaudet University Metro Stop, Washington, D.C.

The District Department of the Environment (“DDOE”) invites the public to present its views and comments on the FY 2014 Draft State Plan for Weatherization Assistance Program (“WAP”) Sub Grantee Award and plans for additional funding. DDOE intends to review all components of the WAP Draft State Plan at the public hearing. Views and comments may be expressed in person at the public hearing or in writing.

Authority for the program is provided by:

- District Department of the Environment Establishment Act of 2005, § 101 *et seq.*, effective February 15, 2006, as amended (D.C. Law 16-51; D.C. Official Code § 8-151.01 *et seq.* (2008 Repl. & 2013 Supp.));
- District of Columbia Office of Energy Act of 1980, § 2 *et seq.*, effective March 4, 1981, as amended (D.C. Law 3-132; D.C. Official Code § 8-171.01 *et seq.* (2008 Repl. & 2013 Supp.));
- Clean and Affordable Energy Act of 2008, § 101 *et seq.*, effective Oct. 22, 2008, as amended (D.C. Law 17-250; D.C. Official Code § 8-1773.01, 8-1774.01 *et seq.* (2008 Repl. & 2013 Supp.)); and
- Mayor’s Order 2006-61, dated June 14, 2006, and its delegations of authority.

The public hearing will take place at the above-stated time and place. The public hearing will continue until the presiding officer determines that everyone has had a meaningful opportunity to be heard. The presiding officer may limit the time in which to comment. A person who cannot be present at the opening time may reserve a time to speak, by contacting DDOE, as described below, in this notice. A person attending the public hearing should check in with the guard in the building lobby, and then go to DDOE’s reception desk on the 5th floor.

Written comments may be submitted directly to DDOE by mail, hand delivery, or email. Instructions for submitting written comments appear below, in this notice. DDOE will accept written comments until Tuesday, November 26, 2013, at 4:30 p.m.

Obtaining a copy of the WAP Draft State Plan. Each document will be available on DDOE's website and at DDOE's offices, as described below in this notice. The Draft State Plan will become available at the DDOE web page, described below, in this notice, as follows:

The WAP Draft State Plan on Friday, November 15, 2013, at noon.

The person may obtain a copy of the document by any of the following methods:

- Online:** Download the WAP Draft State Plan by visiting the DDOE's website, www.ddoe.dc.gov. Look for the following title/section, "Energy in DC", click on it, choose "Energy Assistance and Weatherization", click on it then on the new page, cursor down to "Publications" to find the document's listing. Click on it. Then choose this document, and related information, to download in PDF format;
- Email:** Email a request to WAP2014.State.Plan@dc.gov with "Request copy of WAP Draft State Plan" in the subject line;
- In person:** Make an appointment to pick up a copy from DDOE's offices at the 5th floor reception desk at the following street address: 1200 First Street, N.E., 5th Floor, Washington, DC 20002. You may call LaWanda Jones at (202) 535-2600 and mention WAP State Plan by name; or
- Mail:** Send a letter to DDOE at 1200 First Street, N.E., 5th Floor, Washington, DC 20002, "Attn: Request copy of WAP Draft State Plan" on the outside of the envelope.

DDOE appreciates the time, insight, and expertise that go into submitting comments. DDOE will carefully consider all of the comments that it receives.

Instructions for Submitting Written Comments

Written comments should: (1) identify the commenter, and commenter's organization, if any; (2) be clearly marked "WAP Draft State Plan", and be delivered in one of the following ways: (a) mailed or hand-delivered to DDOE Energy Administration, Energy Efficiency and Conservation Branch, 1200 First Street, NE, 5th floor Washington DC 20002, marked "Attn: WAP Draft State Plan 2014"; (b) e-mailed to WAP2014.State.Plan@dc.gov, with the subject indicated as "WAP Draft State Plan 2014"; or (c) delivered in person to the above address, with similar identification.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, JANUARY 14, 2014
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

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

9:30 A.M. MORNING HEARING SESSION

A.M.

WARD SIX

18693
ANC-6B **Application of Joel and Malgorzata Spangenberg**, pursuant to 11 DCMR § 3104.1, for a special exception for a two-story rear addition with cellar to an existing row dwelling and covered walkway connecting to an accessory building under section 223, not meeting the lot occupancy (section 403), rear yard (section 404) and court (section 406) requirements in the R-4 District at premises 636 A Street, S.E. (Square 869, Lot 56).

WARD FIVE

18688
ANC-5D **Application of Lock 7 Development LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the height requirements under section 770, a variance from the floor area ratio requirements under section 771, and a variance from the off-street parking requirements under subsection 2101.1, to allow a mixed-use residential and ground floor retail development in the C-2-A District at premises 1348 – 1356 Florida Avenue, N.E. (Square 4068, Lots 116, 144, 145, 146, and 147).

WARD SIX

18689
ANC-6B **Application of Hong Deng**, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, to allow the construction of a new flat (two-family dwelling) in the R-4 District at premises 1620 A Street, S.E. (Square 1085, Lot 801).

WARD SIX

18690
ANC-6E **Application of Rito Loco**, pursuant to 11 DCMR § 3104.1, for a special exception for a fast food restaurant under section 733, in the C-2-A District at premises 606 Florida Avenue, N.W. (Square 441, Lot 838).

BZA PUBLIC HEARING NOTICE

JANUARY 14, 2014

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WARD SIX

18692 **Application of 1717 E Street LLC**, pursuant to 11 DCMR § 3103.2, for a
ANC-6A variance from the use provisions to construct a new eight unit apartment
house under subsection 330.5, in the R-4 District at premises 1717 E
Street, N.E. (Square 4546, Lots 165, 166 and 167).

WARD SEVEN

**THIS APPLICATION WAS POSTPONED FROM THE OCTOBER 8, 2013, AND
NOVEMBER 5, 2013, PUBLIC HEARING SESSIONS:**

18633 **Application of National Community Church**, pursuant to 11 DCMR §§
ANC-7B 3104.1 and 3103.2, for a special exception under section 334, a special
exception from the roof structure requirements under subsection 411.11, a
variance from the structural alteration limitations under subsection 334.3,
a variance from the floor area ratio requirements under section 402, a
variance from the lot occupancy requirements under section 403, a
variance from the rear yard requirements under section 404, and a variance
from the nonconforming structure provisions under subsection 2001.3, to
allow an addition to and renovation of an existing building for a
community service center, including an indoor basketball court in the R-5-
A District at premises 2826 Q Street, S.E. (Square 5583, Lot 804).

WARD THREE

**THIS APPLICATION WAS POSTPONED FROM THE NOVEMBER 19, 2013,
PUBLIC HEARING SESSION:**

18663 **Application of Lab School**, pursuant to 11 DCMR §§ 3104.1 and 3103.2,
ANC-3D for a variance from the off-street parking requirements under subsection
2101.1, and a special exception to allow an addition to an existing private
school under section 206, in the R-1-B District at premises 4759 Reservoir
Road, N.W. (Square 1372, Lot 25).

PLEASE NOTE:

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

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of

BZA PUBLIC HEARING NOTICE

JANUARY 14, 2014

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Chapter 31 of the District of Columbia Municipal Regulations, Title 11, and Zoning. Pursuant to Subsection 3117.4, of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

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

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

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

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, JANUARY 29, 2014
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

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

9:30 A.M. MORNING HEARING SESSION

A.M.

WARD ONE

THIS APPLICATION WAS POSTPONED FROM THE NOVEMBER 5, 2013, PUBLIC HEARING SESSIONS:

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

WARD ONE

18696 **Application of Michael A. Runyan**, pursuant to 11 DCMR § 3103.2, for
ANC-1A a variance from the lot occupancy requirements under section 403, a
 variance from the rear yard requirements under section 404, a variance
 from the court requirements under section 406, and a variance from the
 nonconforming structure requirements under subsection 2001.3, to allow a
 rear deck addition to a one-family row dwelling in the R-4 District at
 premises 1431 Parkwood Place, N.W. (Square 2688, Lot 63).

WARD SIX

18694 **Application of 1362 H Street, N.E. LLC**, pursuant to 11 DCMR §
ANC-6A 3103.2, for a variance from the floor area ratio requirements under section
 771, to allow an addition to an existing building for a sports bar and
 lounge in the HS-A/C-2-A District at premises 1362 H Street, N.E.
 (Square 1026, Lot 69).

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WARD SIX**THIS APPLICATION WAS POSTPONED FROM THE SEPTEMBER 10, 2013, OCTOBER 1, 2013, AND NOVEMBER 5, 2013, PUBLIC HEARING SESSIONS:**

18651 **Application of Peter J. Fitzgerald**, pursuant to 11 DCMR § 3103.2, for
ANC-6C variances from lot area (section 401), lot occupancy (section 403), rear
 yard (section 404), off-street parking (subsection 2101.1) and alley width
 (subsection 2507.2) requirements for a subdivision allowing an existing
 apartment building and construction of a new one-family dwelling on an
 alley lot in the CAP/R-4 District at premises 319 A Street, N.E. and rear of
 319 and 321 A Street, N.E. (Square 786, Lot 827, and Square 786, part of
 Lot 22 and Lot 827).

WARD ONE**THESE APPEALS WERE POSTPONED FROM THE APRIL 30, 2013, JULY 16, 2013, AND OCTOBER 22, 2013, PUBLIC HEARING SESSIONS:**

18539 **Appeal of 2101 Connecticut Avenue Cooperative Apartments, Inc.**,
ANC-1C pursuant to 11 DCMR §§ 3100 and 3101, from a December 5, 2012
 decision by the Department of Consumer and Regulatory Affairs to allow
 the conversion of an existing one-family dwelling into a 9 unit apartment
 building in the R-5-B District at 2014 Kalorama Road, N.W. (Square
 2537, Lot 301); and,

18540 **Appeal of 2101 Connecticut Avenue Cooperative Apartments, Inc.**,
ANC-1C pursuant to 11 DCMR §§ 3100 and 3101, from a December 5, 2012
 decision by the Department of Consumer and Regulatory Affairs to allow
 the conversion of an existing one-family dwelling into a 8 unit apartment
 building in the R-5-B District at 2012 Kalorama Road, N.W. (Square
 2537, Lot 150).

PLEASE NOTE:

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

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

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the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

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

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

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

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL 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) (2012 Repl.)) and Mayor's Order 2013-147, dated August 8, 2013, hereby gives notice of the adoption of amendments to Chapter 31A (Signs) of Subtitle A (Building Code Supplement), Title 12 (D.C. Construction Codes Supplement of 2008) of the District of Columbia Municipal Regulations.

This rulemaking amends 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.

A Notice of Emergency and Proposed Rulemaking was previously published in the *D.C. Register* on August 16, 2013 at 60 DCR 11992. No changes have been made to the rulemaking. The Director took final action on these rules on November 6, 2013. These final rules will be effective upon 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), 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 permittee 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.

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES**ERRATA NOTICE**

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 307 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Official Code § 2-559 (2012 Repl.)), hereby gives notice of a correction to Table EC-402.1.3 (Equivalent U-Factors) of Chapter 4I of Title 12I, the Energy Conservation Code Supplement, of the District of Columbia Municipal Regulations (DCMR), which became effective December 26, 2008 as published in the *D.C. Register* at 55 DCR 13094.

The non-substantive change corrects a typographical error in the table. The Ceiling U-Factor for Climate Zone 4 (except Marine) is corrected from “0.26” to read “0.026”.

Any questions or comments regarding this notice shall be addressed by mail to Victor L. Reid, Esq., Administrator, Office of Documents and Administrative Issuances, 441 4th Street, N.W., Suite 520 South, Washington, D.C. 20001, or via telephone at (202) 727-5090.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The Acting State Superintendent of Education, pursuant to the authority set forth in Article II of “An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes”, as amended, effective February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 *et seq.* (2012 Repl.)); as amended by Section 302 of the “South Capitol Street Memorial Amendment Act of 2012”, effective June 7, 2012 (D.C. Law 19-141, 59 DCR 3083 (April 20, 2012), D.C. Official Code § 38-201 *et seq.* (2012 Repl.)); Mayor’s Order No. 2012-116, dated July 26, 2012; Sections 3(b)(11), 3(b)(15) and 7c of the “State Education Office Establishment Act of 2000”, as amended, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(11), 2602(b)(15) and 2609(c)(2) (2012 Repl.)); Section 403 of the “State Board of Education Establishment Act of 2007”, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-2652(a)(14) (2012 Repl.)), and the “Attendance Accountability Amendment Act of 2013”, effective September 19, 2013 (D.C. Law 20-17; 60 DCR 9839; to be codified at D.C. Official Code §§ 38-201 *et seq.* and § 38-2602(b)(19)) (“Attendance Act”), hereby gives notice of his intent to amend Chapter 21 (Compulsory Education and School Attendance at Public Educational Institutions) of Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the District of Columbia Municipal Regulations (DCMR), in not less than fifteen (15) days after the publication of this notice in the *D.C. Register*.

Per D.C. Official Code § 2-505(a), a reduced period of review may be adopted for good cause. In light of three prior periods of public comment pertaining to amendments of Title 5-A Chapter 21 offered during 2013: January 4, 2013 (60 DCR 38), March 15, 2013 (60 DCR 3732), and May 24, 2013 (60 DCR 7318), prior to the Notice of Final Rulemaking of June 28, 2013 (60 DCR 9725); the dialogue among stakeholders, including before the State Board of Education; the parallel consideration in hearings and on the record at the District of Columbia Council during the enactment process of the Attendance Act; the need expeditiously to bring the rules into compliance with the new law so that students, teachers, parents, and educational institutions can receive the benefits of the legislative and regulatory amendments without unnecessary delay; the awareness of the stakeholder groups; of the relatively few substantive amendments contained in the Proposed Rulemaking; and the alignment of the Proposed Rulemaking with the amended statutory provisions which recently became effective, there is good cause for the abbreviated comment period for this Proposed Rulemaking .

The rules are being revised solely to conform to the recently enacted Attendance Act based on the following requirements: (1) changing “school days” to “business days” for reporting purposes; (2) mandating a referral of students who are fourteen (14) through to seventeen (17) years of age after the accrual of fifteen (15) unexcused absences rather than the twenty-five (25) unexcused absences previously mandated by the “South Capitol Street Memorial Amendment Act of 2012”; (3) amending the definition for the term “Educational institution”, and (4) amending the definition for the term “Parent”. Additionally, Subsection 2101.10 contains a technical amendment revising the reference within this provision from subsection 2101.8 to subsection 2101.9. In all other respects, this proposal makes no other substantive changes to the final rule effective on June 28, 2013 (60 DCR 9725).

Proposed Amendment: Delete the present language of Subsection 2100.1 of Chapter 21 (Compulsory Education and School Attendance at Public Educational Institutions) of Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the DCMR and substitute the following amended language:

2100.1 The legal authority for this chapter is based upon Article II of “An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes”, as amended, effective February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 *et seq.* (2012 Repl. & 2013 Supp.)); as amended by Section 302 of the “South Capitol Street Memorial Amendment Act of 2012”, effective June 7, 2012 (D.C. Law 19-141, 59 DCR 3083, (April 20, 2012); D.C. Official Code §§ 38-201 *et seq.* (2012 Repl. & 2013 Supp.)); Mayor’s Order No. 2012-116, dated July 26, 2012; Sections 3(b)(11), 3(b)(15) and 7c of the “State Education Office Establishment Act of 2000”, as amended, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(11), 2602(b)(15) and 2609(c)(2) (2012 Repl. & 2013 Supp.)); Section 403 of the “State Board of Education Establishment Act of 2007”, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code §38-2652(a)(14) (2012 Repl.)), and the “Attendance Accountability Amendment Act of 2013”, effective September 19, 2013 (D.C. Law 20-17; 60 DCR 14501 (Oct. 11, 2013)) to be codified at D.C. Official Code §§ 38-201 *et seq.* and §38-2602(b)(19).

Proposed Amendment: Delete the phrase “§ 2101.8” from Subsection 2101.10 of Chapter 21 (Compulsory Education and School Attendance at Public Educational Institutions) of Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the DCMR, and substitute the phrase “§ 2101.9”.

Proposed Amendment: Delete the present language of Subsection 2103.5 of Chapter 21 (Compulsory Education and School Attendance at Public Educational Institutions) of Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the DCMR and substitute the following amended language:

2103. 5 Each educational institution shall develop a process to refer students to District of Columbia entities under the following circumstances:

- (a) Students ages five (5) through thirteen (13) shall be referred by the educational institution to the Child and Family Services Agency not later than two (2) business days after the accrual of ten (10) unexcused absences within a school year; and
- (b) Beginning in the 2013-14 school year, students ages fourteen (14) through seventeen (17) shall be referred by the educational institution to the Court Social Services Division of the Superior Court of the District of Columbia and to the Office of Attorney General Juvenile Section no later than two

(2) business days after the accrual of fifteen (15) unexcused absences within a school year.

Proposed Amendment: Delete the present definition for the term “Educational institution” from Subsection 2199 of Chapter 21 (Compulsory Education and School Attendance at Public Educational Institutions) of Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the DCMR and substitute the following definition for that term:

“Educational institution” --a school in the District of Columbia Public Schools system, or a public charter school.

Proposed Amendment: Delete the present definition for the term “Parent” from Subsection 2199 of Chapter 21 (Compulsory Education and School Attendance at Public Educational Institutions) of Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the DCMR and substitute the following definition for that term:

“Parent” --A parent, guardian, or other person who resides in the District and who has custody or control of a minor five (5) years of age or older.

Persons wishing to comment on this rulemaking should submit their comments in writing to Office of the State Superintendent of Education, 810 First Street, NE, 9th Floor, Washington, DC 20002, Attention: Jamai Deuberry, Office of the General Counsel [phone number (202) 724-7756], or to OSSEcomments.proposedregulations@dc.gov. All comments must be received no later than fifteen (15) days after publication of this notice in the *D.C. Register*. Copies of this rulemaking may also be obtained from the OSSE website at www.osse.dc.gov or upon request at the above referenced location.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice, pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), of its intent to adopt the following proposed amendments to Chapter 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed amendments is to simplify the Utility Allowance Schedule.

The additional provisions of Chapter 53 “Recertifications, Housing Quality Standard Inspections, and Family Moves,” of Title 14, “Housing,” of the DCMR are proposed as follows:

Section 5311 is amended as follows:

5311 APPLYING UTILITY ALLOWANCES

5311.1 PROGRAM DESCRIPTION

The purpose of the simplified calculation of utility allowances for Housing Choice Voucher participants is to enable program participants, landlords, and PHA to be able to easily calculate a participant utility allowance utilizing one utility schedule. The new utility allowance is based on the lower of the bedroom size or voucher size, source of heating, electricity, and whether the participant is responsible for paying water and sewer usage. The utility consumption rates for the District of Columbia shall be reviewed annually and if there is a change of 10% or more the simplified utility allowance schedule shall be adjusted accordingly.

5311.2 The utility allowance is calculated for each Family based upon DCHA’s utility allowance schedule. The schedule is based on the average utility costs in the District of Columbia. The utility allowance schedule set by DCHA applies to all assisted program types.

5311.3 A DCHA established utility allowance schedule is used in determining Family Share and HAP. DCHA shall use the appropriate utility allowance as calculated by Section 5332.

5311.4 DCHA, under its MTW Authority, established its “Simplified Utility Allowance Schedule”. The following provisions shall apply to calculating utility allowances:

- (a) DCHA shall use a simplified schedule to calculate utility allowances at the time of a Family's initial lease-up, biennial recertification, interim recertification, or when a family transfers to another unit pursuant to § 5333 – Family Moves;
- (b) The utility allowance calculation for all participants shall be determined using one structure type selected by DCHA annually.
- (c) Generally, DCHA shall determine the structure type to be used by using the most commonly rented structure type based on the previous fiscal year.
- (d) At its discretion, DCHA may select a structure type larger or smaller than the most commonly rented structure type if it determines that selecting the most common structure type may cause a disproportionate number of hardships or disproportionate number of excessive allowances to Families.
- (e) Based on the structure type chosen, DCHA shall provide to all Families a flat allowance for tenant-paid gas and electric, an additional flat allowance if the unit is all electric, and an additional flat allowance if the participant is also responsible for water and sewer.

5311.5 DCHA shall approve a utility allowance amount higher than shown on DCHA's schedule if a higher allowance is needed as a reasonable accommodation for a Family member with a disability, in accordance with DCHA's procedures regarding reasonable accommodation.

5311.6 In the event of an interim recertification, DCHA shall use the utility allowance schedule in effect at the time of the family's last biennial recertification. Revised utility allowances shall be applied to a Family's rent and subsidy calculations at the first biennial recertification that is effective after the allowance is adopted.

All persons desiring to comment on the subject matter of this rulemaking should file comments in writing no later than thirty (30) days after the publication of this Notice in the *D.C. Register*. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599; (202) 535-2835; copies of these rules may be obtained from DCHA at that same address. Alternatively, copies of the rules can be requested from and comments can be sent to Karen Harris, at Office of the General Counsel, District of Columbia Housing Authority, at PublicationComments@dchousing.org. Individuals wishing to comment by email must include the phrase "Comment to Proposed Rulemaking" in the subject line.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice, pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), of its intent to adopt the following proposed amendments to Chapter 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed amendments is to simplify the Utility Allowance Schedule.

The additional provisions of Chapter 53, “Recertifications, Housing Quality Standard Inspections, and Family Moves” of Title 14, “Housing,” of the DCMR are proposed as follows:

Section 5332 is amended as follows:

5332 UTILITY ALLOWANCE SCHEDULE SIMPLIFICATION

5332.6 DCHA shall publish the utility schedule by bedroom sizes annually. DCHA shall also provide the utility allowance schedule to applicants at their initial briefing.

5332.7 A utility allowance shall be determined based upon the lesser of either:

- (a) Number of bedrooms; or
- (b) Voucher size;

5332.8 If any Family’s simplified utility allowance decreases by more than \$25.00 and the decrease equals more than 10% of the household’s adjusted monthly income, the Family may request a hardship waiver.

5332.9 To qualify for the hardship waiver, the head of household must provide tenant paid utility bills, or other proof of tenant paid utility charges from the assisted unit from the previous six months to demonstrate that the average monthly cost exceeds their new utility allowance.

5332.10 Any request for a hardship must be in writing and received by DCHA within thirty-five (35) days of the DCHA notice to the family of their new rent determination.

- 5332.11 A Family that can demonstrate hardship shall be provided with a one-time six month simplified utility allowance waiver and the utility allowance will be set at either the lower of:
- (a) the previous utility allowance; or
 - (b) Family's average tenant paid utility bills from the past six months.
- 5332.11 At the end of the six month hardship period, the simplified utility allowance shall be applied.

All persons desiring to comment on the subject matter of this rulemaking should file comments in writing no later than thirty (30) days after the publication of this Notice in the *D.C. Register*. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599; (202) 535-2835; copies of these rules may be obtained from DCHA at that same address. Alternatively, copies of the rules can be requested from and comments can be sent to Karen Harris, at Office of the General Counsel, District of Columbia Housing Authority, at PublicationComments@dchousing.org. Individuals wishing to comment by email must include the phrase "Comment to Proposed Rulemaking" in the subject line.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY**NOTICE OF PROPOSED RULEMAKING**

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice, pursuant to District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), of its intent to adopt the following proposed amendments to Chapter 98 (Public Housing: Achieving Your Best Life Rewards Property Program) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed amendments is to amend the existing policies regarding DCHA's Achieving Your Best Life Rewards Property Program.

Chapter 98, PUBLIC HOUSING: ACHIEVING YOUR BEST LIFE REWARDS PROPERTY PROGRAM, of Title 14, HOUSING, of the DCMR, is amended as follows:**Section 9800 is amended by amending Subsection 9800.1(b) to read as follows:**

- 9800.1 (b) Make progress toward achieving economic independence and prepare for:
- (1) purchasing a home; or
 - (2) renting in the private market without federal or local housing assistance.

Section 9801 is amended by amending Subsection 9801.1 to read as follows:

9801.1 The District of Columbia Housing Authority (DCHA) recognizes the need to encourage families in their efforts to attain self-sufficiency. As such, DCHA establishes the Achieving Your Best Life Rewards Program (AYBL), a self-sufficiency program structured around DCHA designated Public Housing developments known as Rewards Properties. Participating AYBL Families reside at these developments while preparing to become (1) homeowners; or (2) preparing to rent in the private market without federal or local housing assistance. Although the primary goal of the program is to prepare public housing families to become homeowners or renters in the private market by reducing their dependency on public and housing subsidies, families also set self-declared goals related to achieving homeownership or renting in the private market without federal or local housing assistance. In an effort to assist families to become homeowners, DCHA's goal is to connect residents with available resources and services in such areas as credit and budget counseling, general life skills, job readiness assessment and training, home ownership counseling,

education/vocational training and self improvement workshops. Through case management and active participation, families will be connected with community services and related programs critical to their success. Participation in the AYBL program is voluntary.

Section 9802 is amended by amending Subsection 9802.4 to read as follows:

9802.4 AYBL Families may reside at Reward Properties until the following:

- (a) The family successfully purchases a home;
- (b) The family is able to rent in the private market without federal or local housing assistance;
- (c) The Contract of Participation expires;
- (d) DCHA terminates the family's Contract of Participation;
- (e) The family breaches the Public Housing dwelling lease or AYBL lease addendum as determined in Landlord Tenant court; or
- (f) The family is evicted, whichever comes first.

Section 9806 is amended by amending Subsection 9806.3 to read as follows:

9806.3 The DCHA shall consider an AYBL Applicant Family eligible for participation in the AYBL program if the AYBL Applicant Family meets the following criteria:

- (a) Is a current resident in a DCHA subsidized public housing unit;
- (b) Can demonstrate at least one (1) year of timely rental payments;
- (c) Bedroom size requirement meets the unit composition of the Reward Property and established DCHA Occupancy Standards of this chapter;
- (d) Income eligible: minimum earned income of the potential borrower/co-borrower or renter of no less than thirty-two thousand dollars (\$32,000) from employment or in the case where the potential borrower/co-borrower or renter is elderly and/or disabled certain unearned income (for example, SSI, SSDI, pension payments, etc.) may be counted toward the thirty-two thousand dollars (\$32,000) minimum. DCHA may from time to time change the minimum income eligibility requirement.

- (e) The family may not include any person who has held an ownership interest in a residence during the three (3) years prior to commencement in AYBL, except as follows:
 - (1) Equitable interest in a property under the terms of a lease-purchase agreement prior to exercise of the purchase option;
 - (2) An individual who is now single, but had previously owned a home with his or her former spouse even within the three (3) year period;
 - (3) A household in which a family member is a person with a disability, if homeownership assistance is needed as a reasonable accommodation; and
 - (4) A family that owns or is acquiring shares in a cooperative.
- (f) Be a DCHA resident in Good Standing:
 - (1) Timely completion of scheduled and interim recertifications;
 - (2) No instances of unreported income;
 - (3) No current debt owed (*i.e.*, rent, excess utility charges, maintenance charges, etc.) to DCHA, federally funded housing program, and any court or in-house repayment agreements must be paid off prior to application to the AYBL program.
 - (4) No more than four (4) late rental payments, in either public housing or the private market, within the twelve (12) months prior to approval of an AYBL application provided that the payment is received within the month that the rent is charged. For other charges (*i.e.*, excess utility charges, maintenance charges, etc.) payment must have been made within thirty (30) days of the date of the charge.
 - (5) Passed scheduled DCHA inspections that were conducted in the unit within the past twelve (12) months from the date of AYBL application submission;
 - (6) No legal actions for non-curable violations of the lease within the last five (5) years at the time of AYBL application submission;

- (7) No repeated breaches of other terms of the Lease by the Lessee(s) or any household member identified in the Public Housing dwelling lease;
- (8) Pass a separate DCHA AYBL Home Visit inspection.
- (9) Pass a criminal background check that will be conducted on all household members who are eighteen (18) years of age or older pursuant to 14 DCMR § 6109.

Section 9807 is amended by amending Subsections 9807.4 - 9807.12 to read as follows:

- 9807.4 If DCHA is unable to fill the AYBL units with families residing in conventional public housing and mixed financed properties, at its sole discretion, DCHA may pull from the selection pool of applicants who have been deemed eligible for admission and who are waiting placement at a public housing property for each Rewards Property.
- 9807.5 If DCHA is unable to fill the AYBL units with families residing in mixed finance properties, DCHA shall pull from the DCHA selection pool.
- 9807.6 After the returning ABYL families and residents at DCHA designated properties in the area surrounding the Rewards Property have been put on the Site-based Transfer Waiting list, and there is a need for additional families to occupy units at a Rewards Property, DCHA will conduct a lottery as defined in this section for all other AYBL eligible residents.
- 9807.7 Only those AYBL applicant families that have been determined eligible for the AYBL program will be placed in a lottery pool to be selected for an AYBL Site-based Transfer Waiting list pursuant to this section.
- 9807.8 Applicants are assigned a number at the time they are determined eligible. Once the eligibility determination process is complete, DCHA will conduct a public lottery overseen by a third party to determine which applicants will be selected for placement on an AYBL Site-based Transfer Waiting Lists according to bedroom size and property requested.
- 9807.9 The size of AYBL Site-Based Transfer Waiting Lists will be based upon DCHA's projected vacancy rates at each AYBL Rewards Property. The size of AYBL Site-based Transfer Waiting Lists will be determined by DCHA, at its sole discretion, based on projected vacancies.
- 9807.10 Once the required number of AYBL eligible families is selected from the lottery pool to meet projected vacancies for an AYBL Rewards Property, the families

will be placed on the AYBL Site-Based Transfer Waiting List based on the order the families were selected from the lottery pool.

- 9807.11 Once the AYBL Families are placed on an AYBL Site-based Transfer Waiting List, that Site-Based Transfer Waiting list will be closed.
- 9807.12 Once a AYBL Site-based Transfer Waiting List is closed, those AYBL Families who were in the lottery pool, but were not selected to be placed on a AYBL Site-based Transfer Waiting List, will be able to re-apply when DCHA determines to reopen the list.
- 9807.13 When there is not a sufficient number of eligible AYBL Families on an AYBL Site-based Transfer Waiting List to meet vacant unit projections for that property, the AYBL Site-based Transfer Waiting List will be opened and applications will be requested in accordance with the provisions of this chapter.

Section 9817 is amended by amending Subsections 9817.8 and 9817.14, for the section to read as follows:

- 9817.1 A Contract of Participation must be executed by the Lessee(s) of the AYBL Family prior to entering into a Dwelling Unit Lease Agreement for a Rewards Property.
- 9817.2 AYBL participants must comply with the terms and conditions of the Dwelling Unit Lease Agreement and AYBL lease addendum.
- 9817.3 Failure to abide by the terms of the Contract of Participation shall be considered a violation of the lease and/or AYBL lease addendum.
- 9817.4 Contract Term -- Term of the Contract of Participation cannot exceed five (5) years and will be established in consultation with the AYBL Family, based on the agreed upon timeframes for achieving the goals related to homeownership.
- 9817.5 If at the end of the contract term, the AYBL Family successfully completes the Contract of Participation and is an active participant in HOAP, the family may request a six (6) month extension of the Contract of Participation. Approval of an extension is at the sole discretion of DCHA. If at the end of the initial six (6) month extension and the AYBL Family has complied with all of the HOAP requirements and is actively looking for a home, an additional six (6) month extension may be granted at the sole discretion of DCHA.
- 9817.6 AYBL Families who have identified renting in the private market without federal or local housing assistance are not entitled to an extension of the Contract of Participation. At the end of the contract term the AYBL Family must vacate the

AYBL unit or transfer to a conventional public housing unit pursuant to the transfer regulations in this chapter.

- 9817.7 Requests for extensions of the contract term must be submitted to DCHA in writing in a form approved by DCHA at least thirty (30) days prior to the end of the Contract of Participation or extension and must include evidence justifying the request.
- 9817.8 The Contract of Participation shall incorporate the ITSP(s) for both the potential borrower/co-borrower or the renter/co-renter as applicable.
- 9817.9 The ITSP, in addition to identifying homeownership or renting in the private market as the AYBL Family's end goal, will establish interim goals by which the ABYL Family's progress in fulfilling its obligations will be measured. Mandatory minimum interim goals to be included in the ITSP and thereby required by the Contract of Participation are that the AYBL Family:
- (a) Has been admitted in the HOAP;
 - (b) Is under contract to purchase a home; or
 - (c) Has met the required criteria to rent in the private market.
- 9817.10 Modification of the Contract of Participation -- DCHA and the AYBL Family may mutually agree to modify the Contract of Participation. The Contract of Participation may be modified in writing with respect to the Individual Training and Services plans, the contract term, and designation of the Head of Household.
- 9817.11 Completion of the Contract of Participation -- A Contract of Participation is considered to be completed and a family's participation in AYBL is considered to conclude when the AYBL Family has fulfilled all of its obligations under the Contract of Participation on or before the expiration of the contract term, including any extension thereof.
- 9817.12 Non-compliance will be determined based on the requirements of the Contract of Participation. AYBL Families will be notified in writing for instances of non-compliance through the issuance of a Notice of Non-Compliance.
- 9817.13 Termination of Contract of Participation -- the Contract of Participation is automatically terminated if the AYBL Family's Public Housing lease is terminated. The Contract of Participation may be terminated before the expiration of the contract term, and any extension thereof, by:
- (a) mutual consent of DCHA and the AYBL Family;

- (b) the failure of the AYBL Family to meet its obligations under the Contract of Participation without good cause;
- (c) the AYBL Family's withdrawal from the AYBL program;
- (d) such other act as is deemed inconsistent with the purpose of AYBL; or
- (e) operation of law.

9817.14 Termination of the Contract of Participation for reasons other than a breach of the Public Housing lease, in accordance with this section, may not result in the termination of Public Housing assistance. If the Contract of Participation is terminated for reasons required to transfer to a non-Rewards Property unit the AYBL family will be transferred in accordance with the AYBL transfer policy described in this chapter.

9817.15 AYBL Families who successfully complete the Contract of Participation will transition to the HCVP/HOAP. All members of the AYBL Family must vacate the AYBL unit at the conclusion of the family's participation in the program whether by termination or successful completion of the Contract of Participation.

Section 9899 is amended to read as follows:

9899 DEFINITIONS

AYBL Applicant Family -- a Public Housing family living in conventional public housing or a mixed finance development unit which is subsidized with Annual Contributions Contract assistance, , and who has submitted a completed application, including all required documents, for consideration to become an AYBL Family.

All persons desiring to comment on the subject matter of this rulemaking should file comments in writing no later than thirty (30) days after the publication of this Notice in the *D.C. Register*. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599; (202) 535-2835; copies of these rules may be obtained from DCHA at that same address. Alternatively, copies of the rules can be requested from and comments can be sent to Karen Harris, at Office of the General Counsel, District of Columbia Housing Authority, at PublicationComments@dchousing.org. Individuals wishing to comment by email must include the phrase "Comment to Proposed Rulemaking" in the subject line.

METROPOLITAN POLICE DEPARTMENT**NOTICE OF PROPOSED RULEMAKING**

The Chief of the Metropolitan Police Department (Chief), pursuant to the authority under Section 712 of the Firearms Control Regulations Act of 1975 (Act), effective March 31, 2009 (D.C. Law 17-372; D.C. Official Code § 7-2507.11) (2013 Supp.), hereby gives notice of the intent to adopt amendments to Chapter 23 (Guns and Other Weapons) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR). In addition, the Chief gives notice of the intent to take final rulemaking action to adopt these amendments in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The proposed rulemaking establishes a renewal process for firearms that, under the Act, were required to be registered with the Metropolitan Police Department (MPD) before January 1, 2011. MPD records indicate approximately 30,000 firearm registrations would be subject to the renewal requirement. Registrants would renew their firearm registrations over the course of two years, with the renewal dates based on the registrant's date of birth. Under the Act, any firearm registration that fails to renew shall be cancelled.

The proposed rulemaking establishes a simple, streamlined process for renewal in new Section 2326: A registrant would be required to appear in person at MPD headquarters; submit fingerprints; confirm possession of the previously-registered firearm, home address, and continued compliance with the Act's registration requirements.

The proposed rulemaking establishes a three-month window for registrants to renew, with an additional 30-day grace period. Registrants that renew more than 30 days, but fewer than 90 days, after the three-month window would pay twice the amount of the \$13 registration fee. Registrants that fail to renew 90 or more days after the end of the three-month renewal window would have their firearm registration cancelled, be treated as a new registrant, and their firearm would be subjected to Section 202 of the Act.

The proposed rulemaking also clarifies the requirements in Section 2319 for executors or administrators of estates that contain a firearm and updates the process and requirements in Section 2320 for registration of a pistol.

In addition, the proposed rulemaking corrects legal citations to the current edition of the D.C. Official Code and updates the fees in Section 2331 related to registration.

A redline showing all proposed changes to the current regulations can be found on the MPD website: <http://mpdc.dc.gov>.

Chapter 23 (Guns and Other Weapons) of Title 24 (Public Space and Safety) of the DCMR is amended as follows:

Section 2305 (REGISTRATION OF FIREARMS: GENERAL PROVISIONS) is amended to read as follows:

2305 REGISTRATION OF FIREARMS: GENERAL PROVISIONS

- 2305.1 The provisions of §§ 2305 through 2326 are issued by the Chief of Police (the “Chief”) pursuant to the Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code §§ 7-2501.01 *et seq.* (2012 Repl. & 2013 Supp.)) (the “Act”), specifically § 206(b) of the Act, to prescribe procedures for registration of firearms.
- 2305.2 The Director is authorized by the Act to prescribe all forms required to implement the Act. All the information called for in each form shall be furnished, as indicated by the headings on the form and the instructions that are on each form or that are issued with respect to each form.
- 2305.3 The Chief shall register no more than one (1) pistol per registrant during any thirty- (30-) day period; provided, that this restriction shall apply only to the initial registration of a pistol and not to the renewal of the registration of a pistol.
- 2305.4 The Chief may permit a person first becoming a District resident to register more than one (1) pistol if those pistols were lawfully owned in another jurisdiction for a period of six (6) months prior to the date of application.
- 2505.5 Under § 207a of the Act (D.C. Official Code § 7-2502.07a (2013 Supp.)), a registration certificate issued by the Chief shall be valid for three (3) years from the date of issuance and must be renewed pursuant to § 2326 of this chapter.

Section 2306 (DESTRUCTIVE DEVICES) is amended to read as follows:**2306 DESTRUCTIVE DEVICES**

- 2306.1 Any person may request the Director to make a determination whether a device falls within the exception to the definition of “destructive device” set forth in § 101(7)(E)(iv) of the Act (D.C. Official Code § 7-2501.01(7)(E)(iv) (2013 Supp.)).
- 2306.2 Each request for a determination shall be in writing, state the name and address of the manufacturer(s) of the device, accurately describe the device, and give the reasons the requestor believes the device qualifies for placement on the list.
- 2306.3 No person requesting a determination for a device already possessed by the requestor shall be charged with a violation of the Act prior to the adoption of a final rule.

Section 2307 (CRIMINAL DISQUALIFICATIONS FOR REGISTRATION) is amended to read as follows:**2307 CRIMINAL DISQUALIFICATIONS FOR REGISTRATION**

- 2307.1 For the purposes of §§ 203(a)(2), 203(a)(3), and 203(a)(4) of the Act, the following records shall be used to determine whether there is prima facie evidence of a disqualification:

- (a) A criminal history record information (as defined in 28 CFR § 20.3(d)) with a disposition showing a conviction or a sentence (including a suspended sentence, probation, incarceration, or a fine); or
 - (b) A court record showing a conviction or a sentence.
- 2307.2 Only convictions rendered by the courts of the several states, territories, possessions, and federal tribunals, including those of the military, shall be considered.
- 2307.3 The pendency of an appeal, or of any other judicial or non-judicial review, shall not be considered until the entry of a final order setting aside the conviction. Non-judicial review includes the pardon authority of the jurisdiction where the conviction was obtained.
- 2307.4 The time period preceding an application for registration shall be computed by using the date of the applicant's signature on form P.D. 219 as the end of the period of time to be computed.

Section 2309 (OTHER DISQUALIFICATIONS FOR REGISTRATION) is amended to read as follows:

2309 OTHER DISQUALIFICATIONS FOR REGISTRATION

- 2309.1 A firearm shall not be registered if the applicant meets any of the following conditions:
- (a) The entry of a judgment or consent order or decree of negligence in any civil suit concerning the discharge of a firearm resulting in death or serious injury to a human being without regard to the filing of criminal charges, or the finding by a coroner of negligent homicide, shall be considered an adjudication of negligence to establish the disqualifier in § 203(a)(8) of the Act. For the purposes of this subsection, "serious injury" shall be deemed to have occurred where the victim remains in a hospital in excess of forty-eight (48) hours;
 - (b) [RESERVED];
 - (c) The existence of a record described in § 2307.1 showing a conviction which makes a person ineligible to possess a pistol under D.C. Official Code § 22-4503 (2013 Supp.) shall establish that the person is disqualified from possessing a rifle or shotgun under § 203(a)(9) of the Act;
 - (d) A court record showing the applicant is a respondent in an intrafamily proceeding in which a civil protection order was issued against the applicant, unless the applicant can demonstrate by a certified court record establishing that the order has expired or has been rescinded for a period of five (5) years;
 - (e) A court record showing the applicant is a respondent in which a foreign protection order (as defined in D.C. Official Code § 16-1041(2) (2012

Repl.) was issued against the applicant, unless the applicant can demonstrate by a certified court record establishing that the order has expired or has been rescinded for a period of five (5) years;

- (f) Arrest records within the five (5) years immediately preceding the application, showing that the applicant has had a history of violent behavior. For purposes of this subsection, "history of violent behavior" includes, but is not limited to, arrests for violation of D.C. Official Code § 22-407 (2012 Repl.), regarding threats to do bodily harm, or D.C. Official Code § 22-404 (2012 Repl.), regarding assaults and threats, any crime of violence as defined in D.C. Official Code § 23-1331(4) (2013 Supp.), or any similar provision of the law of any other jurisdiction so as to indicate a likelihood to make unlawful use of a firearm;
- (g) Two (2) or more violations of D.C. Official Code 50-2201.05b (2012 Repl.) or any law in the District or another jurisdiction restricting driving under the influence of drugs or alcohol; or
- (h) Any other provision enumerated in D.C. Official Code § 7-2502.03(a) (2013 Supp.).

Section 2311 (KNOWLEDGE OF FIREARMS AND TRAINING REQUIREMENTS) is amended to read as follows:

2311 KNOWLEDGE OF FIREARMS AND TRAINING REQUIREMENTS

- 2311.1 Knowledge of the laws of the District pertaining to firearms, and knowledge of the safe and responsible use of firearms, shall be tested through a written examination.
- 2311.2 Under compelling circumstances, an oral test may be administered in place of the written test.
- 2311.3 The type of test and its content shall be at the sole discretion of the Director.
- 2311.4 [RESERVED].
- 2311.5 [RESERVED].
- 2311.6 Rifles and shotguns shall be considered the same type of firearm for the purposes of testing.
- 2311.7 If an applicant fails an examination, he or she shall be allowed one (1) retest without charge.
- 2311.8 A fee equal to that submitted with the original application may, at the discretion of the Director, be assessed for the second retest and for each subsequent retest.
- 2311.9 An applicant shall complete a firearms training and safety class provided by the Chief or submit evidence of compliance with § 203(a)(13)(B) of the Act.

Section 2312 (FINGERPRINTS AND PHOTOGRAPHS) is amended to read as follows:

2312 FINGERPRINTS AND PHOTOGRAPHS

- 2312.1 Each person registering a firearm or renewing a registration pursuant to § 2326 shall be fingerprinted, unless all of the following apply:
- (a) [RESERVED];
 - (b) The applicant's fingerprints on file are, in the opinion of the Director, of the required quality; and
 - (c) The applicant offers sufficient identification to establish the applicant's identity as the same person whose fingerprints are already on file.
- 2312.2 Each person registering a firearm shall be photographed, at no charge, by the Director and the photograph shall be included as part of the registration application.

Section 2313 (PERSONAL APPEARANCE AND FILING TIME) is amended to read as follows:

2313 PERSONAL APPEARANCE AND FILING TIME

- 2313.1 In accordance with § 203 of the Act (D.C. Code § 7-2502.04(c) (2013 Supp.)), each applicant for a registration certificate shall personally present the required form at the Firearms Registration Section, during operating hours.
- 2313.2 Multiple applications submitted at one (1) time shall be accepted on the basis of a single personal appearance.
- 2313.3 The Director may waive the requirement for a personal appearance in emergency situations, including cases where the applicant is out of the country, in the hospital, or not ambulatory; provided, that the application shall be accepted for processing, but shall not be approved until the applicant appears in person.
- 2313.4 If the condition preventing the personal appearance is permanent or continuing in nature, the Director may, in his or her discretion, satisfy this requirement by interviewing the applicant at a place convenient to the applicant.
- 2313.5 When a personal appearance is not made, an appropriate notation shall be made on the application showing that fact, together with the name, address, phone number, and relationship to the applicant of the person presenting the application on the person's behalf.
- 2313.6 A person other than the president or chief executive of an organization may submit an application if that person presents with the application a letter on the organization's official letterhead signed by the president or chief executive of the organization, stating the name of the person appearing, that person's position within the organization, and the identity of the weapon he or she is authorized to present for registration.
- 2313.7 When submitting an application, an applicant shall not have the firearm to be registered in his or her possession.

- 2313.8 The Director may require an applicant to return with the firearm if it appears to the Director that any of the following conditions may apply:
- (a) That the person is unqualified or incapable of safe and responsible possession or use of the firearm;
 - (b) That the firearm may be unregistrable, defective, or in a dangerous condition or state of disrepair; or
 - (c) That the information relating to the weapon on the application is incorrect, misleading, or incomplete.
- 2313.9 A person shall be deemed to be in compliance with the personal notification requirements of § 206(a) of the Act (D.C. Official Code § 7-2502.06(a) (2013 Supp.)) if he or she, immediately after bringing a firearm into the District, telephonically notifies the Firearms Registration Section at 202-727-4275.

Section 2315 (APPROVAL PERIOD) is amended to read as follows:

2315 APPROVAL PERIOD

- 2315.1 The sixty- (60-) day period for issuance of a certificate under § 207 of the Act (D.C. Code § 7-2502.07(b) (2012 Repl.)) may be extended for good cause in the event that the investigation into the applicant's qualifications has not been completed.
- 2315.2 Reasons that an extension may be granted for good cause shall include the following:
- (a) Non-receipt of the results of an F.B.I. fingerprint check;
 - (b) Non-receipt of responses from other law enforcement agencies queried about the applicant;
 - (c) Lost, mutilated, or destroyed records requiring reproduction or replacement; or
 - (d) A substantial question concerning the applicant's eligibility that requires further inquiry.
- 2315.3 Any extension taken shall not exceed thirty (30) calendar days.
- 2315.4 The applicant shall be notified of the extension by letter.
- 2315.5 An application shall be automatically held in abeyance if the applicant has any other certificate pending, or becomes liable to revocation on any other certificate.
- 2315.6 An application that has been held under § 2315.5 shall be approved or denied in accordance with the time limits set forth in this section, after the termination of the revocation proceeding.
- 2315.7 Except as provided in § 2315.5, any application not expressly approved or denied within the following periods shall be deemed to be denied for the purpose of appealing to the Director:

- (a) Within the sixty- (60-) day period required in the Act, unless the period is extended for good cause shown in accordance with this section; or
- (b) At the end of the thirty- (30-) day extension period under this section.

Section 2317 (LOST, STOLEN, OR DESTROYED CERTIFICATES) is amended to read as follows:

2317 LOST, STOLEN, OR DESTROYED CERTIFICATES

- 2317.1 Upon discovering the loss, theft, or destruction of a registration certificate or firearm, the holder of the certificate shall immediately communicate this fact in writing or in person to the Firearms Registration Section in accordance with § 208 of the Act (D.C. Official Code § 7-2502.08 (2013 Supp.)).
- 2317.2 Each written communication concerning a certificate shall contain sufficient information to identify the holder.
- 2317.3 The filing of an offense report or complaint of a crime with respect to the loss, theft, or destruction of the certificate or weapon shall be deemed to be in compliance with this section.
- 2317.4 The holder of a destroyed, lost, or stolen certificate shall be issued a duplicate certificate without charge.
- 2317.5 The reissued certificate shall be prominently marked as a duplicate, and the issuance of the duplicate certificate shall automatically invalidate the lost, destroyed, or stolen certificate.

Section 2318 (MODIFICATION OF CERTIFICATES) is amended to read as follows:

2318 MODIFICATION OF CERTIFICATES

- 2318.1 If the information contained in the certificate is no longer accurate due to the holder's changed circumstances, the holder shall, in accordance with § 208 of the Act (D.C. Official Code § 7-2502.08 (2013 Supp.)), submit the certificate and a statement concerning the changes.
- 2318.2 A duplicate certificate showing the changes as reported shall be issued without charge.
- 2318.3 Issuance of the duplicate certificate shall automatically invalidate the previously held certificate.

Section 2319 (EXECUTORS AND ADMINISTRATORS) is amended to read as follows:

2319 EXECUTORS AND ADMINISTRATORS

- 2319.1 The executor or administrator of an estate in the District of Columbia containing a firearm shall notify the Firearm Registration Section of his or her appointment or

qualification, as the case may be, not later than thirty (30) days after the appointment or qualification and, until the lawful distribution of any such firearm, shall be subject to § 301(b) of the Act.

- 2319.2 The notice required under § 2319.1 shall include the following:
- (a) The name, mailing address, and telephone number of the executor or administrator;
 - (b) The registration number of the firearm, if available, or a description of the firearm including, the make, model, and serial number; and
 - (c) The name and address of the decedent.
- 2319.3 Persons qualified to file a petition for distribution or for waiver of administration under Chapter 7 of Title 20 of the D.C. Official Code shall be considered to be executor or administrator of the small estate for the purposes of this section.
- 2319.4 If the Director determines that the firearm was not registered or was otherwise possessed in violation of the Act, the Director shall so notify the executor or administration in writing.
- 2319.5 If the executor or administrator receives a notification issued under § 2319.4, he or she shall, within seven (7) days of receiving the notification:
- (a) Surrender the firearm to the Firearm Registration Section;
 - (b) Lawfully remove the firearm from the District;
 - (c) Lawfully dispose of the firearm; or
 - (d) Submit a written appeal to the Director of the determination issued under § 2319.4.
- 2319.6 The executor or administrator shall not distribute any firearm in an estate to an heir or legatee that resides in the District unless the person to inherit or receive the firearm has first obtained a valid registration certification for the firearm. The registration application shall include a statement by the applicant that he or she seeks to gain possession of a firearm which is part of an estate and shall include the information required under § 2319.2.
- 2319.7 For an heir or legatee that resides outside the District, the executor or administrator shall notify the Firearm Registration Section, in writing, that the firearm in the estate has been distributed to a person living outside the District.

Section 2320 (PROCEDURES AND REQUIREMENTS FOR REGISTRATION OF A PISTOL FOR THE PURPOSE OF SELF-DEFENSE WITHIN APPLICANT'S HOME) is amended to read as follows:

2320 PROCEDURES AND REQUIREMENTS FOR REGISTRATION OF A PISTOL FOR THE PURPOSE OF SELF-DEFENSE WITHIN APPLICANT'S HOME

- 2320.1 In addition to satisfying all other firearms registration requirements in this chapter, an applicant for a registration certificate for a pistol to be used for the purpose of self-defense within that person's home shall comply with all the procedures and requirements of this section. In the event of any irreconcilable conflict between this section and any other regulations regarding the registration of a pistol, this section shall control.
- 2320.2 The Director may register a pistol so long as the pistol is not an assault weapon, or a machine gun as those terms are defined in § 101(3A) and (10) of the Act (D.C. Official Code § 7-2501.01(3A) & (10) (2013 Supp.)), or an unsafe firearm prohibited under § 504 of the Act (D.C. Official Code § 7-2504.04 (2012 Repl.)).
- 2320.3 An applicant seeking to register a pistol he or she will purchase from a firearms dealer pursuant to this section shall:
- (a) Acquire the firearm registration application (PD 219) either from any licensed firearms dealer in the District of Columbia, or in person at the Firearms Registration Section at the Metropolitan Police Department headquarters, or by mailing a request with a self-addressed, stamped envelope to Firearms Registration Section, Metropolitan Police Department, 300 Indiana Avenue, NW, Washington, D.C. 20001;
 - (b) Obtain assistance necessary to complete the application by presenting the firearm registration application to a firearms dealer licensed under federal law either:
 - (1) Located inside the District if the firearm is purchased within the District; or
 - (2) Located outside the District if the firearm is purchased outside the District;
 - (c) Appear in person at MPD headquarters to take these steps:
 - (1) Report to the Firearms Registration Section with the completed firearm registration application and provide the following:
 - (A) [RESERVED];
 - (B) A valid driver's license or a letter from a physician attesting that the applicant has vision at least as good as that required for a driver's license; and
 - (C) Residency verification, such as a District of Columbia driver's license or identification card, a current rental agreement, or a deed to property that includes a home;
 - (2) Complete a firearm registration test;
 - (3) If successful on the test, pay all applicable fees at the MPD cashier, including thirty-five dollars (\$35) for fingerprinting and thirteen dollars (\$13) for a firearm registration; and
 - (4) Present a fee receipt and submit to fingerprinting.

- (d) Await notification from the Firearms Registration Section via mail, telephone, or other electronic communication on whether all statutory and regulatory requirements for registration have been satisfied;
- (e) Upon notification that all statutory and regulatory requirements for registration have been satisfied, an applicant shall either:
 - (1) Return to the Firearms Registration Section to complete the registration process and obtain the approved firearms registration certificate; or
 - (2) Choose to receive the completed firearms registration certificate by mail; and
- (f) Present the approved firearm registration application to the dealer licensed under federal law or, if federal law such as 18 U.S.C. § 922 prohibits the dealer from delivering the pistol to the applicant because the dealer is not within the District of Columbia, have that firearms dealer transport the pistol to a dealer located within the District, where the applicant will take delivery of the pistol.

2320.4 [RESERVED].

2320.5 An applicant seeking to register a pistol legally possessed in another jurisdiction pursuant to this section shall follow the procedure laid out in Paragraphs (a), (c), (d), and (e) of § 2320.3, in that order. If the applicant does not transport the pistol immediately to the Firearms Registration Section upon bringing it into the District, the applicant shall contact the Firearms Registration Section by calling 202-727-4275, providing notification that a pistol from another jurisdiction has been brought into the District, and then begin the application process within forty-eight (48) hours of such notification.

2320.6 [RESERVED].

2320.7 In the event of the loss, theft, or destruction of the registration certificate or of a registered pistol, a registrant shall immediately file a police report and shall also:

- (a) Immediately notify the Firearms Registration Section in writing of the loss, theft, or destruction of the registration certificate or of the registered pistol (including the circumstances, if known) upon discovery of such loss, theft, or destruction; and
- (b) Immediately return to the Firearms Registration Section the registration certificate for any pistol which is lost, stolen, or destroyed.

2320.8 [RESERVED].

2320.9 When permitted under this section to transport a pistol, the pistol shall be unloaded, and neither the pistol nor any ammunition being transported shall be readily accessible or directly accessible from the passenger compartment of the transporting vehicle.

- 2320.10 If the transporting vehicle does not have a compartment separate from the driver's compartment, the pistol or ammunition shall be contained in a locked container other than the glove compartment or console, and the pistol shall be unloaded.
- 2320.11 If the transportation is in a manner other than in a vehicle, the pistol shall be:
- (a) Unloaded;
 - (b) Inside a locked container; and
 - (c) Separate from any ammunition.

Section 2321 (QUALIFICATIONS AND PROCEDURES TO OBTAIN A FIREARMS DEALER'S LICENSE) is amended to read as follows:

2321 QUALIFICATIONS AND PROCEDURES TO OBTAIN A FIREARMS DEALER'S LICENSE

- 2321.1 A person is eligible to become a licensed dealer of firearms if that person:
- (a) Is eligible to register a firearm under this chapter;
 - (b) Is eligible under federal law to engage in such business; and
 - (c) Has not previously violated any statutory duty of a licensed dealer if that person earlier was a licensed dealer.
- 2321.2 The license issued to a firearms dealer shall be valid for a period of not more than one (1) year from the date of issuance.
- 2321.3 To deal firearms lawfully, the holder of a firearms dealer's license must also comply with any other license or zoning procedures required by law, including having a certificate of occupancy and a basic business license issued by the Department of Consumer and Regulatory Affairs in accordance with applicable provisions in the District of Columbia Municipal Regulations.
- 2321.4 Prior to applying to the Firearms Registration Section for a firearm dealer's license, an applicant must first obtain a Federal Firearms Dealer's License issued by the Bureau of Alcohol, Tobacco, and Firearms.
- 2321.5 Each application for a dealer's license and renewal shall be made on a form prescribed by the Chief, shall be sworn to or affirmed by the applicant, and shall contain:
- (a) All information required by § 203 of the Act (D.C. Official Code § 7-2502.03 (2013 Supp.));
 - (b) The address where the applicant conducts or intends to conduct his/her business;
 - (c) Whether the applicant, prior to September 24, 1976, held a license to deal in deadly weapons in the District; and
 - (d) Such other information as the Chief may require including, but not limited to, fingerprints and photographs of the applicant.

Section 2323 (DISTRICT ROSTER OF HANDGUNS DETERMINED NOT TO BE UNSAFE) is amended to read as follows:

2323 DISTRICT ROSTER OF HANDGUNS DETERMINED NOT TO BE UNSAFE

2323.1 The Metropolitan Police Department shall establish the District Roster of Handguns Determined Not to be Unsafe (District Roster). Pursuant to § 504(e)(4) and 504(f) of the Act (D.C. Official Code § 7-2505.04 (e)(4) & (f) (2012 Repl.)), the District Roster shall constitute the roster of pistols that may be manufactured, sold, given, loaned, exposed for sale, transferred, or imported into the District of Columbia notwithstanding § 504(a) of the Act, and that may be owned or possessed within the District of Columbia notwithstanding § 504(b) of the Act.

2323.2 The District Roster shall include:

- (a) Any pistol that is on the California Roster of Handguns Certified for Sale (also known as the California Roster of Handguns Determined Not to be Unsafe) (California Roster), pursuant to California Penal Code § 12131, as of January 1, 2009, unless such pistol is an unregistrable firearm pursuant to § 202 of the Act (D.C. Official Code § 7-2502.02 (2013 Supp.));
- (b) Any pistol that was listed on the California Roster prior to January 1, 2009, which was, or is subsequently, removed from the California Roster for any reason not related to the pistol's safety;
- (c) Any pistol listed on the January 1, 2009, Maryland Department of State Police Official Handgun Roster, as of January 1, 2009, published as Attachment A to this section, unless such pistol is an unregistrable firearm pursuant to § 202 of the Act (D.C. Official Code § 7-2502.02 (2013 Supp.)); and
- (d) Any pistol listed on the Commonwealth of Massachusetts Executive Office of Public Safety and Security Approved Firearms Roster, as of April 2, 2009, published as Attachment B to this section, unless such pistol is an unregistrable firearm pursuant to § 202 of the Act (D.C. Official Code § 7-2502.02 (2013 Supp.)).

2323.3 A pistol shall be deemed to be included on the District Roster if another pistol made by the same manufacturer is already listed and the unlisted pistol differs from the listed firearm only in one (1) or more of the following features:

- (a) Finish, including, but not limited to, bluing, chrome-plating, oiling, or engraving.
- (b) The material from which the grips are made.
- (c) The shape or texture of the grips, so long as the difference in grip shape or texture does not in any way alter the dimensions, material, linkage, or functioning of the magazine well, the barrel, the chamber, or any of the components of the firing mechanism of the pistol.

- (d) Any other purely cosmetic feature that does not in any way alter the dimensions, material, linkage, or functioning of the magazine well, the barrel, the chamber, or any of the components of the firing mechanism of the pistol.

2323.4 Any applicant seeking to have a pistol registered under § 2323.3 shall provide to the Chief all of the following:

- (a) The model designation of the listed firearm.
- (b) The model designation of each firearm that the applicant seeks to have registered under this section.
- (c) A statement, under oath, that each unlisted pistol for which registration is sought differs from the listed pistol only in one (1) or more of the ways identified in § 2323.3 and is in all other respects identical to the listed pistol.

2323.5 Any decision refusing registration pursuant to this section may be appealed to the Chief pursuant to § 210 of the Act (D.C. Official Code § 7-2502.10 (2012 Repl.)), and thereafter to the Office of Administrative Hearings, pursuant to D.C. Official Code § 2-1831.03(b-2) (2012 Repl.). In any such appeal, the applicant shall bear the burden of demonstrating that the Chief's decision should be reversed and registration permitted.

2323.6 The make and model of any pistol registered pursuant to §§ 2323.3 through 2323.5 shall be recorded by the Metropolitan Police Department in such a manner to allow the Chief to waive the requirements of § 2323.4 in the event an additional applicant seeks registration for an identical pistol.

Section 2324 (INTERPRETATION OF ASSAULT WEAPONS DEFINITION) is amended to read as follows:

2324 INTERPRETATION OF ASSAULT WEAPONS DEFINITION

2324.1 Section 101 Paragraph 3A of the Act (D.C. Official Code § 7-2501.01(3A) (2013 Supp.)) defined the term "assault weapon" and § 202(a)(6) of the Act (D.C. Official Code § 7-2502.02(a)(6) (2013 Supp.)) declared that an "assault weapon" may not be registered in the District.

2324.2 In those instances where the definition of "assault weapon" refers to a firearms manufacturer or description without including a specific model reference, the term "assault weapon" shall be interpreted to include only those firearms produced by such manufacturer, or possessing such description, that share characteristics similar to the firearms enumerated in § 101 Paragraph 3A(A)(i)(I) through (III) of the Act (D.C. Official Code § 7-2501.01 (3A)(A)(i)(I) through (III) (2013 Supp.)), or possess any of the enumerated characteristics listed in § 101 Paragraph 3A(A)(i)(IV) through (VIII) and 3A(A)(ii) through (iii) of the Act (D.C. Official Code § 7-2501.01(3A)(A)(i)(IV) through (VIII) and (3A)(A)(ii) through (iii) (2013 Supp.)).

- 2324.3 A firearm that is produced by a manufacturer or possesses a description that is included in the definition of “assault weapon” referred to in § 2324.1, but which does not share characteristics similar to the enumerated firearms or the enumerated characteristics described in § 2324.2, may be registered; provided, that the firearm is not otherwise prohibited from registration under District or Federal law or regulation.

Section 2325 (PRE-1985 PISTOLS) is amended to read as follows:

2325 PRE-1985 PISTOLS

- 2325.1 Any pistol with a single action firing mechanism manufactured prior to 1985 shall be exempt from the application of § 504 of the Act (D.C. Official Code § 7-2505.04 (2012 Repl.)).
- 2325.2 Any pistol manufactured prior to 1985, not subject to § 2325.1, shall be deemed included on the District Roster established pursuant to § 2323.

A new Section 2326 is added to read as follows:

2326 RENEWAL OF FIREARM REGISTRATION

- 2326.1 Pursuant to § 207a of the Act, a registration certificate shall expire three (3) years after the date of issuance, unless renewed in accordance with the Act and this section or otherwise stated in law or regulation.
- 2326.2 Firearms registered before January 1, 2011 shall be renewed as follows:
- (a) A registrant shall appear in person at the Firearms Registration Section and submit an attestation containing the following information:
 - (1) Confirmation that the registrant continues to possess the firearm or firearms that were previously registered;
 - (2) The registrant’s current residential address; and
 - (3) Confirmation that the registrant is compliant with each of the registration requirements under § 203(a) of the Act (D.C. Official Code § 7-2502.03(a) (2013 Supp.)).
 - (b) A registrant shall also submit to being fingerprinted.
- 2326.3 Registrants subject to § 2326.2 shall be required to renew their registration pursuant to the following schedule based on the registrant’s date of birth:
- (a) If born between January 1 and February 15, the renewal period is between January 1, 2014 and March 31, 2014;
 - (b) If born between February 16 and March 31, the renewal period is between April 1, 2014 and June 30, 2014;
 - (c) If born between April 1 and May 15, the renewal period is between July 1, 2014 and September 30, 2014;

- (d) If born between May 16 and June 30, the renewal period is between October 1, 2014 and December 31, 2014;
- (e) If born between July 1 and August 15, the renewal period is between January 1, 2015 and March 31, 2015;
- (f) If born between August 16 and September 30, the renewal period is between April 1, 2015 and June 30, 2015;
- (g) If born between October 1 and November 15, the renewal period is between July 1, 2015 and September 30, 2015; and
- (h) If born between November 16 and December 31, the renewal period is between October 1, 2015 and December 31, 2015.

2326.4 If a registrant fails to renew his or her registration during the renewal period listed in § 2326.3, the registrant shall be subject to the following:

- (a) If the registrant fails to renew within thirty (30) days of the end of renewal period listed in § 2326.3, the renewal shall be processed as if submitted on time;
- (b) If the registrant fails to renew more than thirty (30) days but fewer than ninety (90) days after the end of the renewal period listed in § 2326.3, the registrant shall pay twice the amount of the firearm registration fee listed in § 2331.1; and
- (c) If the registrant fails to renew ninety (90) days or more after the end of the renewal period listed in § 2326.3:
 - (1) The registrant's registration shall be cancelled;
 - (2) The registrant shall be treated as a new registrant subject to §§ 2305 through 2313; and
 - (3) The firearm shall be subject to § 202 of the Act.

Section 2331 (FEES) is amended to read as follows:

2331 FEES

2331.1 The following fees shall be charged in connection with the services provided under this chapter:

- (a) Accident reports – \$ 3.00;
- (b) Arrest records – \$7.00;
- (c) Fingerprints – \$35.00;
- (d) Firearm registration – \$13.00;
- (e) [RESERVED]; and
- (f) Transcript of records – \$3.00.

Section 2399 (DEFINITIONS) is amended to read as follows:

2399 DEFINITIONS

2399.1 When used in this chapter, and in forms prescribed under this chapter, where not otherwise distinctly expressed or manifestly incompatible with the intent of the Act or this chapter, the following terms shall have the meanings ascribed:

Act – the Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code §§ 7-2501.01 *et seq.* (2012 Repl. and 2013 Supp.)).

Chief – the Chief of the Metropolitan Police Department.

Dealer – any person engaged in the business of buying, selling, or otherwise dealing in firearms, ammunition, or destructive devices at wholesale or retail; any person engaged in the business of repairing, testing, or analyzing firearms; any person engaged in the business of making or fitting special barrels, stocks, or trigger mechanisms for firearms or destructive devices; or any person repairing, testing, analyzing, or making any destructive device or ammunition.

Director – the commanding officer or acting commanding officer of the Police Business Services Division of the Metropolitan Police Department or their delegates.

Explosive or explosives – any chemical compound or mechanical mixture that contains any oxidizing and combustible units, or other ingredients, in such proportion, quantities, or packing that an ignition by fire, friction, concussion, percussion, or detonator, or any part of the compound or mixture, may cause a sudden generation of highly heated gasses that results in gaseous pressures capable of producing destructive effects on contiguous objects or of destroying life or limb. (Art. 9, § 3 of the Police Regulations).

Firearms Registration Section – a part of the Police Business Services Division of the Metropolitan Police Department, located in 300 Indiana Avenue, N.W., Washington, D.C. 20001.

Home – the principal place of residence of an individual in the District and limited to the interior of a house, condominium unit, cooperative unit, apartment, houseboat, or a mobile home, so long as that structure is not capable of unassisted movement. The term home does not include any common areas of any condominium unit, cooperative unit, or apartment.

Intrafamily offense – shall have the same meaning as provided in D.C. Official Code § 16-1001(8) (2012 Repl.).

Licensed dealer – a deadly weapons dealer licensed under the Act and this chapter.

Machine gun – means any firearm which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term “machine gun” shall also include the frame or receiver of any such firearm, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a firearm into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

Pistol – any firearm originally designed to be fired by use of a single hand or with a barrel less than 12 inches in length.

Supervisor – the person in charge of the Firearms Registration Section.

All persons desiring to comment on these proposed regulations should submit comments in writing to Kelly O’Meara, Executive Director, Strategic Change, Metropolitan Police Department, Suite 5117, 300 Indiana Avenue, N.W., Washington, D.C. 20001, or via e-mail at Gun.Regulations@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. 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.

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 (2012 Repl. & 2013 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) (2012 Repl.)), hereby gives notice of the repeal of Section 994, entitled “Respite Services” and adoption, on an emergency basis, of a new Section 1930, entitled “Respite Services” of 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 respite services provided to participants in the Home and Community-Based Waiver 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. These rules amend the previously published rules by: (1) specifying the service authorization requirements for respite services; (2) identifying documents that providers must maintain for monitoring and audit reviews; and (3) establishing new requirements for requesting extended or on-going respite services.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of respite services. The ID/DD Waiver serves some of the District’s most vulnerable residents. Respite care services are essential because they provide relief to the person’s family or primary caregiver to allow them the flexibility to attend and/or participate in planned or emergency situations. This service is necessary to prevent individuals from being institutionalized and or sent to a program located outside of the District of Columbia.

The emergency rulemaking was adopted on October 28, 2013 and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until February 24, 2014, 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 994 (Respite Services) of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the DCMR is repealed.

A new Section 1930 (Respite Services) is added to Chapter 19 (Home and Community-Based services for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the DCMR to read as follows:

1930 RESPITE SERVICES

1930.1 The purpose of this chapter is to establish standards governing Medicaid eligibility for respite 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 respite providers.

1930.2 Respite services provide relief to a person’s family or primary caregiver to enable them to participate in scheduled or unscheduled time away from the person, and to prevent gaps in the delivery of the person’s services.

1930.3 Medicaid-eligible respite services shall:

- (a) Consist of daily or hourly respite;
- (a) Be authorized by the person’s support team and provided in accordance with the ISP and Plan of Care; and
- (b) Be provided to persons who live in their own home, or their families’ home.

1930.4 To be eligible for Medicaid reimbursement, providers shall ensure that each person receives hands-on supports including, but not be limited to, the following areas:

- (a) Assistance with activities of daily living;
- (b) Coordination and provision of transportation to participate in community activities consistent with the person’s ISP and Plan of Care; and
- (c) Monitoring of the person’s health and physical condition, as well as assistance with medication administration or other medical needs.

1930.5 Medicaid reimbursable daily respite services shall be provided by:

- (a) A Group Home for Mentally Retarded Persons meeting the requirements set forth in Chapter 35 of Title 22 of the DCMR and certified as an intermediate care facility for persons with mental retardation in accordance with the federal conditions of participation;
 - (b) A Department on Disability Services (DDS) certified Residential Habilitation Services facility; or
 - (c) A DDS certified Supported Living Residence operated by a provider who has an approved human care agreement with DDS that stipulates the conditions for accepting respite placements.
- 1930.6 Medicaid reimbursable hourly respite services shall be provided by a home health agency licensed pursuant to the Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501 *et seq.*) in accordance with the requirements of Chapter 39 of Title 22-B of the DCMR.
- 1930.7 To be eligible for Medicaid reimbursement all respite providers shall:
- (a) Be certified by DDS as a Respite Provider Agency pursuant to the DDS Provider Certification Review Policy; and
 - (b) Comply with Sections 1904 (Provider Qualifications) and 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 of the DCMR.
- 1930.8 Each provider of Medicaid reimbursable respite services shall comply with the requirements under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 of the DCMR.
- 1930.9 Each provider of Medicaid reimbursable respite services shall comply with the requirements under Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 of the DCMR.
- 1930.10 To be eligible for Medicaid reimbursement, each Direct Support Professional (DSP) providing respite services shall comply with Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 of the DCMR.
- 1930.11 Medicaid reimbursement is not available if respite services are provided by the following individuals or provider:
- (a) The person's primary caregiver;

- (b) A spouse, parent of a minor child, or legal guardian of the person receiving respite services; or
 - (c) A provider already receiving reimbursement for the general care of the person.
- 1930.12 A relative not listed under Section 1930.11(b), including the person's sibling, aunt, uncle, or cousin, may deliver respite services if they meet the DSP requirements referenced under Section 1930.10 and are employed and trained by the respite provider.
- 1930.13 Medicaid reimbursement is not available for respite services when those services are provided to persons receiving Supported Living, Host Home or Residential Habilitation Services.
- 1930.14 Medicaid reimbursement for hourly respite services shall be nineteen dollars and ninety six cents (\$19.96) per hour and shall be limited to seven hundred twenty (720) hours per calendar year.
- 1930.15 The limitation set forth in § 1930.14 may be extended in situations when the primary caretaker is hospitalized or otherwise unable to continue as a primary caretaker and may only be extended until other arrangements are made for the person.
- 1930.16 Any request for reimbursement of hours in excess of seven hundred and twenty (720) shall be submitted to DDS for approval and include a justification and supporting documentation.
- 1930.17 To be eligible for Medicaid reimbursement, hourly respite services billed on the same day cannot exceed the reimbursement rate for daily respite services.
- 1930.18 Medicaid reimbursement for daily respite services shall be three hundred ten dollars (\$310) per day and shall be limited to thirty (30) days per calendar year.
- 1930.19 Daily respite service may be extended in situations when the primary caretaker is hospitalized or otherwise unable to continue as a primary caretaker and may only be extended until other arrangements are made for the person.
- 1930.20 Any request for hours in excess of thirty (30) calendar days shall be submitted to DDS for approval and include a justification and supporting documentation.

Comments on these rules should be submitted in writing to Linda Elam, Ph.D., M.P.H., Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 899 North Capitol Street, NE, 6th Floor, Washington DC 20002, via telephone on (202) 442-9115, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-212
November 8, 2013

SUBJECT: Reappointment and Rescission – District of Columbia Education
Licensure Commission

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 Repl.), and in accordance with section 4 of the Education Licensure Commission Act of 1976, effective April 6, 1977, D.C. Law 1-104, D.C. Official Code § 38-1304 (2012 Repl.), it hereby **ORDERED** that:

1. The following individuals are reappointed as members of the District of Columbia Education Licensure Commission (“Commission”) for a term to end August 15, 2013:

JOHNETTA DAVIS
GAILDA DAVIS
TERESA C. RICHARDSON

2. The following individual is reappointed as a member of the Commission for a term to end August 15, 2014:

TOMMIE L. ROBINSON


3. The following individual is appointed as a member of the Commission for a term to end August 15, 2014:

RICHARD J. ROTH

- 4. Mayor's Order 2012-44, dated April 2, 2012, is hereby rescinded in its entirety.
- 5. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to April 2, 2012.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-213
November 12, 2013


SUBJECT: Appointment – Board of Chiropractic

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 Repl.), and in accordance with section 216 of the District of Columbia Health Occupations Revision Act of 1985, effective March 21, 1995, D.C. Law 10-231, D.C. Official Code § 3-1202.16 (2012 Repl.), it is hereby **ORDERED** that:

1. **DR. CAROL HOPSON**, who was nominated by the Mayor on June 27, 2013, and deemed approved by the Council of the District of Columbia pursuant to Proposed Resolution 20-0361 on October 29, 2013, is appointed, as a doctor of chiropractic, member of the Board of Chiropractic, replacing Roderick Thomas, Jr., for the remainder of an unexpired vacant term to end October 23, 2014.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.


VINCENT C. GRAY
MAYOR

ATTEST: 
CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-214
November 12, 2013


SUBJECT: Appointment – District of Columbia State Rehabilitation Council

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) 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) (2012 Repl.), and by the Rehabilitation Act of 1973, as amended by the Workforce Investment Act of 1998, approved August 7, 1998, Pub. L. 105-220, 112 Stat. 1151, 29 U.S.C. § 725, and in accordance with Mayor's Order 2001-173, dated November 30, 2001, it is hereby **ORDERED** that:

1. **MARÍA R. BARRERA, Ed.D.**, is appointed, as an ex-officio member, and a designee representative of the Administrator of the Vocational Rehabilitation Agency, to the District of Columbia State Rehabilitation Council, and shall serve in that capacity at the pleasure of the Mayor.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.


VINCENT C. GRAY
MAYOR

ATTEST: 
CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-215
November 12, 2013

SUBJECT: Reappointment and Rescission – District of Columbia Contract Appeals Board


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 Repl.), and pursuant to section 1001 of the Procurement Practices Reform Act of 2010, effective April 8, 2011, D.C. Law 18-371, D.C. Official Code § 2-360.01 *et seq.* (2012 Repl.), it is hereby **ORDERED** that:

1. **MONICA PARCHMENT**, who was nominated by the Mayor on June 24, 2013, and approved by the Council of the District of Columbia pursuant to Resolution 20-0316 on November 5, 2013, is hereby reappointed as a member of the District of Columbia Contract Appeals Board, for a term to end on July 28, 2017.
2. Mayor's Order 2013-202, dated October 28, 2013, is hereby rescinded in its entirety.
3. **EFFECTIVE DATE:** This Order shall be effective immediately.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-216
November 14, 2013

SUBJECT: Appointment and Rescission – Acting Director, Office of Human Rights


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 Repl.), it is hereby **ORDERED** that:

1. **MONICA PALACIO** is appointed Acting Director of the Office of Human Rights, and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2011-20, dated January 2, 2011.
3. Mayor's Order 2013-205, dated October 29, 2013, is hereby rescinded in its entirety.
4. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to November 3, 2013.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
AGENDA

WEDNESDAY, NOVEMBER 20, 2013 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Request to Remove License from Safekeeping. ANC 2E. SMD 2E05. *Zenobia Lounge*, 1025 31st Street NW, Retailer CR, Lic#: 85003.

2. Review Request for Stipulated License supported by ANC 6B. SMD 6B01. *Sushi Capitol*, 325 Pennsylvania Avenue SE, Retailer D, Lic#: 92785.

3. Review Request for License Class from Class B to Class A. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. *Westchester Market*, 4000 Cathedral Avenue NW, Retailer B, Lic#: 77798.

4. Review Request for Change of Hours. *Approved Hours of Operations*: Sunday-8 am to 8 pm, Monday-Saturday 8 am to 10 pm. *Approved Hours of Sales and Consumption*: Sunday- Closed, Monday-Saturday 9 am to 10 pm. *Proposed Hours of Operations, Sales and Consumption*: Sunday-Saturday 7 am to 11:30 pm. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 5D. SMD 5D06. *Brother's Liquors*, 1140 Florida Avenue NE, Retailer A, Lic#: 84857.

5. Review Request for Change of Hours. (Proposing to Open Earlier). *Proposed Hours of Operations, Sales, Consumption with Summer Garden Operations, Sales and Consumption*: Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. ANC 1A SMD 1A03. *Lou's Bar and Grill*, 1400 Irving Street NW, Retailer CT, Lic#: 86419.

6. Review Request for New Class A License. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. *Newton Food Mart*, 3600 12th Street, NE.

7. Review FYI. Memo/Letter from *WRAP SoberRide*.

8. Review of Settlement Agreement dated October 12, 2013 between ANC 6B and Kilala Enterprises, LLC. *Sushi Capitol*, 325 Pennsylvania Avenue SE, Retailer D, Lic#: 092785.*

9. Review of Motion for Reconsideration dated November 4, 2013 from Carlos M. Recio, Counsel for Group of Five or More and ANC 5B. *Brookland's Finest*, 3126-3128 12th Street NE, Retailer CT, Lic#: 092010.*

10. Review of Request dated November 5, 2013 from E & J Gallo to provide retailers with products valued at more than \$50 and less than \$500.

11. Review of Request dated November 6, 2013 from E & J Gallo to provide retailers with products valued at more than \$50 and less than \$500.

12. Review of Request dated November 8, 2013 from E & J Gallo to provide retailers with products valued at more than \$50 and less than \$500.

13. Review of Request dated November 12, 2013 from E & J Gallo to provide retailers with products valued at more than \$50 and less than \$500.

14. Review of Emergency and Proposed Rules for East Dupont Circle Moratorium.

*** In accordance with D.C. Official Code §2-574(b) Open Meetings Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, NOVEMBER 20, 2013
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On November 20, 2013 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”

1. Case#13-AUD-00068 The Fairfax at Embassy Row, 2100 MASSACHUSETTS AVE NW
Retailer C Hotel, License#: ABRA-074721

2. Case#13-251-00126 BANDOLERO, 3241 M ST NW Retailer C Restaurant, License#:
ABRA-075631

3. Case#13-251-00128 Midtown, 1219 CONNECTICUT AVE NW Retailer C Nightclub,
License#: ABRA-072087

4. Case#13-CC-00113 Stop & Go Market, 3001 SHERMAN AVE NW Retailer B Retail -
Grocery, License#: ABRA-071763

5. Case#13-AUD-00071 Lalibela Ethiopian Restaurant, 1415 14TH ST NW Retailer C
Restaurant, License#: ABRA-023745

6. Case#13-CC-00112 Chalin's Restaurant, 1912 I ST NW Retailer C Restaurant, License#:
ABRA-001845

7. Case#13-AUD-00069 Hotel Tabard Inn, 1739 N ST NW Retailer C Hotel, License#: ABRA-
001445

8. Case#13-CC-00116 Soho Tea & Coffee, 2150 P ST NW Retailer D Restaurant, License#: ABRA-080603

9. Case#13-AUD-00072 Kushi Izakaya, 465 K ST NW Retailer C Restaurant, License#: ABRA-082439

10. Case#13-AUD-00065 Bar Louie, 701 7th ST NW Retailer C Restaurant, License#: ABRA-084428

11. Case#13-AUD-00074 EL CENTRO D.F., 1819 14TH ST NW Retailer C Restaurant, License#: ABRA-084847

12. Case#13-CMP-00552 NY NY Diva, 2406 - 2408 18th ST NW Retailer C Restaurant, License#: ABRA-092380

13. Case#13-CMP-00553 NY NY Diva, 2406 - 2408 18th ST NW Retailer C Restaurant, License#: ABRA-092380

14. Case#13-AUD-00066 Fuel Pizza & Wings, 600 F ST NW Retailer C Restaurant, License#: ABRA-088727

GOVERNMENT OF THE DISTRICT OF COLUMBIA**DEPARTMENT ON DISABILITY SERVICES****NOTICE OF BIMONTHLY PUBLIC MEETINGS**

District of Columbia Statewide Independent Living Council (SILC) Quarterly Meetings

The Department on Disability Services
Rehabilitation Services Administration
1125 15th St., NW
Conference Room 2B
Washington, DC 20005

The District of Columbia Statewide Independent Living Council (DCSILC) announces the 2014 General Meeting schedule. DCSILC meetings are open to the general public and will take place as scheduled by the Department on Disability Services Rehabilitation Services Administration (DDS-RSA) at 1125 15th Street, NW, Washington, DC 20005, in the 2nd floor conference room 2B from 12-2:00pm.

Meetings will occur bimonthly on the fourth Thursday of the selected month. The dates are as follows:

Thursday, January 23, 2014

Thursday, March 27, 2014

Thursday, May 22, 2014

Thursday, July 24, 2014

Thursday, September 25, 2014

All DCSILC general meetings are open to the public. Individuals who wish to attend and need accommodations should contact Ms. Dahlia Johnson, Administrative Assistant, DCSILC, at least seven (7) days prior to the scheduled meeting date, by phone, 202-442-8748 or email, dahlia.johnson@dc.gov.

BOARD OF ELECTIONS**CERTIFICATION OF ANC/SMD VACANCY**

The District of Columbia Board of Elections hereby gives notice that there is a vacancy in one (1) Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 4C02

Petition Circulation Period: **Monday, November 18, 2013 Monday, December 9, 2013**
Petition Challenge Period: **Thursday, December 12, 2013 thru Wednesday, Dec. 18, 2013**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections
441 - 4th Street, NW, Room 250N
Washington, DC 20001**

For more information, the public may call **727-2525**.

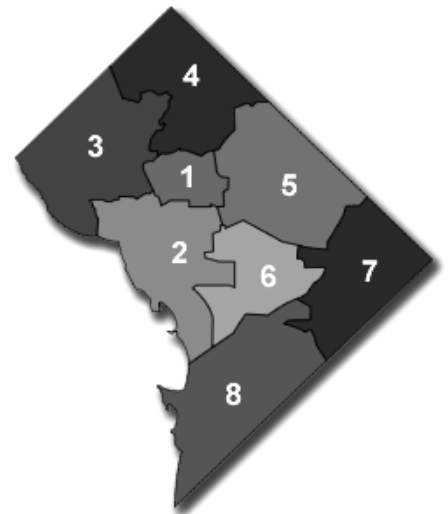
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of OCTOBER 31, 2013**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	40,445	2,548	702	23	123	11,156	54,997
2	28,149	5,478	206	32	125	10,726	44,716
3	36,142	6,901	350	24	103	11,538	55,058
4	44,938	2,144	494	11	132	8,670	56,389
5	47,252	1,881	530	17	135	8,175	57,990
6	47,535	5,920	499	32	158	12,014	66,158
7	47,592	1,220	429	2	105	6,752	56,100
8	44,808	1,213	404	4	163	7,041	53,633
Totals	336,861	27,305	3,614	145	1,044	76,072	445,041
Percentage By Party	75.69%	6.13%	.81%	.03%	.23%	17.09%	100.00%

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF OCTOBER 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 OCTOBER 31, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,259	30	6	1	7	184	1,487
22	3,422	296	29	2	8	918	4,675
23	2,560	161	54	2	4	700	3,481
24	2,285	211	29	2	7	738	3,272
25	3,480	387	65	1	6	1,075	5,014
35	3,243	193	62	0	8	964	4,470
36	3,925	258	64	1	9	1,114	5,371
37	2,936	124	47	0	7	668	3,782
38	2,488	126	50	2	8	698	3,372
39	3,943	204	85	5	12	986	5,235
40	3,691	199	93	2	19	1,104	5,108
41	3,116	186	59	3	15	1,001	4,380
42	1,663	60	28	2	6	458	2,217
43	1,567	61	22	0	3	347	2,000
137	867	52	9	0	4	201	1,133
TOTALS	40,445	2,548	702	23	123	11,156	54,997

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of OCTOBER 31, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	667	146	6	0	9	420	1,248
3	1,319	363	14	1	13	642	2,352
4	1,655	472	7	1	7	833	2,975
5	2,024	657	12	3	9	836	3,541
6	2,255	909	21	2	16	1,262	4,465
13	1,350	275	7	1		489	2,122
14	2,720	438	25	2	10	986	4,181
15	2,860	314	21	6	12	868	4,081
16	3,310	354	23	4	13	891	4,595
17	4,597	635	37	6	18	1,562	6,855
129	1,793	308	10	2	6	717	2,836
141	2,111	231	11	2	7	614	2,976
143	1,488	376	12	2	5	606	2,489
TOTALS	28,149	5,478	206	32	125	10,726	44,716

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of OCTOBER 31, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,144	385	17	0	3	525	2,074
8	2,214	614	22	2	7	715	3,574
9	1,081	488	7	2	7	459	2,044
10	1,624	407	10	1	8	600	2,650
11	3,159	900	39	3	5	1,312	5,418
12	454	188	2	0	2	210	856
26	2,938	374	30	3	3	979	4,327
27	2,414	288	16	2	5	622	3,347
28	2,135	508	30	3	6	739	3,421
29	1,112	226	10	0	4	372	1,724
30	1,193	216	16	0	4	263	1,692
31	2,238	316	19	0	9	544	3,126
32	2,592	322	22	0	5	612	3,553
33	2,857	353	34	4	11	769	4,028
34	3,809	573	30	1	12	1,363	5,788
50	1,967	284	14	2	9	465	2,741
136	903	137	8	1		357	1,406
138	2,308	322	24	0	3	632	3,289
TOTALS	36,142	6,901	350	24	103	11,538	55,058

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of OCTOBER 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,026	71	38	3	8	425	2,571
46	2,625	60	26	0	10	505	3,226
47	2,726	139	34	3	10	690	3,602
48	2,567	123	30	0	8	556	3,284
49	810	39	17	0	4	175	1,045
51	3,111	541	21	0	7	646	4,326
52	1,216	174	4	0	2	224	1,620
53	1,170	74	19	0	4	254	1,521
54	2,209	86	33	0	4	456	2,788
55	2,251	67	22	1	7	406	2,754
56	2,896	85	31	0	10	640	3,662
57	2,368	75	32	0	14	424	2,913
58	2,183	55	16	1	2	363	2,620
59	2,458	79	32	2	9	402	2,982
60	2,055	75	21	0	7	650	2,808
61	1,532	47	12	0	1	275	1,867
62	3,017	125	28	0	2	355	3,527
63	3,204	118	48	0	11	610	3,991
64	2,106	53	12	1	5	306	2,483
65	2,408	58	18	0	7	308	2,799
Totals	44,938	2,144	494	11	132	8,670	56,389

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of OCTOBER 31, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	3,770	171	54	5	8	899	4,907
44	2,716	203	26	3	12	616	3,576
66	4,302	100	38	1	9	476	4,926
67	2,867	97	26	0	7	389	3,386
68	1,818	130	28	2	8	383	2,369
69	2,037	70	17	0	9	262	2,395
70	1,390	65	18	1	2	217	1,693
71	2,259	55	28	1	7	336	2,686
72	4,156	108	24	0	13	713	5,014
73	1,795	87	33	2	7	346	2,270
74	3,883	176	52	0	10	752	4,873
75	3,009	119	46	0	4	655	3,833
76	1,254	54	11	0	3	243	1,565
77	2,624	93	28	0	6	462	3,213
78	2,750	77	32	0	7	419	3,285
79	1,794	66	15	1	7	295	2,178
135	2,826	172	44	1	12	512	3,567
139	2,002	38	10	0	4	200	2,254
TOTALS	47,252	1,881	530	17	135	8,175	57,990

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of OCTOBER 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	3,828	390	45	1	16	1,013	5,293
18	3,909	243	40	1	14	855	5,062
21	1,097	58	18	1	3	242	1,419
81	4,440	330	45	2	14	936	5,767
82	2,406	255	26	1	10	543	3,241
83	3,480	406	33	5	9	870	4,803
84	1,853	411	25	3	7	548	2,847
85	2,508	477	24	1	7	738	3,755
86	2,192	265	25	0	7	498	2,987
87	2,582	220	19	1	9	531	3,362
88	2,071	288	15	0	8	526	2,908
89	2,396	655	21	4	5	763	3,844
90	1,538	261	12	1	5	479	2,296
91	3,891	352	37	3	16	935	5,234
127	3,612	248	48	2	12	753	4,675
128	2,059	178	29	1	7	575	2,849
130	771	317	9	1	2	286	1,386
131	1,615	411	12	3	5	567	2,613
142	1,287	155	16	1	2	356	1,817
TOTALS	47,535	5,920	499	32	158	12,014	66,158

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of OCTOBER 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,407	73	14	0	7	260	1,761
92	1,576	36	11	1	6	242	1,872
93	1,517	42	16	0	4	212	1,791
94	1,975	48	16	0	1	261	2,301
95	1,650	45	15	0		299	2,009
96	2,307	65	24	0	7	360	2,763
97	1,503	33	13	0	3	194	1,746
98	1,767	41	25	0	4	252	2,089
99	1,464	43	15	0	5	226	1,753
100	2,137	41	13	0	4	263	2,458
101	1,666	31	18	0	5	179	1,899
102	2,450	50	27	0	6	312	2,845
103	3,581	89	36	0	12	563	4,281
104	2,915	76	28	0	9	435	3,463
105	2,367	57	23	0	3	377	2,827
106	2,931	65	22	0	6	438	3,462
107	1,880	56	17	0	4	279	2,236
108	1,110	24	5	0		119	1,258
109	927	32	7	0	1	89	1,056
110	3,634	94	28	1	7	410	4,174
111	2,435	60	22	0	7	356	2,880
113	2,223	62	18	0	2	279	2,584
132	2,170	57	16	0	2	347	2,592
TOTALS	47,592	1,220	429	2	105	6,752	56,100

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of OCTOBER 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,048	53	9	1	7	286	2,404
114	3,104	105	26	0	17	497	3,749
115	2,848	66	17	1	9	602	3,543
116	3,782	99	38	0	13	551	4,483
117	1,844	45	14	0	9	276	2,188
118	2,637	67	27	1	9	379	3,120
119	2,837	108	39	0	11	539	3,534
120	1,920	38	20	0	4	315	2,297
121	3,252	71	33	1	13	487	3,857
122	1,758	45	18	0	5	252	2,078
123	2,204	85	21	0	12	336	2,658
124	2,582	62	14	0	4	355	3,017
125	4,700	115	42	0	12	732	5,601
126	3,826	112	38	0	19	681	4,676
133	1,395	43	10	0	5	180	1,633
134	2,138	40	26	0	5	270	2,479
140	1,933	59	12	0	9	303	2,316
TOTALS	44,808	1,213	404	4	163	7,041	53,633

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 9/30/2013 and 10/31/2013

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	357,329	29,341	3,958	130	1,161	80,388	472,307
Board of Elections Over the Counter	19	1	0	0	0	5	25
Board of Elections by Mail	61	6	0	0	0	22	89
Board of Elections Online Registration	87	7	6	1	0	24	125
Department of Motor Vehicle	1,087	173	15	11	4	448	1,738
Department of Disability Services	5	1	0	0	0	1	7
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	0	0	0	0	0	0	0
Department of Human Services	24	2	0	0	0	14	40
Special / Provisional	0	0	0	0	0	0	0
All Other Sources	87	6	1	0	1	25	120
+Total New Registrations	1,371	196	22	12	5	539	2,145

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	97	7	2	1	1	22	130
Administrative Corrections	8	0	1	0	0	25	34
+TOTAL ACTIVATIONS	105	7	3	1	1	47	164

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	21,022	2,046	353	0	117	4,515	28,053
Moved Out of District (Deleted)	1	0	0	0	0	1	2
Felon (Deleted)	0	0	0	0	0	0	0
Deceased (Deleted)	19	1	0	0	0	3	23
Administrative Corrections	1,112	184	22	3	2	172	1,495
-TOTAL DEACTIVATIONS	22,154	2,231	375	3	119	4,691	29,573

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	315	45	15	6	6	115	
- Changed From Party	-105	-53	-9	-1	-10	-326	
ENDING TOTALS	336,861	27,305	3,614	145	1,044	76,072	445,041

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2014

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #6047-R2 to operate one (1) 60 kW diesel-fired emergency generator set at the Cellco Partnership (DBA Verizon Wireless) property located at 10 Thomas Circle NW, Washington, DC 20005. The contact person for the facility is Pat Coby at (301) 512-2464.

The permit application and supporting documentation, along with the draft permit are all available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a public hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments postmarked after December 16, 2013 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2014

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #6052-R2 to operate one (1) 80 kW diesel-fired emergency generator set at the Cellco Partnership (DBA Verizon Wireless) property located at 4300 Harewood Road NE, Washington, DC 20017. The contact person for the facility is Pat Coby at (301) 512-2464.

The permit application and supporting documentation, along with the draft permit are all available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

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Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

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DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2014

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #6053-R2 to operate one (1) 230 kW diesel-fired emergency generator set at the Cellco Partnership (DBA Verizon Wireless) property located at 4801 Massachusetts Avenue NW, Washington, DC 20016. The contact person for the facility is Pat Coby at (301) 512-2464.

The permit application and supporting documentation, along with the draft permit are all available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

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Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments postmarked after December 16, 2013 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2014

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue an air quality permit (#6737) to the ASU Holdings LLC, to operate an auto body paint spray booth at the Patriot Auto Services and Auto Body shop at 909 Franklin Street NE. The contact person for the facility is Moe Rahim, Owner, at (202) 636-7280.

Emissions:

The maximum estimated potential emissions of volatile organic compound (VOC) from the auto body paint spray booth equipment, operating fifty two weeks (52) per year, is expected to be as follows:

	Maximum Annual Emissions
Pollutant	(tons/yr)
Volatile Organic Compounds (VOC)	5.85

The proposed emission limits are as follows:

- a. No chemical strippers containing methylene chloride (MeCl) shall be used for paint stripping at the facility. [20 DCMR 201.1]
- b. Paints and refinishing coatings that contain volatile organic compounds (VOCs) in excess of the limits specified in Table I below, including any VOC containing materials added to the original coating supplied by the manufacturer, shall be prohibited. [20 DCMR 718.3]

Table I: Allowable Content of VOCs in Mobile Equipment Repair and Refinishing Coatings (*as applied*)

Coating Type	Weight	Limit*
	(Pounds per gallon)	(Grams per liter)
Automotive pretreatment primer	6.5	780
Automotive primer-surfacer	4.8	575
Automotive primer-sealer	4.6	550
Automotive topcoat:		
single stage-topcoat	5.0	600
2 stage basecoat/clearcoat	5.0	600
3 or 4-stage basecoat/clearcoat	5.2	625
Automotive multi-colored topcoat	5.7	680
Automotive specialty coating	7.0	840

*Weight of VOC per volume of coating (minus water and non-VOC solvents)

- c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited [20 DCMR 903.1]
- d. Visible emissions shall not be emitted into the outdoor atmosphere from the paint booth. [20 DCMR 201.1, 606 and 903.1]

The permit application and supporting documentation, along with the draft permit are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after December 16, 2013 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2014

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #6811 to the International City/County Management Association – Retirement Corporation (ICMA-RC) to operate one (1) 500 kW diesel-fired emergency generator set at 777 North Capitol Street NE, Washington, DC 20002. The contact person for the facility is Ms. Elizabeth Glista, Senior Vice-President and Chief Financial Officer at (202) 962-8255.

Emissions:

Maximum annual potential emissions from the unit are expected to be as follows:

	Maximum Annual Emissions
Pollutant	(tons/yr)
Particulate Matter (PM) (Total)	0.0260
Sulfur Oxides (SOx)	0.0023
Nitrogen Oxides (NOx)	2.52
Volatile Organic Compounds (VOC)	0.0572
Carbon Monoxide (CO)	0.16

The proposed overall emission limits for the equipment are as follows:

- a. Emissions from the unit shall not exceed those in the following table, as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]:

Pollutant Emission Limits (g/kW-hr)		
NMHC+NOx	CO	PM
6.4	3.5	0.20

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the

public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The permit application and supporting documentation, along with the draft permit are all available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a public hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments postmarked after December 16, 2013 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

Office of Government Ethics

BEGA – Advisory Opinion – Unredacted - 1009-007

October 25, 2013

The Honorable Yvette Alexander
Councilmember, Ward 7

The Honorable Anita Bonds
Councilmember, At Large

The Honorable Mary Cheh
Councilmember, Ward 3

The Honorable David Grosso
Councilmember, At Large

The Honorable Kenyan McDuffie
Councilmember, Ward 5

Dear Councilmembers:

This responds to your September 16, 2013 letter,¹ in which you seek guidance from the Office of Government Ethics on the subject of blind trusts. Specifically, you request an advisory opinion “on when and how Councilmembers can create and use blind trusts.”

As you probably know, the use of blind trusts – or, as will be discussed here, “qualified blind trusts” – is commonplace in the federal government, even though there is no law generally requiring federal employees to divest financial assets. In the usual case, the employee transfers, without restriction, control and management of private financial assets to an independent trustee who may not communicate information about the identity of the holdings in the trust, except to inform the employee when an original asset has been disposed of or its value has become less than \$1,000.² The trust is considered “blind” because, through the eventual sale of transferred assets and the purchase of new ones, the employee will be shielded from knowledge of the identity of the specific assets in the trust. To that extent, from a government ethics standpoint,

¹ The letter was mailed, and I did not receive it until September 26, 2013.

² See generally 5 U.S.C. app. 4 § 102(f)(3) (setting out requirements for qualified blind trusts).

any newly purchased asset is not considered a financial interest of the employee, for purposes of 18 U.S.C. § 208³ and any other federal conflict of interest statute or regulation. *See* 5 U.S.C. app. 4 § 102(f)(4)(A).

For senior executive branch employees, one of the preconditions to using a qualified blind trust is that the trust receive prior approval by the employee's supervising ethics office. *See* 5 U.S.C. app. 4 § 102(f)(3)(D). Members of Congress can voluntarily set up a qualified blind trust, as long as it meets certain requirements, including prior approval, otherwise applicable to executive branch employees. *See* 5 U.S.C. app. 4 § 109(18)(A) (designating the Senate Select Committee on Ethics to monitor qualified blind trusts of Senators and Senate officers and employees); *id.* at § 109(18)(B) (designating the House Committee on Standards of Official Conduct to monitor qualified blind trusts for U.S. Representatives and House officers and employees).

However, while 18 U.S.C. § 208 applies to District government employees, including members of the Council,⁴ federal law is silent on what office would approve a qualified blind trust for Councilmembers. Indeed, as I have confirmed with the federal Office of Government Ethics ("U.S. OGE"), there currently is no provision in federal law pursuant to which a District official can even establish such a trust.⁵

Local law is equally unhelpful. Although the Ethics Act mentions trusts in several places,⁶ it is silent on the trust approval question, as well as on the subject of blind trusts altogether. To be sure, the Ethics Act does contain language similar to 18 U.S.C. § 208(a) that could, in an indirect way, suggest the use of a blind trust as a possible means to avoid financial conflicts of interest. *See* section 223 of the Act (D.C. Official Code § 1-1162.23) (prohibiting involvement in particular matters "in a manner that the employee *knows* is likely to have a direct and predictable effect on the employee's financial interests or the financial interests of a person closely affiliated with the employee") (emphasis added). The argument in favor of blind trusts would be that the knowledge component of the conflict of interest provision could not be proved if the trust beneficiary had no knowledge of how the trust funds were invested. I do not completely discount this view, although the better course would be for the Council to follow the federal

³ Section 208(a) prohibits an individual from "participat[ing] personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, *to his knowledge*, he...has a financial interest." (Emphasis added.)

⁴ Section 208(a) applies to anyone who is "an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee."

⁵ The relevant regulation, 5 C.F.R. § 2634.402, defines "employee," for purposes of the subpart on qualified trusts, as "an officer or employee of the executive branch of the United States."

⁶ *See* section 101(4) (D.C. Official Code § 1-1161.01(4)) (defining "business" to include a trust); *see also* section 224(a)(1)(A)(i) (D.C. Official Code § 1-1162.21(a)(1)(A)(i)) (requiring public officials to file an annual public report containing a statement of, among other things, "a beneficial interest, including, whether held in such person's own name, in trust, or in the name of a nominee, securities, stocks, stock options, bonds, or trusts, exceeding in the aggregate \$1,000, or that produced income of \$200").

government's lead and enact legislation specifically authorizing the use of blind trusts, providing for an approval process for individual trust instruments,⁷ and establishing disclosure requirements. At a minimum, such legislation should mirror relevant federal law and regulations or be even more restrictive. However, I must caution that there would still be the risk that the U.S. OGE would not recognize the trusts – or, under a given set of facts, an individual trust – for purposes of applying 18 U.S.C. § 208 to District government employees.

None of the foregoing is intended to suggest that Councilmembers cannot establish and use blind trusts.⁸ Rather, my point is that, even if the Council were to adopt legislation as suggested in the preceding paragraph, no office in the federal government, including the U.S. OGE, presently has the authority to approve or monitor a Councilmember's trust, so as to provide any measure of protection against a criminal prosecution under 18 U.S.C. § 208.⁹ Federal law would also have to change, then, to make that protection possible.

In sum, the current state of both federal and local law is such that I cannot respond to your request with any more particularity other than to say that the current use of a blind trust by a Councilmember carries with it the real risk of potential ethics violations, even if that trust is intended to avoid conflicts of interest.

Please let me know if you have any questions or wish to discuss this matter. I may be reached at 202-481-3411, or by email at darrin.sobin@dc.gov.

Sincerely,

_____/s/_____
DARRIN P. SOBIN
Director of Government Ethics
Board of Ethics and Government Accountability

Copy to: V. David Zvenyach, General Counsel to the Council

1009-007

⁷ Presumably, the legislation would grant approval authority to the Council's General Authority or to the Director of Government Ethics.

⁸ In fact, on at least two occasions, the Office of Campaign Finance ("OCF") has approved, with certain restrictions, the use of blind trusts as a means to defray Marion Barry's legal expenses when he was Mayor. *See* OCF Interpretive Opinions Nos. 90-04 (March 23, 1990) and 95-05 (November 29, 1995). However, I take issue with both Opinions, if for no other reason than that neither discusses the potential impact of relevant federal ethics laws. Further, I express no opinion here as to whether the use of such trusts would survive scrutiny under section 328 of the Campaign Finance Act of 2011 (D.C. Official Code § 1-1163.28) (Legal defense committees – organization).

⁹ As the District's Director of Government Ethics, I have no such authority, nor does the Ethics Board itself.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF PUBLIC MEETING

District of Columbia Health Information Exchange Policy Board

The District of Columbia Health Information Exchange Policy Board, pursuant to the requirements of Mayor's Order 2012-24, dated February 15, 2012, hereby announces a public meeting of the Board. The meeting will be held **Wednesday, November 20, 2013** at 2:00 pm in the **11th Floor Conference Room 1117** at 441 Fourth Street, NW, Washington, DC 20001.

The District of Columbia Health Information Exchange Policy Board meeting is open to the public. The topics to be discussed on the agenda include a Welcome and Introduction; Approval of the Minutes from the October 16, 2013 Meeting; Hospital HIE Connection Program; Public Health Upgrade; Project Update: Strategic, Operating and Sustainability Plan, and Evaluation Plan; CCIN Update: Care Management; New Business; and Subcommittee Reports.

If you have any questions, please contact Cleveland Woodson at (202) 724-7342.

DEPARTMENT OF HEALTH**NOTICE OF CERTIFICATION**

The Director of the Department of Health, pursuant to the authority set forth in Reorganization Plan No. 4 of 1996, hereby gives notice of certification of a drug for inclusion in the formulary of the District of Columbia AIDS Drug Assistance Program (ADAP). The HIV/AIDS Drugs Advisory Committee, at a meeting held on October 16, 2013, certified Tivicay (Dolutegravir) for inclusion on the ADAP program formulary. The U.S. Food and Drug Administration approved Tivicay (Dolutegravir) on August 12, 2013.

ADAP is designed to assist low income individuals having Human Immunodeficiency Virus (HIV) or Acquired Immunodeficiency Syndrome (AIDS) and related illnesses to purchase certain physician-prescribed, life-sustaining drugs that have been approved by the U.S. Food and Drug Administration for the treatment of HIV/AIDS and related illnesses. Rules for this Program may be found at 29 DCMR § 2000 *et seq.*

For further information, please contact Lawrence Frison, Deputy Bureau Chief, Care, Housing and Support Services, HIV/AIDS, Hepatitis, STD, and TB Administration at (202) 671-4900.

**Options Public Charter School
Request for Proposal (RFP)**

Options Public Charter School seeks bids for Transportation Services of its students for School Year 2013-2014. The bid should include individual prices for all services provided.

Bids must be received by 4:00 PM, Friday, November 22, 2013. They can be mailed or electronically submitted to cvincent@optionsschool.com

Please contact Dr. Charles Vincent for full RFP.

Dr. Charles Vincent
Options Public Charter School
1375 E Street NE
Washington, DC 20002
(202) 547-1028 ext 205

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 December 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 November 15, 2013. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary
 Recommended for appointment as a DC Notaries Public

Effective: December 15, 2013

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Ahmed O. Sneyba	Mohamed Saleck	Wells Fargo Bank 3325 14th Street, NW 20010
Alila	Suzanne	Klein Horning LLP 1275 K Street, NW, Suite 1200 20005
Baker	Melissa J.	The Ross Center for Anxiety & Related Disorders 5225 Wisconsin Avenue, NW, Suite 400 20015
Bakhit	Rasha	LivingSocial Inc. 1445 New York Avenue, NW 20005
Boyd	Roxana Elizabeth	Patton Boggs, LLP 2550 M Street, NW 20037
Brooks	Jordon	TD Bank 1753 Connecticut Avenue, NW 20009
Capotosto	Gregory	Bank of America, N.A. 730 15th street, NW 20005
Crowley	J'son A.	National Democratic Institute 455 Massachusetts Avenue, NW, 8th Floor 20001
Devilbiss	James Vincent	Food & Friends, Inc 219 Riggs Road, NE 20011
Dixon	Joy CB	O'Donoghue & O'Donoghue LLP 4748 Wisconsin Avenue, NW 20016
Evans-Cromer	Linda D.	State Farm Insurance Company 3201 New Mexico Avenue, NW, Suite 252 20016
Feehan	Carolyn	Mary's Center for Child and Maternal Care, Inc. 2333 Ontario Road, NW 20009
Foster	Karen T.	Orrick Herrington & Sutcliffe, LLP 1152 15th Street, NW 20005
Ghanim	Aly E.	USA Halal Chamber of Commerce, Inc. 1712 I Street, NW, Suite 602 20006

D.C. Office of the Secretary
Recommended for appointment as a DC Notaries PublicEffective: December 15, 2013
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Ghanim	Safia Chinye	USA Halal Chamber of Commerce, Inc. 1712 I Street, NW, Suite 602	20006
Grey	Geri	Hoya Federal Credit Union 3700 Reservoir Road, NW	20007
Griffin	Mark G.	Griffin, Murphy, Moldenhauer & Wiggins, LLP 1912 Sunderland Place, NW	20036
Gunn	Gaynell Fay	Greenberg Traurig, LLP 2101 L Street, NW, Suite 1000	20037
Guthrie	Margaret	AARP Foundation Litigation 601 E Street, NW	20049
Gutwein	Nancy	LivingSocial Inc. 1445 New York Avenue, NW	20005
Henry	Alesia	Self 1125 42nd Street, NE	20019
Heyward	Christopher	Office of the Attorney General 441 4th Street, NW, Suite 1060N	20001
Hoddinott	Kristin	America's Natural Gas Alliance 701 8th Street, NW, Suite 800	20001
Jackson	Bridgette	Relman, Dane & Colfax, PLLC 1225 19th Street, NW, Suite 600	20036
Jankowski	Thomas Michael	Law Office of T. Michael Jankowski, PLLC 1772 Hobart Street, NW	20009
Jennings	Barbara	Fox Rothschild LLP 1030 15th Street, NW, Suite 380 East	20005
Kase	Claire	Jones Lang LaSalle 1801 K Street, NW, Suite 1000	20006
Kolodzie	Katherine	Neal R. Gross & Company, Inc. 1323 Rhode Island Avenue, NW	20005

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Kumar	Rashee Raj	Office of the Attorney General of the District of Columbia 441 4th Street, NW, Suite 1060N	20002
Landgraff	Jennifer	First Financial Services, Inc. 1327 14th Street, NW, #101	20005
Lasso	Jilma M.	Lasso & Lasso 4530 Wisconsin Avenue, NW, Suite 220	20016
Lee	Stephanie	Neal R. Gross & Company, Inc. 1323 Rhode Island Avenue, NW	20005
Lewis, Jr.	Michael William	Wells Fargo 5100 Wisconsin Avenue, NW	20016
Lopez	Luis	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Lords	Tamara Marie	Klein Horning LLP 1275 K Street, NW, Suite 1200	20005
Lynch	Tara	Executive Office of the Deputy Mayor 1350 Pennsylvania Avenue, NW, Suite 307	20004
Mahadalle	Danita	Holiday Inn Central 1501 Rhode Island Avenue, NW	20005
Margulies	Adam	American Forests 734 15th Street, NW	20005
Marsh-Hunter	Stacie L.	Capital One Bank 1100 17th Street, NW	20036
Martin	Carolyn L.	Fannie Mae 3900 Wisconsin Avenue, NW	20016

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Mason	Kevin	American University Washington, DC 4400 Massachusetts Avenue, NW	20016
McDermott	Sharon	McArthur Franklin, PLLC 1101 Seventeenth Street, NW, Suite 820	20036
Mercer	Ashlee Gates	Bank of America 915 Rhode Island Avenue, NE	20018
Mindzak	Carol A.	Latham & Watkins, LLP 555 Eleventh Street, NW	20004
Moran	Suzanne M.	SunTrust Bank 1445 New York Avenue, NW	20005
Nueslein	Angela	World Wildlife Fund 1250 24th Street, NW	20037
Oudada	Najma	Wells Fargo 2901 M Street, NW	20007
Phillips	Michelle B.	Toyota Motor North America, Inc. 601 13th Street, NW, Suite 910 South	20005
Poirier	Dennis R.	TD Bank 1030 15th Street, NW	20005
Reinke	Kathryn	Arent Fox LLP 1717 K Street, NW	20036
Robinson	Madina M.	Orrick, Herrington & Sutcliffe, LLP 1152 15th street, NW	20005
Rodriguez	Veronica De La Vega	DLV Title & Settlements 1629 K Street, NW, Suite 300	20006
Ruffner	Patrick D.	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Schenewerk	Megan	National Republican Congress Committee 320 1st Street, SE	20003

D.C. Office of the Secretary
Recommended for appointment as a DC Notaries Public

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Shepard	Dawa	Capital One Bank 1700 K Street, NW	20006
Siegel	Steven A.	Davey Street Partners, LLC 3121 Adams Mill Road, NW	20010
Singleton	Harry M.	Harry M. Singleton, Attorney At Law 1250 Connecticut Avenue, NW, Suite 200	20036
Stevens	Darius	PNC Bank 4835 Massachusetts Avenue, NW	20016
Stevens	Mary Beth	Washington Gas 101 Constitution Avenue, NW	20080
Stocks	Sheila R.	Morrison & Foerster, LLP 2000 Pennsylvania Avenue,NW, Suite 6000	20006
Tapolo	David	Express Building Maintenance and Services, LLC 317 60th Street, NE	20019
Tekle	Kidist	Council of Chief State School Officers One Massachusetts Avenue, NW, Suite 700	20001
Venson	Netra	Higher Achievement 317 8th Street, NE	20002
Walker	Theresa J.	Wells Fargo Bank 1750 H Street, NW, Suite 400	20006
Willis	Shalonda	Agriculture Federal Credit Union 14th & Independence Avenue, SW, SM-2 South Building	20250
Wright, II	William A.	Wells Fargo Bank, N.A. 1901 7th Street, NW	20001
Yost	Cristina C.	O'Donoghue & O'Donoghue LLP 4748 Wisconsin Avenue, NW	20016

UNIVERSITY OF THE DISTRICT OF COLUMBIA
REGULAR MEETING OF THE BOARD OF TRUSTEES

NOTICE OF PUBLIC MEETING

The regular meeting of the Board of Trustees of the University of the District of Columbia will be held on Tuesday, November 19, 2013 at 4:00 p.m. in the Board Room, Third Floor, Building 39 at the Van Ness Campus, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008. Below is the planned agenda for the meeting. The final agenda will be posted to the University of the District of Columbia's website at www.udc.edu.

For additional information, please contact: Beverly Franklin, Executive Secretary at (202) 274-6258 or bfranklin@udc.edu.

Planned Agenda

- I. Call to Order and Roll Call
- II. Approval of Minutes – September 10, September 30, October 2, and October 9, 2013
- III. Report of the Chairperson – Dr. Crider
 - a. Vision 2020: A Roadmap for Renewal, Innovation, Success and Sustainability
- IV. Report of the President – Dr. Lyons
- V. Committee Reports
 - a. Executive – Dr. Crider
 - b. Committee of the Whole – Dr. Crider
 - c. Academic Affairs – Dr. Curry
 - d. Budget and Finance – Mr. Felton
 - e. Audit, Administration and Governance – Mr. Shelton
 - f. Student Affairs – General Schwartz
 - i. Communications Task Force
 - g. Community College – Mr. Dyke
 - h. Facilities – Mr. Bell
- VI. Unfinished Business
- VII. New Business
- VIII. Adjournment

Expected Meeting Closure

In accordance with Section 405(b) (10) of the Open Meetings Act of 2010, the Board of Trustees hereby gives notice that it may conduct an executive session, for the purpose of discussing the appointment, employment, assignment, promotion, performance, evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials.

WASHINGTON LATIN PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****School Development Consulting Services**

Issued: November 15, 2013

Scope of work:

Washington Latin is soliciting proposals from qualified vendors to provide school development consulting services including, but not limited to the following functions:

- Help the school increase capital campaign funds
- Help develop and articulate a mid- to long-term fundraising plan
- Prepare presentation materials for in-person engagement with potential donors as needed
- Prepare monthly written progress reports to Head of School
- Attend Board meetings as requested

Questions and proposals may be e-mailed directly to Washington Latin PCS (bpaul@latinpcs.org) with the subject line as the type of service, School Development Consulting Services. Deadline for submission is COB on Friday, November 22, 2013.

E-mail is the preferred method for responding, but you may also mail proposals and supporting documents to the following address, arriving by November 22.

Washington Latin Public Charter School
Attn: Business Office
5200 2nd Street, NW
Washington, DC 20011

WASHINGTON YU YING PUBLIC CHARTER SCHOOL

INVITATION FOR BID

Travel Management Services

Washington Yu Ying PCS is seeking competitive bids for organizing an educational China trip for our 5th grade students. Bids must express knowledge of country, language, and culture as well estimated fees.

Please send proposals to RFP@washingtoneying.org. Proposals must be received no later than the close of business on Monday, December 2nd, 2013.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Audit Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Audit Committee will be holding a meeting on Friday, November 22, 2013 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dcwater.com.

DRAFT AGENDA

- | | | |
|----|---------------------------------------------------------------|------------------|
| 1. | Call to Order | Chairman |
| 2. | Summary of Internal Audit Activity -
Internal Audit Status | Internal Auditor |
| 3. | Executive Session | Chairman |
| 4. | Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Environmental Quality and Sewerage Services Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Sewerage Services Committee will be holding a meeting on Thursday, November 21, 2013 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

- | | |
|----------------------------------------------------------|------------------------------------------------|
| 1. Call to Order | Committee Chairperson |
| 2. AWTP Status Updates
1. BPAWTP Performance | Assistant General Manager,
Plant Operations |
| 3. Status Updates | Chief Engineer |
| 4. Project Status Updates | Director, Engineering &
Technical Services |
| 5. Action Items
- Joint Use
- Non-Joint Use | Chief Engineer |
| 6. Emerging Items/Other Business | |
| 7. Adjournment | Committee Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Finance and Budget Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Friday, November 22, 2013 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

For additional information please contact: Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dcwater.com.

DRAFT AGENDA

- | | | |
|----|---------------------------------------|------------------------------|
| 1. | Call to Order | Chairman |
| 2. | October 2013 Financial Report | Director of Finance & Budget |
| 3. | Agenda for December Committee Meeting | Chairman |
| 4. | Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, November 19, 2013 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dewater.com.

DRAFT AGENDA

- | | |
|---------------------------------------------------|-------------------------|
| 1. Call to Order | Committee Chairman |
| 2. Retail Rates Committee Workplan | Chief Financial Officer |
| 3. Other Business | Committee Chairman |
| 4. Executive Session | Committee Chairman |
| 5. Agenda for December 20, 2013 Committee Meeting | Committee Chairman |
| 6. Adjournment | Committee Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Water Quality and Water Services Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Water Quality and Water Services Committee will be holding a meeting on Thursday, November 21, 2013, at 11:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

- | | |
|------------------------------------------|------------------------------------------|
| 1. Call to Order | Committee Chairperson |
| 2. Water Quality Monitoring | Assistant General Manager, Consumer Ser. |
| 3. Fire Hydrant Upgrade Program | Assistant General Manager, Consumer Ser. |
| 4. Action Items | Assistant General Manager, Consumer Ser. |
| 5. Emerging Issues/Other Business | Assistant General Manager, Consumer Ser |
| 6. Adjournment | Committee Chairperson |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18608 of Sheldon P. Schuman, pursuant to 11 DCMR § 3104.1, for a special exception for a new fast food establishment within a grocery store under § 733, in the C-2-A District at premises 1500 Independence Avenue, S.E. (Square 1072, Lot 5).

HEARING DATES: September 17, 2013 and October 29, 2013
DECISION DATE: October 29, 2013

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated July 10, 2012, from the Zoning Administrator, which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is needed for a special exception, pursuant to 11 DCMR §§ 3104.1 and 733.1 to permit an existing grocery store with a new fast food establishment on the first floor in a C-2-A District. (Exhibit 4.)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 6B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B submitted a letter of support dated September 15, 2013. The ANC’s letter indicated that at its regularly scheduled, properly noticed meeting on September 10, 2013, at which a quorum was present, the ANC voted 5-1-1 in support of the application. (Exhibit 25.)

The Office of Planning (“OP”) submitted two timely reports. The first OP report, dated September 10, 2013, stated that OP could not make a recommendation and asked for additional information from the Applicant.¹ (Exhibit 24.) OP filed a revised report dated October 22, 2013, in which OP recommended approval of the application, subject to one condition. (Exhibit 26.) The District Department of Transportation (“DDOT”) submitted a letter of no objection to the application, dated July 11, 2013. (Exhibit 23.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under § 733. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

¹ The public hearing of September 17, 2013 was postponed to allow the Applicant sufficient time in which to present the application before the ANC and supply OP with the requested information. The Applicant subsequently provided the necessary information to OP so it could perform an analysis of the application.

BZA APPLICATION NO. 18608**PAGE NO. 2**

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 773 that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application be **GRANTED, SUBJECT TO THE PLANS AT EXHIBIT 8 AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall obtain a Public Space Permit to accommodate the required trash enclosure on public space either along 15th Street, S.E. or Independence Avenue, S.E.
2. The Applicant shall ensure that signage and advertisement flyers on the exterior of the building are aesthetically pleasing that is compatible with the neighborhood and in accordance with D.C. Code.

VOTE: **3-0-2** (Lloyd J. Jordan, Marcie I. Cohen, and S. Kathryn Allen, to APPROVE; Jeffrey L. Hinkle, not present or voting; 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: November 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

BZA APPLICATION NO. 18608**PAGE NO. 3**

APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

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.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18614 of SMC United Industrial LP, pursuant to 11 DCMR § 3104.1, for a special exception to allow the continuation of a parking lot under § 213 (last approved pursuant to BZA Order No. 17049) in the R-1-B District at premises 2310 and 2320 31st Street, N.E. (Square 4365, Lots 805 and 806).

HEARING DATES: September 24, 2013 and October 29, 2013

DECISION DATE: October 29, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

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 mail to Advisory Neighborhood Commission ("ANC") 5C, and to owners of property within 200 feet of the site. The site is located within the jurisdiction of ANC 5C, which is automatically a party to this application. The ANC filed a request dated September 18, 2013, asking that the case record be left open to allow time for the Applicant to present its application before the ANC at its October 16, 2013 public meeting and for the ANC to vote. (Exhibit 30.) At the September 24, 2013 public hearing, the Board continued the public hearing in this case to October 29, 2013 and gave the ANC leave to submit a report. Rather than an ANC report, an executed agreement dated October 18, 2013, between the ANC, the Single Member District 5C04, the Gateway Community Association, and the Applicant, was submitted to the record whereby the ANC expressed its recommendation of conditioned support of the application.¹ (Exhibit 36.)

The Office of Planning ("OP") submitted a timely report in support of the application, with conditions including a recommendation for a 10-year term. (Exhibit 29.) The District Department of Transportation ("DDOT") submitted a report recommending "no objection." (Exhibit 27.)

A letter in support of the application and the agreement entered into with the ANC was submitted by Delano D. Hunter, President, Gateway Community Association. The Gateway Community Association was a signatory to the agreement between the Applicant and ANC. (Exhibit 32.)

A request for party status in opposition to the application was submitted by adjacent property owner Pamela Bundy, Managing Member, 30th Street Crescent LLC, 1350 Wallach

¹ The submitted agreement is similar to an agreement entered into with this Applicant for the previous 10-year period.

BZA APPLICATION NO. 18614

PAGE NO. 2

Place, N.W. (Exhibit 26.) Ms. Bundy, who was represented by counsel, withdrew her appearance in opposition by letter dated October 28, 2013. (Exhibit 37.)

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 pursuant to § 3104.1 for a special exception under § 213. No parties appeared at the public hearing in opposition to the application.² Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report³ filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the 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 party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO FOLLOWING CONDITIONS**:

1. Approval shall be for a period of ten (10) years from the effective date of this order.
2. The layout of the site shall be in accordance with the revised site plan marked as Exhibit 25 of the record.
3. The uses of Lots 805 and 806 shall be restricted to the following:
 - A. The parking lot is intended for use by the tenants of the adjacent warehouse to the south. No commuter parking or public parking use, other than employees of the neighborhood properties, shall be permitted at this facility at any time.
 - B. No vehicle maintenance, storage of equipment or dumping of trash or other refuse and debris shall be permitted on the site.

² Ms. Bundy who had filed a party status request had withdrawn that request.

³ The Board found that the ANC's concerns had been addressed and satisfied, even though the Board could not give "great weight" to the submission of the agreement with the ANC and the Applicant.

BZA APPLICATION NO. 18614

PAGE NO. 3

- C. Access to the parking lot may remain open during tenant business hours. The lot shall be locked or access shall be otherwise automatically controlled during non-tenant business hours.
 - D. Any lots not used for parking must be chained and locked.
 - E. The parking lot surfaces shall remain paved and in good working condition.
4. Lighting shall be required at the site and shall be directed downward toward the surface of the lot.
 5. If Lots 28 and 29, located to the north of the facility and currently owned by the Applicant, are developed in the future, the Applicant shall notify the Board, and a further proceeding shall be initiated in order to consider whether and to what extent an additional landscaped buffering between the residential and commercial land use is necessary.
 6. The Applicant shall maintain signage on the lot directing all vehicles exiting the lot to turn right on 31st Street, heading south toward V Street.
 7. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an approved impervious or pervious surface.
 8. No vehicle or any part thereof shall be permitted to project over any lot or building line, or on or over the public space.
 9. All parts of the lot shall be kept free of refuse or debris and shall be paved and landscaped. Landscaping and lawn areas shall be maintained in a healthy growing condition and in a neat and orderly appearance.
 10. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
 11. The Applicant shall remove existing razor wire fencing which is located along the top of the existing fence around the parking lot.

VOTE: **3-0-2** (Lloyd L. Jordan, S. Kathryn Allen, and Marcie I. Cohen, to APPROVE; Jeffrey L. Hinkle, not present or participating; a 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.

BZA APPLICATION NO. 18614
PAGE NO. 4

FINAL DATE OF ORDER: November 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 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

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.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC

BZA APPLICATION NO. 18614

PAGE NO. 5

INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18653 of Foundation Sweet Success, Inc., pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the floor area ratio requirements under § 931.2, and a special exception from the Miscellaneous Uses in the W-1 zone requirements under § 915, to allow restaurant, retail bakery and other related office uses in the entire building in the W-1 District at premises 3206 Grace Street, N.W. (Square 1188, Lot 121).¹

HEARING DATE: November 5, 2013
DECISION DATE: November 5, 2013 (Bench Decision)

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 ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. ANC 2E submitted a report dated October 6, 2013, in support of the application, which indicated that at a duly noticed, regularly scheduled monthly meeting of the ANC on September 30, 2013, at which a quorum was present, the ANC voted to support the application by a unanimous vote (6:0). The ANC's resolution referenced "an understanding" with the Applicant by which the Applicant shall enter into a covenant that will ensure the residential use or no use of the second floor if the Applicant vacates the property.² (Exhibit 24.) The Office of Planning ("OP") submitted a timely report in support of the application. (Exhibit 27.)

Variance Relief

As directed by 11 DCMR § 3119.2, the Board has required the applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from § 931.2. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

¹ The Applicant amended the application to add special exception relief from § 915. The caption has been altered accordingly.

² The Applicant testified at the public hearing about the understanding with the ANC referenced in the ANC report that the Applicant shall enter into a covenant with the property owner to ensure that the residential use or no use of the second floor if the Applicant vacates the property. Also, the Applicant testified that it was their understanding that the covenant would be outside of the BZA order and not a condition.

BZA APPLICATION NO. 18653**PAGE NO. 2**

Based upon 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 a variance from § 931.2, the applicant has met its 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 relief requested 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.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1 for special exception relief under § 915. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 915 and 3104.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE REVISED PLANS AT EXHIBIT 25.**

VOTE: **4-0-1** (Lloyd J. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle, and Michael G. Turnbull to APPROVE; 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 summary order.

FINAL DATE OF ORDER: November 12, 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.

BZA APPLICATION NO. 18653**PAGE NO. 3**

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.

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.

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

Shante Briscoe,

Complainant,

v.

Fraternal Order of Police/
Department of Corrections
Labor Committee and Election Committee,

Respondent.

PERB Case No. 10-S-09

Opinion No. 1023

Motion for Preliminary Relief

ORDER¹

IT IS HEREBY ORDERED THAT:

1. The Complainant's Motion for Preliminary Relief is denied.
2. Since the above-referenced case (PERB Case No. 10-S-09) and PERB Case Nos. 10-S-05, 10-S-07 and 10-S-08 involve common issues, we are granting the Fraternal Order of Police/Department of Corrections Labor Committee's Motion to consolidate. Therefore, PERB Case Nos. 10-S-05, 10-S-07, 10-S-08 and 10-S-09 are consolidated. The consolidated hearing will be held on July 1, 2010. The Notice of Hearing shall be issued five (5) days prior to the date of the hearing.
3. Following the hearing, the designated Hearing Examiner shall submit a Report and Recommendation to the Board no later than twenty-one (21) days following the conclusion

¹Since this matter concerns a Motion for Preliminary Relief, the Board has decided to issue its Order now. A decision will follow.

Order Concerning Motion for Preliminary Relief
PERB Case No. 10-S-09
Page 2

of closing arguments or the submission of post-hearing briefs.

4. Parties may file exceptions and briefs in support of the exceptions no later than seven (7) days after service of the Hearing Examiner's Report and Recommendation. A response or opposition to the exceptions may be filed no later than five (5) days after service of the exceptions.
5. Pursuant to Board Rule 559.1, this Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

June 23, 2010

CERTIFICATE OF SERVICE

This is to certify that the attached Order in PERB Case No. 10-S-09 was transmitted via U.S. Mail to the following parties on this the 23rd day of June 2010.

Shante Briscoe
6002 Bobcate Court
Waldorf, MD 20603

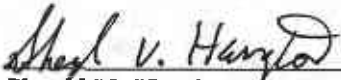
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Washington, D.C. 20009

FAX & U.S. MAIL

J. Michael Hannon, Esq.
1901 18th Street, N.W.
Washington, D.C. 20009

FAX & U.S. MAIL



Sheryl V. Harrington
Secretary

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD**

In the Matter of:)	
)	
District of Columbia Child and Family)	
Services Agency,)	
)	
Petitioner,	)	PERB Case No. 08-A-07
)	
and	)	Slip Op. No. 1025
)	
American Federation of State, County and)	
Municipal Employees, District Council 20,)	
Local 2401, AFL-CIO,)	
)	
Respondent.)	
)	

DECISION AND ORDER ON REMAND

I. Statement of the Case:

The District of Columbia Child and Family Services Agency ("CFSA" or "Agency") filed an Arbitration Review Request ("Request") in the captioned matter. CFSA seeks review of Arbitrator John Truesdale's award ("Award") of September 2, 2008, which rescinded the termination of three (3) employees. CFSA contends that: (1) the arbitrator exceeded his authority; and (2) the Award is contrary to law and public policy. (See Request at pgs. 5 and 7). The American Federation of State, County and Municipal Employees, District Council 20, Local 2401, AFL-CIO ("AFSCME" or "Union") opposes the Request.

The issues before the Board are whether "the award on its face is contrary to law and public policy" and "whether the arbitrator was without or exceeded his or her jurisdiction" in issuing the award. D.C. Code § 1-605.02(6) (2001 ed.). Specifically, CFSA asserts that the Arbitrator did not use the preponderance of the evidence standard in making his decision. (See Request at pgs. 5 and 7). In Slip Op. No. 956, the Board concluded that the Award was not clear as to what standard of proof was used; accordingly, the Board found that it could not make a determination concerning CFSA's Request without clarification of the Award. In Slip Op. No.

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956, the Board remanded this matter to Arbitrator Truesdale for clarification regarding the standard of proof used in the matter. See *CFSA and AFSCME, Local 2401*, Slip Op. No. 956, PERB Case No. 08-A-07 (May 21, 2010).

On June 2, 2010, Arbitrator Truesdale issued a document styled "Arbitrator's Clarification on Remand" ("Clarification on Remand") in which he clarified the standard of proof used. The parties' pleadings and Arbitrator Truesdale's Award and Clarification on Remand now are before the Board for disposition.

II. Background Information

In the initial Award, the Arbitrator stated that "[o]n January 8, 2008, the bodies of four children were discovered at the home of Banita Jacks, a resident of the District of Columbia. (See Award at p. 2). Prior to this time, on July 12, 2006 and April 27, 2007, there had been calls to the CFSA hotline concerning Banita Jacks' family situation. The last call triggered a CFSA investigation that began on April 28, 2007. CFSA Social Workers Nikole Smith, Carl Miller, and Foletia Nguasong were identified as personnel who had contact with the family as part of the investigation. On January 14, 2008, the CFSA gave each of the three (3) employees a 30-day advance notice of proposed removal. (See Award at p. 2). The proposed removal was based upon actions of the employees that: (1) "threatened the integrity of government operations," and (2) were "detrimental to public, health, safety and welfare." (Award at p. 2).

Pursuant to Article 7, Section 7 of the Master Agreement between AFSCME, District Council 20 and the Government of the District of Columbia, the employees were given the opportunity for a hearing regarding the proposed removal. (See Award at pgs. 2 and 4). On February 13, 2008, an agency Hearing Officer, recommended that the removal actions be dismissed. (See Award at pgs. 2-3). Notwithstanding the Hearing Officer's recommendation, the Mayor "prohibited the Agency Deciding Official from considering the Hearing Officer's recommendation.... [and the] CFSA Director, issued notices of final decision terminating the three (3) employees." (Award at p. 3). On March 6, 2008, the Union filed grievances on behalf of the employees. The Agency denied the grievances on March 27, 2008. On April 22, 2008, the Union invoked arbitration over the terminations. (See Award at p. 3).

The issue before Arbitrator Truesdale was: "Did the Agency have cause, as required by Article 7 of the collective bargaining agreement, to terminate Carl Miller, Nikole Smith and Foletia Nguasong and, if not, what shall be the remedy?" (Award at p. 2).

At the arbitration, the Agency argued that the Grievants were lawfully terminated from their positions for cause because they did not follow CFSA policy. (See Award at p. 14). Specifically, the Agency claimed that "[Ms.] Nikole Smith's failure to probe the July 2006 caller exhibited poor professional judgment. [Mr.] Carl Miller failed to report that the caller said that one of the children was being held hostage, and did not ask what the caller meant by her use of the 'hostage' language. [Also,] Mr. Foletia Nguasong failed to make contact with individuals

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with close ties, such as paternal grandparents, relatives, and neighbors who could have provided information on the family. When he received additional information, he failed to conduct any follow-up investigation to contact or locate the family. Instead, the case remained closed.” (Award at pgs. 14-15).

“The Union [countered] that the Agency failed to meet its burden of proof to establish, by a preponderance of the evidence, that it had cause to terminate the Grievants. The Union [stated] that the Agency’s only witness, Audry Sutton, Deputy Director of Program Operation, testified that she was neither the deciding [n]or the proposing official; that a better investigation could have been conducted; [that] all three employees were valuable and outstanding and that the Mayor ordered that they be terminated without an investigation; that the Mayor prohibited CFSA from considering mitigating evidence; that the system failed and was later improved; and that the termination of the employees had been ‘devastating’ to Agency morale.” (Award at p. 15). Finally, the Union asserted that “[t]he documents given to the Grievants, after the decision to terminate them had been made, did not specify the evidence, if any, against them, in violation of due process.” (Award at p. 16).

In an award issued on September 2, 2008, Arbitrator John Truesdale found that “[CFSA] did not have cause to terminate [the Grievants]” and sustained the Union’s grievances. (Award at pgs. 18-19). In support of his decision that there was no cause to terminate the Grievants, the arbitrator found that the termination decisions: (a) failed to meet basic standards of fairness and due process¹ (see Award at p. 16); (b) violated Article 7 of the collective bargaining agreement (see Award at pgs. 16-17); and (c) merited reversal under *United Paperworkers International Union, AFL-CIO v. Misco*, 484 U.S. 29 (1987) (see Award at p. 18). Arbitrator Truesdale reinstated the Grievants without loss of seniority and ordered that they be made whole for loss of pay and benefits, with interest, and expunged the Grievants’ records. He also ordered that CFSA place a letter reiterating the Agency’s Hotline Policy and the Intake and Investigations Policy in the Grievants’ personnel folders for three (3) years. (See Award at pgs. 18-19).

CFSA filed a Request challenging Arbitrator Truesdale’s Award. CFSA asserts that the arbitrator exceeded his authority by “implicitly applying a higher level of proof and imposing a standard which is outside of [the] District’s regulatory provisions that are applicable to District government employees in disciplinary proceedings.” (Request at p. 6). Also, CFSA contends that the Award on its face is contrary to law and public policy because Arbitrator Truesdale “improperly applied a higher level of proof whereas the District Personnel Regulations mandate that the standard of proof for the Agency is preponderance of the evidence [pursuant to] DCMR § 6-1603.9[.]”² (Request at pgs. 7-8).

¹ The arbitrator found that the Grievants were only told that they had contact with the Jacks family and were not given any other reason for the proposed removal action. (See Award at p. 17).

² 6 DCMR §1603.9 provides in pertinent part as follows: “In any disciplinary action, the District government will bear the burden of proving by a preponderance of the evidence that the action may be taken, or in the case of summary action, that the disciplinary action was taken for cause, as that term is defined in this section....”

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In support of its Request, CFSA argues that the preponderance of the evidence standard found in the DCMR is applicable in the three (3) terminations because Article 7, Section 8 of the parties' collective bargaining agreement provides that "discipline shall be...consistent with...D.C. Office Of Personnel regulations"; that "the arbitrator could not impose a standard that was heavier and outside of the regulatory authority; and that] [n]either the collective bargaining agreement, nor the personnel regulations gave the arbitrator this authority." (Request at pgs. 6-7).

The Union disputes CFSA's assertion that the arbitrator must apply the standard of proof found in District regulations. Relying on D.C. Code § 1-617.52(d), the Union maintains that the parties' collective bargaining agreement takes precedence over District regulations.³ (See Opposition at pgs. 4-5). Furthermore, the Union asserts that "the section of the personnel regulations upon which the Agency relies is part of the statutory grievance procedure under D.C. Code § 1-616.53, and not [a grievance procedure found in] a collective bargaining agreement." (Opposition at p. 4).

In, *CFSA and AFSCME, Local 2401*, the Board considered CFSA's argument that Arbitrator Truesdale exceeded his authority by not using the preponderance of the evidence standard and found that we could not make a determination based on the record presented. We noted that "[t]he arbitrator mentioned three (3) standards of proof and under what conditions each is sometimes used by the arbitrators, but did not indicate which one he applied." (*Id.* at p. 7). Specifically, we stated as follows:

[W]hen an arbitration award is ambiguous, reviewing bodies may remand the award for clarification. "[A]n award is ambiguous if it is susceptible to more than one interpretation."... [citations omitted]. Here, the only ambiguity is in the standard of proof used by the arbitrator, rather than the award. Remand for clarification permits the reviewing body to avoid "judicial guessing" and instead gives the parties the decision for which they bargained. [citations omitted].

³ D.C. Code § 1-616.52(d) provides as follows: "Any system for the review of adverse actions negotiated between the District and a labor organization shall take precedence over the procedures of this subchapter for employees in a bargaining unit represented by a labor organization...."

A parallel provision found in the District Personnel Manual (DPM), Section 1601.2, states as follows: "Any procedural system for the review of adverse actions negotiated between the District of Columbia and a labor organization shall take precedence over the provisions of this chapter for employees in a bargaining unit represented by a labor organization, to the extent that there is a difference.... A contract, memorandum of understanding or collective bargaining agreement cannot modify the standard for cause as defined in § 1603."

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CFSA and AFSCME, Local 2401, Slip Op. No. 956 at p. 7, PERB Case No. 956 (May 21, 2010).

In light of the above, on May 21, 2010, we remanded this matter to Arbitrator Truesdale to “seek[] clarification with respect to one question only: What standard of proof was used to determine whether there was ‘just cause’ to terminate the three (3) Grievants?” (*Id.* at p. 5, n. 4).

On June 2, 2010, Arbitrator Truesdale issued “Arbitrator’s Clarification on Remand” (“Clarification on Remand”) clarifying that, “[i]n response to the Order of the District of Columbia Public Employee Relations Board,” he applied the preponderance of the evidence standard of proof’ in reaching his decision in the September 2, 2008 Award. (Clarification on Remand at p. 3).

In his “Clarification on Remand” Arbitrator Truesdale noted the following:

[In its brief] the Employer did not raise any question concerning standard of proof as such, referring only to D.C. Official Code § 1-616.51(1)-(3) which it said “provides that the District government may take disciplinary action only for cause and that prior written notice of the grounds on which the action is proposed to be taken must be provided.” The Employer’s brief said that “Chapter 16 of the D.C. Personnel Regulations defines ‘cause’ to include any on-duty or employment-related act or omission that interferes with the efficiency and integrity of government operation.” The Employer’s brief further cited Article 7, Sections 1-3 of the collective bargaining agreement which it said “provides that discipline, including adverse actions such as removals, shall be imposed for cause, consistent with D.C. Official Code § 1-616.51 and the D.C. Personnel Regulations.”

In its post-hearing brief, the Union also cited D.C. Official Code § 1-616.51. In addition, the Union cited the following language of the D.C. Office of Personnel Regulations which it said was incorporated by reference into the collective bargaining agreement:

§ 1-603.10 In any disciplinary action, the government shall bear the burden of proving by a preponderance of the evidence that the corrective or adverse action may be taken or, in the case of a summary action, was taken, for cause as that term is defined in this section.

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The Union argued in its post-hearing brief that the Employer had failed to meet its burden of proof, by a preponderance of the evidence, that it had cause to terminate the Grievants.

In the Discussion section of my Opinion and Award, I included what, it now appears with hindsight, was an unnecessary academic discussion of burden of proof. In finding that the Agency introduced no evidence of any investigation at all, that any consideration of the Hearing Officer's recommendation was prohibited, that basic notions of fairness and due process had not been met, and that the Employer had not met its burden of establishing the reasonableness of its decision to terminate [the] Grievants, I was applying the only standard of proof cited to me by the Parties - the Union's reference to "preponderance of the evidence." (Clarification on Remand at pgs. 2-3).

III. Decision

When a party files an arbitration review request, the Board's scope of review is extremely narrow. Specifically, the Comprehensive Merit Personnel Act ("CMPA") authorizes the Board to modify or set aside an arbitration award in only three limited circumstances where:

1. "the arbitrator was without, or exceeded, his or her jurisdiction";
2. "the award on its face is contrary to law and public policy";
or
3. the award "was procured by fraud, collusion or other similar and unlawful means."

D.C. Code § 1-605.02(6) (2001 ed.).

CFSA alleges that the arbitrator was without authority or exceeded his jurisdiction because he did not use the preponderance of the evidence standard of proof and because he "attempt[ed] to stand in the place of the Agency to determine whether it could terminate the employees." (See Request at pgs. 5-7). CFSA further argues that the CBA requires that the arbitrator use the standard of proof found in District regulations. The Union argues that the CBA prevails over District regulations and does not contain any specific standard of proof.

We found that the arbitrator's Award was ambiguous regarding the standard of proof used and remanded the matter for the sole purpose of determining which standard of proof the arbitrator used when rendering his decision. On remand, Arbitrator Truesdale issued the second

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award in which he made clear that he relied on the preponderance of the evidence standard of proof.

One of the tests the Board uses in determining whether an arbitrator has exceeded his jurisdiction and was without authority to render an award is “whether the Award draws its essence from the collective bargaining agreement.” *D.C. Public Schools v. AFSCME, District Council 20*, 34 DCR 3610, Slip Op. No. 156 at p. 5, PERB Case No. 86-A-05 (1987). See also, *Dobbs, Inc. v. Local No. 1614, Int’l Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America*, 813 F.2d 85 (6th Cir. 1987). In *Michigan Family Resources, Inc. v. Service Employees Int’l Union Local 517M*,⁴ the U. S. Court of Appeals for the Sixth Circuit utilized the following standard in determining if an award “draw[s] its essence” from a collective bargaining agreement:

[(1)] Did the arbitrator act “outside his authority” by resolving a dispute not committed to arbitration?; [(2)] Did the arbitrator commit fraud, have a conflict of interest or otherwise act dishonestly in issuing the award?; “[a]nd [(3)] [I]n resolving any legal or factual disputes in the case, was the arbitrator arguably construing or applying the contract?” So long as the arbitrator does not offend any of these requirements, the request for judicial intervention should be resisted even though the arbitrator made “serious,” “improvident” or “silly” errors in resolving the merits of the dispute.

475 F.3d 746, 753 6th Cir. (2007), (overruling *Cement Division, Nat’l Gypsum Co. v. United Steelworkers for America, AFL-CIO, Local 135*).

In the present case, “[n]othing in the record ... suggests that fraud, a conflict of interest or dishonesty infected the arbitrator’s decision or the arbitral process. [In addition,] no one disputes that the collective bargaining agreement committed this grievance to arbitration [n]or ... that this

⁴ In *MPD and FOP/MPD Labor Committee*, 49 DCR 810, Slip Op. No. 669, PERB Case No. 01-A-02 (2001), the Board expounded on what is meant by “deriving its essence from the terms and conditions of the collective bargaining agreement” by adopting the U.S. Court of Appeals’ Sixth Circuit decision in *Cement Division, National Gypsum Co. v. United Steelworkers of America, AFL-CIO, Local 135*, which explained the standard by stating the following:

An arbitration award fails to derive its essence from a collective bargaining agreement when the: (1) award conflicts with the express terms of the agreement; (2) award imposes additional requirements that are not expressly provided in the agreement; (3) award is without rational support or cannot be rationally derived from the terms of the agreement; and (4) award is based on general consideration of fairness and equity, instead of the precise terms of the agreement. 793 F.2d 759, 765 (6th Cir. 1986).

However, the *Cement Division* standard has been overruled in *Michigan Family Resources*.

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arbitrator was ... selected by the parties to be eligible to resolve this dispute. The arbitrator, in short, was acting within the scope of his authority. *Id.* at 754.

This leaves the question of whether the arbitrator was engaged in interpretation: Was he “arguably construing” the collective bargaining agreement? “This view of the ‘arguably construing’ inquiry no doubt will permit only the most egregious awards to be vacated. But it is a view that respects the finality clause in most arbitration agreements, ... stating that ‘the arbitrator shall have full authority to render a decision which shall be final and binding upon both parties’ and a view whose imperfections can be remedied by selecting [different] arbitrators.” *Id.* at 753-754.

In the present case, the arbitrator’s opinion has all the hallmarks of interpretation. He refers to, and analyzes the parties’ positions, and at no point does he say anything indicating that he was doing anything other than trying to reach a good-faith interpretation of the contract. “Neither can it be said that the arbitrator’s decision on the merits was so untethered from the agreement that it casts doubt on whether he was engaged in interpretation, as opposed to the implementation of his ‘own brand of industrial justice.’ *Id.* at 754. “An interpretation of a contract thus could be ‘so untethered to’ the terms of the agreement ... that it would cast doubt on whether the arbitrator indeed was engaged in interpretation. Such an exception of course is reserved for the rare case. For in most cases, it will suffice to enforce the award that the arbitrator appeared to be engaged in interpretation, and if there is doubt we will presume that the arbitrator was doing just that.” *Id.* at 753. For the reasons cited above, we find that Arbitrator Truesdale’s Award draws its essence from the collective bargaining agreement.

There is no evidence in the record that the arbitrator exceeded his authority in this case. The arbitrator discussed the three standards of proof that may be used by arbitrators in his initial award. However, in his Clarification on Remand, he made it clear that he used only the preponderance of the evidence standard in making his decision.

CFSA also argues that the arbitrator: (1) attempted to stand in the place of the Agency to determine whether it could terminate the employees; (2) had no basis for finding that the Agency failed to follow contractual procedure; and (3) should have found that there was cause to terminate the Grievants.⁵ CFSA’s argument that the arbitrator should have found that there was

⁵ Furthermore, CFSA disputes the arbitrator’s finding that the Mayor ordered the dismissal of the three (3) employees. CFSA asserts that “due to the immediacy of the circumstances and after an internal investigation and identifying the Agency’s contact with the Jacks family and staff involvement, the Agency expeditiously disciplined the employees and orally informed them that they were being terminated. Shortly thereafter, in accordance with the collective bargaining agreement, the Agency formally notified the employees in writing, of the charges for conduct that threatened the integrity of government operations and actions detrimental to public health and welfare. . . . The employees were also given an opportunity to be heard by a hearing officer. . . . [T]here was no evidence adduced at the arbitration that showed that any of the witnesses had conversations with the Mayor or anyone else in government outside of the Agency. The evidence clearly shows that all decisions for termination were signed by a deciding official within the Agency. . . . Even if the Mayor were to make such a decision, as the Chief Executive Officer, the Mayor has authority to and is not precluded from making decisions about subordinate District government agencies

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PERB Case No. 08-A-07
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cause to terminate the Grievants, is a repetition of the position it presented to Arbitrator Truesdale. (See Award at p. 4).

We have held that “[b]y agreeing to submit the settlement of [a] grievance to arbitration, it [is] the [a]rbitrator’s interpretation, not the Board’s that the parties have bargained for.” *University of the District of Columbia and University of the District of Columbia Faculty Ass’n*, 39 DCR 9628, Slip Op. No. 320 at p. 2, PERB Case No. 02-A-04 (1992). See *Fraternal Order of Police v. District of Columbia Public Employee Relations Board*, 973 A.2d 174, 177 n. 2 (arbitrator’s interpretation merits deference “because it is the interpretation that the parties ‘bargained for.’”) In addition, we have found that by submitting a matter to arbitration, “the parties agree to be bound by the Arbitrator’s interpretation of the parties’ collective bargaining agreement ... as well as his evidentiary findings and conclusions....” *Id.* Moreover, “[this] 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 Int’l Brotherhood of Teamsters, Local Union 246*, 34 DCR 3616, Slip Op. No. 157 at p. 3, PERB Case No. 87-A-02 (1987).

In the present case, the parties submitted their dispute to [Arbitrator Truesdale] and CFSA’s claim that [Arbitrator Truesdale] exceeded his authority only involves a disagreement with the Arbitrator’s: (1) interpretation of Article 7 of the parties’ CBA; and (2) findings and conclusions. This does not present a statutory basis for reversing the arbitrator’s Award. See *District of Columbia Department of Mental Health and Psychologists Union, Local 3758 of the D.C. Department of Mental Health, 1199 National Union of Hospital and Health Care Employees, American Federation of State, County and Municipal Employees, AFL-CIO* (on behalf of John Bruce), Slip OP. No. 850, PERB Case No. 06-A-17 (2006). CFSA essentially is requesting that the Board adopt its arguments and conclusions. We decline to do so.

As a second basis for review, CFSA alleges that the Award is contrary to law and public policy. In support of this contention, CFSA states that “the arbitrator improperly applied a higher level of proof whereas the District Personnel Regulations mandate that the standard of proof for the Agency is preponderance of the evidence” [citing DCMR § 6-1603.9]. (Request at p. 8).

In reviewing whether an award is contrary to law and public policy, we have stated the following:

[T]he possibility of overturning an arbitration decision 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

or their employees, and would have been within his full rights and exercise of authority to do so. (Citing D.C. Code §§ 1-204.22, 1.603.01(17) (XX) (2006 repl.). Nonetheless, it was the Agency that looked into the matter and made the decision to terminate. It was the Agency that issued the employees their notices of proposed removal and the final decision to terminate which resulted in their removal.” (Request at pgs. 9-10).

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exception is designed to be narrow so as to limit potentially intrusive judicial review of arbitration awards under the guise of public policy. *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 the arbitration award “compels” the violation of an explicit, well defined, public policy grounded in law and or legal precedent. *See, United Paperworkers Int’l Union, AFL-CIO v. Misco, Inc.* 484 U.S. 29 (1987). The petitioning party has the burden to specify applicable law and definite public policy that mandates that the Arbitrator arrive at a different result. *MPD and FOP/MPD Labor Committee*, 47 DCR 717, Slip Op. No. 633 at p. 2, PERB Case No. 00-A-04 (2000).⁶

Furthermore, the Court of Appeals has stated, we must “not be led astray by our own (or anyone else’s) concept of ‘public policy’ no matter how tempting such a course might be in any particular factual setting.” *District of Columbia Dep’t of Corrections v. Teamsters Union Local 246*, 54 A.2d 319, 325 (D.C. 1989).

In the present case, Arbitrator Truesdale has declared that he applied the preponderance of the evidence standard. Therefore, CFSA has failed to specify, “applicable law and public policy that mandates that the Arbitrator arrive at a different result”.⁷ Again, CFSA merely disagrees with the arbitrator’s findings that the termination decisions: (1) failed to meet basic standards of fairness and due process (*see* Award at pgs. 16-17); (2) violated Article 7 of the collective bargaining agreement (*see* Award at p. 16); and (3) warranted reversals. (*see* Award at p. 18). The Agency has failed to provide a statutory basis for vacating the award.

In light of the above, the Board finds that CFSA’s disagreement with Arbitrator Truesdale’s findings is not an appropriate ground for review. Moreover, we find no merit to CFSA’s arguments. The arbitrator’s conclusions are based on a thorough analysis and cannot be said to be clearly erroneous, contrary to law or public policy or in excess of his authority. Therefore, no statutory basis exists for setting aside the Award.

⁶ *See also, District of Columbia Public Schools and American Federation of State, County and Municipal Employees, District Council 20*, 34 DCR 3610, Slip Op. No. 156 at p. 6, PERB Case No. 86-A-05 (1987).

⁷ *MPD and FOP/MPD Labor Committee*, 47 DCR 717, Slip Op. No. 633 at p. 2, PERB Case No. 00-A-04 (2000).

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PERB Case No. 08-A-07
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ORDER

IT HEREBY ORDERED THAT:

- (1) The District of Columbia Child and Family Services Agency's Arbitration Review Request is denied.
- (2) Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

July 8, 2010

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order on Remand in PERB Case No. 08-A-07 was transmitted via Fax and U.S. Mail to the following parties on this the 8th day of July 2010.

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Sheryl V. Harrington
Secretary

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:)	
)	
District of Columbia)	
Department of Corrections)	
)	
Petitioner,	)	PERB Case No. 10-A-14
)	
and	)	Opinion No. 1381
)	
Fraternal Order of Police/Department of Corrections Labor Committee,)	
)	
Respondent.)	
)	

DECISION AND ORDER

I. Statement of the Case

On August 23, 2012, the Board issued a Decision and Order in PERB Case No. 10-A-14, affirming an arbitration award, which was reviewed at the request of the District of Columbia Department of Corrections (“DOC”). *District of Columbia Department of Corrections and Fraternal Order of Police/Department of Corrections Labor Committee*, 59 D.C. Reg. 12702, Slip Op. No. 1326, PERB Case No. 10-A-14 (2012).

On September 13, 2012, DOC, through its representative Office of Labor Relations and Collective Bargaining (“OLRCB”), filed a Motion for Reconsideration of the Board’s Decision and Order in Slip Opinion Number 1326. On September 20, 2012, the Fraternal Order of Police/Department of Corrections Labor Committee (“FOP”) filed an Opposition to the Motion for Reconsideration.

II. Background

On October 23, 2009, Arbitrator Joyce M. Klein (“Arbitrator”) issued an arbitration

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award sustaining in part and denying in part charges against three correctional officers. The Arbitrator reduced the penalty from termination to a ten-day suspension for two officers and a fifteen-day suspension for the third officer. Slip Op. No. 1326, at 2. The Arbitrator retained jurisdiction over the issue of attorney's fees sought by the Union. *Id.* The Union submitted a motion for attorney's fees to the Arbitrator, and the Agency opposed the motion. *Id.* On January 12, 2010, in a Supplemental Award ("Award"), the Arbitrator granted the Union attorney's fees in the amount of \$52,206.00. *Id.*

On February 2, 2010, DOC filed an arbitration review request ("Request") in the above-captioned matter, asserting that the Arbitrator exceeded her authority in granting attorney's fees to the Union. Slip Op No. 1326, at 2 (citing Request at 3). FOP filed an Opposition to the Request. Slip Op. No. 1326, at 1.

On August 23, 2012, the Board denied the DOC's Arbitration Review Request, finding that "the Arbitrator's conclusions are based on a thorough analysis and cannot be said to have exceeded his (sic) authority." Slip Op. No. 1326, at 6.

DOC's Motion for Reconsideration of Opinion No. 1326 is before the Board for disposition.

III. Discussion

DOC argues in its Motion that the Board should reconsider its previous decision because (1) the "Award contradicts the express terms of the contract," and (2) the "Award creates added requirements that are not clearly stated in the contract." (Motion at 3-5). In its Opposition to the Motion for Reconsideration, FOP argues that (1) "DOC's Motion for Reconsideration is frivolous and improper," and (2) "FOP did not waive its Back Pay Act Rights." (Opposition to Motion at 2, 4).

DOC requests in its Motion that the Board "reconsider and reverse its Decision and Order that upheld the Arbitrator's award of attorney fees." (Motion at 2). In support of its argument, DOC quotes D.C. Code § 1-605.02(6), which states:

arbitration awards ... may be modified or set aside or remanded, in whole or in part, only if the arbitrator was without, or exceeded, his or her jurisdiction; the award on its face is contrary to law and public policy; or was procured by fraud, collusion, or other similar and unlawful means.

The basis for DOC's Motion, however, is that "[u]nder District arbitration case law, the Arbitrator's Award conflicts with the express terms of the CBA." (Motion at 3) (citing *District of Columbia Public Schools and the Washington Teachers Union, Local 6, American Federation of Teachers, AFL-CIO, AAA, Case No. 16-390-626-06*). DOC's argument in its current Motion is nearly identical to its argument in its initial Arbitration Review Request. (Motion at 3-5, Request at 4-5). DOC has asserted no new case law or any other basis that contravenes the Board's decision in Opinion No. 1326.

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PERB Case No. 10-A-14
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In Opinion No. 1326, the Board considered DOC's argument with regards to *District of Columbia Public Schools and the Washington Teachers Union*. Slip Op. No. 1326, at 3 (citing Request at 4). As the Board stated, "the Board's scope of review is extremely narrow." Slip Op. No. 1326, at 3. See D.C. Code § 1-605.02(6). In addition, the Board stated: "The Board has long recognized the applicability of the Federal Back Pay Act to District of Columbia employees and its application in arbitration awards." Slip Op. No. 1326, at 4 (citing *International Brotherhood of Police Officers, Local 445 (On behalf of Officer Cecyl A. Nelson) and District of Columbia Office of Administrative Services*, 41 D.C. Reg. 1597, Slip Op. No. 300, PERB Case No. 91-A-05 (1995)).

DOC in both its Request and its Motion argues that the Parties have waived the right to attorney's fees. (Request at 4-5, Motion at 3-4). DOC argues that the interpretation of a similar provision by Arbitrator Michael Wolf in *District of Columbia Public Schools and Washington Teachers Union* is dispositive of the present issue, quoting Arbitrator Wolf as stating "[i]f [he] were to look to the Back Pay Act to override this language, [he] would then be violating Article VI(B)(2)(a), Step 4(3), which precludes an Arbitrator from deleting or modifying any of the provisions of the contract." (Motion at 4). Further, DOC argues that *D.C. Public Schools and WTU* "governs and defines the authority of arbitrators in cases in which unions seek attorney fees under the Back Pay Act." (Motion at 5). DOC reasons that the Arbitrator in the present case cannot have been said to have "arguably constru[ed] or appl[ied] the contract," because the "Arbitrator disregarded the plain and ordinary meaning of these express terms [of the contractual provision] and entered an Award that conflicts with those terms' most natural meaning." *Id.* (citing Slip Op. No. 1326). Therefore, DOC argues that "the Award does not draw its essence from the contract." (Motion at 5).

In Opinion No. 1326, the Board considered whether the Award drew its essence from the Parties' collective bargaining agreement ("CBA"). Slip Op. No. 1326, at 4-5. The Board found that there was no dispute that "the collective bargaining agreement committed this grievance to arbitration." Slip Op. No. 1326, at 5. Further, the Board found that the Arbitrator interpreted the contractual provision at issue in the Parties' CBA, and that the Arbitrator ascertained that the CBA did not provide a clear waiver of rights under the Back Pay Act. *Id.* The Board found that the Arbitrator's decision was a reasonable interpretation of the contract. *Id.* As stated in Opinion No. 1326, "[i]t is not for [this Board] or a reviewing court ... to substitute their view for the proper interpretation of the terms used in the [CBA]." Slip Op. No. 1326, at 5-6 (quoting *District of Columbia General Hospital v. Public Employee Relations Board*, No. 992 (D.C. Super. Ct. May 24, 1993)). Consequently, based on case law and the record, the Board found that the Award draws its essence from the Parties' CBA. *Id.* Thus, the Board found that "the Arbitrator's conclusions are based on a thorough analysis and cannot be said to have exceeded his (sic) authority." Slip Op. No. 1326, at 6.

DOC additionally argues in its Motion that the "Award imposes additional requirements that are not expressly provided in the CBA." (Motion at 5). DOC argues that the Union asserted that the contested CBA provision "is an embodiment of the American Rule which (sic) provides that parties ordinarily bear the cost of their own representation at a hearing." *Id.* (citing Opposition to Arbitration Request). In sum, DOC argues that an award of attorney's fees needed to be expressly written in the contract, in order for the Arbitrator to award attorney's fees.

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PERB Case No. 10-A-14
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(Motion at 5). DOC asserts that, in the absence of an express contractual provision for attorney's fees, the Award cannot draw its essence from the CBA. *Id.*

This assertion is incorrect. The Board found that the Arbitrator based her Award on her interpretation of the Parties' contract. Slip Op. No. 1326, at 5. The Board previously concluded that the Arbitrator reasonably interpreted the Parties' CBA; the Arbitrator's grant of authority; and the relevant laws, regulations, and case law. *Id.* Furthermore, the Board found that there was no provision of the Parties' CBA specifically limiting the equitable powers of the Arbitrator to grant attorney's fees under the Back Pay Act. *Id.* In addition, as stated in Opinion No. 1326, the Board has held that "an arbitrator does not exceed his authority by exercising his equitable powers, unless these powers are expressly restricted by the parties' collective bargaining agreement. *Id.* (citing *District of Columbia Metropolitan Police Department and fraternal Order of Police/Metropolitan Police Department Labor Committee*, __D.C. Reg.__, Slip Op. No. 933, PERB Case No. 07-A-08 (2008)). In its Motion, DOC has not provided any new evidence or legal precedent that requires the Board to overturn the Arbitrator's Award. Therefore, the Board finds that the Agency merely disagrees with the Arbitrator's interpretation.

The Board has long held that by agreeing to submit the resolution 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). 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." *D.C. Metropolitan Police Department v. Fraternal Order of Police/ Metropolitan Police Department Labor Committee*, 47 D.C. Reg. 7217, Slip Op. No. 633 at p. 3, PERB Case No. 00-A-04 (2000); *D.C. Metropolitan Police Department v. Fraternal Order of Police/ Metropolitan Police Department Labor Committee (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).

In light of the Board's thorough analysis in Slip Op. No. 1326, it is clear that the arguments raised by DOC in its Motion for Reconsideration were made, considered, and rejected. Moreover, the precedent relied on by the Board has not been reversed by the courts. Thus, DOC's Motion for Reconsideration is merely a disagreement with the Board's determination in this case. The Board has repeatedly held that a motion for reconsideration cannot be based upon mere disagreement with its initial decision. *See AFGE Local 2725 v. D.C. Department of Consumer and Regulatory Affairs & Office of Labor Relations and Collective Bargaining*, 59 D.C. Reg. 5041, Slip Op. No. 969, PERB Case No. 06-U-43 (2012); *D.C. Department of Human Services and Fraternal Order of Police/Department 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); *D.C. Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee (Shepherd)*, 49 D.C. Reg. 8960, Slip Op. No. 680, PERB Case No. 01-A-02 (2002); *AFSCME Local 2095 and AFSCME NUHHCE and D.C. Commission*

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PERB Case No. 10-A-14
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on Mental Health Services, 48 D.C. Reg. 10978, Slip Op. No. 658, PERB Case No. 01-AC-01 (2001).

Therefore, for the reasons discussed above, the Board must deny DOC's Motion for Reconsideration.

ORDER

IT IS HEREBY ORDERED THAT:

1. DOC's Motion for Reconsideration is denied.
2. Pursuant to Board Rule 559.3, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

April 30, 2013

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 10-A-14 was transmitted via LexisNexis File & Serve to the following parties on the 1st of May, 2013.

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Government of the District of Columbia

Public Employee Relations Board

_____)	
In the Matter of:)	
)	
District of Columbia Public Schools,)	
		)	PERB Case No. 13-A-09
Petitioner,)	
)	
v.)	
		)	Opinion No. 1422
Council of School Officers, Local 4, American)	
Federation of School Administrators, AFL-CIO)	
(on behalf of Deborah H. Williams),)	
)	
Respondent.)	
_____)	

DECISION AND ORDER

I. Statement of the Case

This matter is before the Board upon a request of the District of Columbia Public Schools (“DCPS” or “Petitioner”) to review an arbitration award (“Award”) by Arbitrator Joseph M. Sharnoff (“Arbitrator”) in favor of the Council of School Officers Local 4, American Federation of School Administrators, AFL-CIO (“Union” or “Respondent”).

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:

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PERB Case No. 13-A-09
Page 2

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).

DCPS filed an arbitration review request ("Request") contending that the Award should be modified or reversed pursuant to D.C. Code § 1-605.02(6) because the Award is contrary to law and public policy. In particular, DCPS contends that the Award is contrary to title 5 of the D.C. Municipal Regulations ("DCMR"). DCPS contends that under those regulations "[t]he retention and reappointment of a principal is at the sole discretion of the Chancellor of DCPS." (Request ¶7). DCPS further alleges:

8. Pursuant to this provision all principals with DCPS receive a non-reappointment or a reappointment letter at the end of their term. In accordance, Ms. Williams received a non-reappointment letter at the end of her term as principal of Sharpe Health School.

9. Ms. Williams did not grieve or challenge the issuance of her non-reappointment letter. Nor is there any evidence that the Chancellor rescinded her decision to non-reappoint Ms. Williams.

10. Therefore, the Chancellor's decision to non-reappoint Ms. Williams remains, and the Arbitrator's award ordering reinstatement of Ms. Williams to the position of Principal is contrary to law.

(Request ¶¶ 8-10).

At the parties' request the Board directed the parties to file briefs pursuant to Board Rule 538.2. The Board issued the following order:

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.

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Page 3

D.C. Pub. Schs. v. Council of Sch. Officers, Local 4 (on behalf of Williams), 60 D.C. Reg. 12075, Slip Op. No. 1402 at p. 4, PERB Case No. 13-A-09 (2013).

The parties filed their briefs concurrently, and shortly thereafter the Petitioner moved for leave to file supplemental authority, arguing that the recently decided case of *Washington Teachers' Union Local 6 v. D.C. Public Schools*, Slip Op. No. 1414, PERB Case No. 05-U-07 (Sept. 10, 2013), was analogous. The Respondent filed an opposition to the Petitioner's motion in which it contended that the case was not analogous.

II. Discussion

Despite the Board's instruction in its order, the Respondent devotes most of its brief to a recitation of the facts. More pertinently, however, the Respondent argues:

At no point during [the] three hearing days, did DCPS argue, or provide any testimonial or documentary evidence in support of their argument that its previous non-reappointment decision somehow still stands, despite the fact that DCPS subsequently issued Ms. Williams a termination letter. Indeed, during the underlying arbitration hearing DCPS focused exclusively on the issue of Ms. Williams' termination and sought to demonstrate that just cause existed to justify its action. . . .

[B]ecause DCPS did not raise this argument through any witness or documentary evidence presented at the arbitration hearing, it failed to provide Ms. Williams an opportunity to address this argument. As a result, DCPS has waived its ability to now suggest that the non-reappointment decision can be used to avoid the Award issued by the Arbitrator in this case.

(Respondent's Brief at pp. 13-14).

The Petitioner presents the non-reappointment argument in its brief, taking the position that "[t]he Arbitrator erred by reinstating Ms. Williams to the position of principal given that she was not reappointed as a principal by the Chancellor prior to her termination from the Agency." (Petitioner's Brief at p. 1). The Petitioner did not assert in its brief that it had presented this argument to the Arbitrator. Nor did the Petitioner dispute in its supplemental filing the Respondent's contention that the Petitioner had waived the argument.

The Award makes no reference to such an argument. The Arbitrator could not be expected to have surmised that this was DCPS's position regarding his ability to reinstate Ms. Williams as a principal. The termination letter issued to Ms. Williams stated that it "serves as official notice that you will be terminated from your position as a Principal effective Monday, July 5, 2010." (Petitioner's Brief, Attachment 2). Two things in that sentence are noteworthy. First, it terminates the Grievant from her position as a *principal*, not from a position at her highest prior permanent level of employment. Thus, the Arbitrator understandably stated the

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PERB Case No. 13-A-09
Page 4

issue as follows: "Was the decision of the District of Columbia Public Schools to terminate the Grievant, Deborah H. Williams from her position of Principal at the Sharp Health School for just cause under the Party's Agreement, at Article X.A.3 and, if not, what is the appropriate remedy?" (Award at p. 2). Second, the effective date of Ms. Williams's termination as a principal is July 5, 2010. That date is after the non-reappointment was to become effective on June 25, 2010. If the non-reappointment remained effective, Ms. Williams would have had no position as principal on July 5, 2010. The Arbitrator found "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)

DCPS is taking a new position in contending that Ms. Williams was not re-appointed as principal and was subsequently terminated, not from that position, but from whatever position she might revert to subsequently. This was not DCPS's position at the time the termination, and it was not DCPS's position at the time of the arbitration. DCPS's argument that, in view of the non-reappointment, the DCMR precluded the Arbitrator from reinstating Ms. Williams as a principal is being raised for the first time in this arbitration review. An argument may not be raised for the first time in an arbitration review request. *AFGE Local 3721 (on behalf of Chasin) v. D.C. Fire & Emergency Med. Servs. Dep't*, 59 D.C. Reg. 7288, Slip Op. No. 1251 at p. 8, PERB Case No. 10-A-13 (2012).

Therefore, the Petitioner's arbitration review request is denied. In light of our disposition of this case, Petitioner's motion for leave to file supplemental authority is moot.

ORDER

It is hereby ordered that:

1. The Award is sustained. Therefore, the Arbitration Review Request of the D.C. Public Schools 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.

September 26, 2013

Decision and Order
PERB Case No. 13-A-09
Page 5

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 27th day of September, 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 383,)	
		)	PERB Case No. 10-U-48
Complainant,)	
		)	Opinion No. 1423
v.)	
)	
District of Columbia Department of)	
Youth Rehabilitation Services,)	
)	
Respondent.)	
_____)	

DECISION AND ORDER

I. Statement of the Case

Complainant American Federation of Government Employees, Local 383 (“Union” or “Complainant”) filed the above-captioned Unfair Labor Practice Complaint (“Complaint”), against Respondent District of Columbia Department of Youth Rehabilitation 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 violation.

II. Discussion

The facts of this case are undisputed, and therefore this case is appropriate for decision on the pleadings. See Board Rule 520.10 (“If the investigation reveals that there is no issue of fact to warrant a hearing, the Board may render a decision upon the pleadings or may request briefs and/or oral argument.”).

On December 8 and 10, 2009, Complainant and Respondent participated in an arbitration proceeding on behalf of grievant Antonio White (“Grievant”). (Complaint at 2; Answer at 3). On April 2, 2010, the Arbitrator issued a final and binding decision in favor of the Grievant, and directed the Respondent to “return Grievant Antonio White to his former position from which he

Decision and Order
PERB Case No. 10-U-48
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was improperly removed, and restore all his rights and benefits including back pay, less a 60 day suspension period.” (Complaint at 2; Answer at 3). On or about May 26, 2010, Complainant contacted Respondent’s Human Resource Officer, who informed Complainant that the Respondent expected to return the Grievant to his position by June 21, 2010. (Complaint at 3; Answer at 3). Complainant contacted Respondent on June 29, 2010, and August 6, 2010, demanding compliance with the Arbitrator’s Award, but as of the date the Complaint was filed (August 17, 2010), the Grievant had not been reinstated. (Complaint at 3; Answer at 3).

In its Complaint, the Union contends that by failing to implement the terms of the Arbitrator’s Award, the Agency has violated D.C. Code § 1-617.04(a)(5) by failing to bargain in good faith. (Complaint at 4). In its Answer, the Agency admits that it had not yet complied with the Award, and states that it “always intended to comply with the Arbitrator’s award, including returning the Complainant to work, restoring benefits, and paying back pay, and did not act in bad faith.” (Answer at 3-4). The Agency notes that on August 25, 2010, it provided the Grievant with the necessary personnel forms for reinstatement, and expects that the Grievant will be reinstated on September 13, 2010. (Answer at 4).

Failure to implement the terms of an arbitration award where no genuine dispute exists over its terms constitutes a failure to bargain in good faith and, consequently, an unfair labor practice under the CMPA. *Int’l Brotherhood of Police Officers, Local 446 v. D.C. Health & Hospitals Public Benefit Corp.*, 47 D.C. Reg. 7184, Slip Op. No. 622 at p. 4, PERB Case No. 99-U-30 (2000); *see also Psychologists’ Union Local 3758 v. D.C. Dep’t of Mental Health*, 59 D.C. Reg. 9770, Slip Op. No. 1260 at p. 2, PERB Case No. 06-U-40 (2012). In the instant case, there is no genuine dispute over the terms of the Arbitrator’s Award, nor does the Respondent allege that a dispute exists. (Answer at 1-4). While the Respondent asserts, at the time its Answer was filed, that it had begun the reinstatement process and expected to return the Grievant to work by September 13, 2010, over four (4) months had elapsed between the date the Arbitrator’s Award was issued and the date the Respondent provided the Grievant with the forms necessary to begin the reinstatement process. (Complaint at 2; Answer at 4).

The question the Board must address is whether the Respondent’s delay is reasonable. *See Watkins v. D.C. Dep’t of Corrections*, 48 D.C. Reg. 8542, Slip Op. No. 655 at p. 3, PERB Case No. 99-U-28 (2001). Pursuant to Board Rule 538.1, the Respondent had twenty (20) days after service of the Arbitration Award to file a request for review with the Board. The Respondent did not file an arbitration review request, and did not even begin the process of implementing the Arbitration Award for another four (4) months after the period for review expired. The Board finds this delay unreasonable, and accordingly the Union’s unfair labor practice complaint is granted.

In its Complaint, the Union requests the Board order the Agency to reimburse the Union for all costs incurred in filing and prosecuting the Complaint. (Complaint at 4). As we noted in *American Federation of Government Employees, Local 2725*, “[i]n cases which involve an agency’s failure to implement an arbitration award or a negotiated settlement, this Board has been reluctant to award costs.” Slip Op. No. 945 at p. 5. However, an award of costs is in the interest of justice in a case of a failure to implement a settlement agreement or arbitration award

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PERB Case No. 10-U-48
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where the respondent has shown a pattern and practice of failure to implement arbitration awards or settlement agreements in previous cases. *DiAngelo v. D.C. Office of the Chief Medical Examiner*, 59 D.C. Reg. 6399, Slip Op. No. 1006 at p. 2, PERB Case Nos. 05-U-47 at 07-U-22 (2009). In the instant case, the Union has not alleged a pattern or practice by the Agency of refusing to implement the Arbitration Award. Without such an allegation, the interest-of-justice criteria stated above would not be served by granting the Union's request for costs.

Therefore, the Respondent is directed to fully comply with the terms of the April 2, 2010, Arbitration Award within ten (10) days of the issuance of this Decision and Order, if it has not already done so. Additionally, the Respondent will post a notice of the CMPA violation.

IT IS HEREBY ORDERED THAT:

1. The American Federation of Government Employees, Local 383's Unfair Labor Practice Complaint is granted.
2. The District of Columbia Department of Youth Rehabilitation Services, its agents, and representatives shall cease and desist from violating D.C. Code § 1-617.04(a)(5) by failing to implement the April 2, 2010, Arbitration Award.
3. Within ten (10) days from the issuance of this Decision and Order, the District of Columbia Department of Youth Rehabilitation Services shall fully comply with the terms of the April 2, 2010, Arbitration Award, if it has not already done so.
4. The District of Columbia Department of Youth Rehabilitation Services shall post conspicuously, within ten (10) days from the service of this Decision and Order, the attached Notice where notices to bargaining-unit employees are customarily posted. The Notice shall remain posted for thirty (30) consecutive days.
5. Within fourteen (14) days from the issuance of this Decision and Order, the District of Columbia Department of Youth Rehabilitation Services shall notify the Board, in writing, that the Notice has been posted accordingly.
6. 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.

September 30, 2013

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 10-U-48 was transmitted via U.S. Mail and e-mail (where indicated) to the following parties on this the 30th day of September, 2013.

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/s/ Erin E. Wilcox

Erin E. Wilcox, Esq.
Attorney-Advisor

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**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
American Federation of)	
State, County and Municipal Employees,)	
District Council 20, Local 2921, AFL-CIO)	
	)	PERB Case No. 10-U-49
Complainant,)	
	)	Opinion No. 1424
v.)	
)	
District of Columbia)	
Public Schools,)	
)	
Respondent.)	
_____)	

DECISION AND ORDER

I. Statement of the Case

On August 10, 2010, the American Federation of State, County and Municipal Employees, District Council 20, Local 2921 (“Complainant” or “Union”) filed an Unfair Labor Practice Complaint (“Complaint”), alleging that District of Columbia Public Schools (“Respondent,” “DCPS,” or “Agency”) violated D.C. Code § 1-617.04(a)(1) and (5) of the Comprehensive Merit Personnel Act (“CMPA”). Respondent filed an Answer to the Unfair Labor Practice Complaint (“Answer”), denying the allegations and asserting affirmative defenses. (Answer at 2-4).

Respondent filed a Motion to Dismiss Unfair Labor Practice Complaint (“Motion to Dismiss”). Complainant opposed Respondent’s Motion to Dismiss and moved the Board for a decision on the pleadings, which the Respondent opposed. On August 12, 2011, the Board denied the Agency’s Motion to Dismiss and denied the Union’s Motion for Preliminary Relief. *See American Federation of State, County and Municipal Employees, District Council 20, Local 2921, AFL-CIO v. District of Columbia Public Schools*, 59 D.C. Reg. 6526, Slip Op. No. 1111, PERB Case No. 10-U-49 (2012). The Board ordered the Parties to an expedited hearing. *Id.*

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PERB Case No. 10-U-49
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On March 21, 2012, a hearing was held before Hearing Examiner Sean Rodgers (“Hearing Examiner”). Both Parties filed post-hearing briefs. On August 3, 2012, the Hearing Examiner issued a Report and Recommendation (“Report”) to the Board, in which he found that the Union did not meet its burden of proof that the Agency violated D.C. Code § 1-617.04(a)(1) and (5). (Report at 16). The Hearing Examiner recommended that the Union’s Unfair Labor Practice Complaint be dismissed with prejudice. (Report at 24).

On August 14, 2012, AFSCME filed Exceptions with the Board (“Exceptions”); and, on August 29, 2012, DCPS filed an Opposition to the Exceptions (“Opposition”).

The Board adopted the Hearing Examiner’s Report and Recommendation that the Complaint’s allegations regarding an information request were untimely filed. *American Federation of State, County and Municipal Employees, District Council 20, Local 2921 v. District of Columbia Public Schools*, 60 D.C. Reg. 2602, Slip Op. No. 1363, PERB Case No. 10-U-49 (2013). The Hearing Examiner, in determining whether a timely request for impact and effects bargaining occurred, applied a heightened standard that required a “clear” demand for bargaining, which was not consistent with the Board’s precedent. *Id.* at 8. The Board remanded to the Hearing Examiner the issue of “whether a proper and timely request to bargain was made by the Union.” *Id.*

The Hearing Examiner’s Remanded Report and Recommendation (“Remanded Report”) is before the Board for disposition.

II. Hearing Examiner’s Remanded Report and Recommendation

On remand, the Hearing Examiner examined “whether the Complainant requested bargaining and whether Respondents refused to bargain under the circumstances of this case.” (Remanded Report at 2).

The Hearing Examiner reviewed the facts concerning the meetings between the Parties involving DCPS’s evaluation system, IMPACT 2.0, and further summarized the facts concerning AFSCME’s representative, Michael Reichert’s, meeting with DCPS’s representative, Mr. McCray, at a June 22, 2010, meeting and the email communication that followed between the Parties, as follows:

[T]he facts establish that Reichert never demanded to bargain I&E issues and Reichert’s testimony is that he did not use the terms “we shall bargain.” Furthermore, Reichert’s referral of DCPS’s representatives to [AFSCME’s chief negotiator] Johnson’s appointments scheduler, MacIntosh, in e-mail communications for an appointment, is not sufficiently probative to raise the inference that AFSCME demanded to bargain I&E issues concerning IMPACT 2.0. This is particularly true when all Reichert, or any other AFSCME representative, had to do, at any time, was demand to bargain I&E issues concerning IMPACT. Finally, AFSCME provides no PERB precedent supporting the Hearing Examiner’s acceptance of the inference that Reichert’s communications

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PERB Case No. 10-U-49
Page 3 of 6

with DCPS representatives constituted a clear and timely demand for I&E bargaining over IMPACT 2.0.

(Remanded Report at 7).

The Hearing Examiner reviewed the record based on the Board's precedent set forth in *International Brotherhood of Police Officers, Local 446 v. District of Columbia General Hospital*, 39 D.C. Reg. 9633, Slip Op. No. 322, PERB Case No. 91-U-14 (1992) (*IBPO*), and *National Association of Government Employees, Local R3-06 v. D.C. Water and Sewer Authority*, 47 D.C. Reg. 7551, Slip Op. No. 635, PERB Case No. 99-U-04 (2000) (*NAGE*). For PERB Case No. 10-U-49, the Hearing Examiner found that "there is an absence of facts to show any request to bargain, whether general, specific, implied by AFSCME or, possibly, inferred by DCPS." (Remanded Report at 7).

In AFSCME's post-hearing brief, and on a conference call with the Hearing Examiner and opposing counsel, regarding the remanded issues, AFSCME asserted that IMPACT 2.0 was a *fait accompli* and that no request for bargaining was required. (Remanded Report at 8). The Hearing Examiner found that AFSCME's allegation that IMPACT 2.0 was already complete, prior to the Union being able to demand bargaining, was based on a meeting the Parties had to discuss IMPACT 2.0 in November 2009, and that the issue was untimely raised in the August 10, 2010, Complaint. *Id.*

In addition, AFSCME argued that a demand to bargain was futile, because DCPS officials' actions were a blanket refusal to bargain. *Id.* The Hearing Examiner found no factual basis for AFSCME's futility assertion, and found that the facts AFSCME raised arose from the November 2009 meeting, and were untimely raised in the Complaint. *Id.*

The Hearing Examiner recommended that the Complaint be dismissed with prejudice. (Remanded Report at 9).

III. Analysis

The Parties did not file Exceptions to the Remanded Report for the Board's consideration. "Whether exceptions have been filed or not, the Board will adopt the hearing examiner's recommendation if it finds, upon full review of the record, that the hearing examiner's 'analysis, reasoning and conclusions' are 'rational and persuasive.'" *Council of School Officers, Local 4, American Federation of School Administrators v. D.C. Public Schools*, 59 D.C. Reg. 6138, Slip Op. No. 1016 at p. 6, PERB Case No. 09-U-08 (2010).

The Board determines whether the Hearing Examiner's Report and Recommendation is "reasonable, supported by the record, and consistent with Board precedent." *American Federation of Government Employees, Local 1403 v. District of Columbia Office of the Attorney General*, 59 D.C. Reg. 3511, Slip Op. No. 873, PERB Case No. 05-U-32 and 05-UC-01 (2012). The Board will affirm a hearing examiner's findings if they are reasonable and supported by the record. See *American Federation of Government Employees, Local 872 v. D.C. Water and Sewer Authority*, Slip Op. No. 702, PERB Case No. 00-U-12 (2003).

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PERB Case No. 10-U-49
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Pursuant to Board Rule 520.11, “[t]he party asserting a violation of the CMPA, shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.” The Board has held that “issues of fact concerning the probative value of evidence and credibility resolutions are reserved to the Hearing Examiner.” *Council of School Officers, Local 4, American Federation of School Administrators v. District of Columbia Public Schools*, 59 DC Reg. 6138, Slip Op. No. 1016 at p. 6, PERB Case No. 09-U-08; *Tracy Hatton v. FOP/DOC Labor Committee*, 47 D.C. Reg. 769, Slip Op. No. 451 at p. 4, PERB Case No. 95-U-02 (1995).

A. Request for I&E Bargaining

To reach the conclusion that AFSCME did not make a timely request for impact and effects bargaining, the Hearing Examiner applied the Board’s precedents in *International Brotherhood of Police Officers, Local 446 v. District of Columbia General Hospital*, 39 D.C. Reg. 9633, Slip Op. No. 322, PERB Case No. 91-U-14 (1992) (*IBPO*), and *National Association of Government Employees, Local R3-06 v. D.C. Water and Sewer Authority*, 47 D.C. Reg. 7551, Slip Op. No. 635, PERB Case No. 99-U-04 (2000) (*NAGE*). The Hearing Examiner differentiated *IBPO* and *NAGE* from PERB Case No. 10-U-49, because the Parties in *IBPO* and *NAGE* did not dispute that the existence of a request for bargaining. (Remanded Report at 4).

In *IBPO*, the Board held “[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.” Slip Op. No. 322 at p. 3. In *NAGE*, the Board found that “[n]otwithstanding the lack of clarity in *NAGE*’s demands for negotiations over the reorganization, the Hearing Examiner concluded that, under Board precedent, even a broad, general request for bargaining ‘implicitly encompasses all aspects of that matter, including the impact and effect of a management decision that is otherwise not bargainable.’” Slip Op. No. 635 at p. 6. In addition, the Board stated in finding an unfair labor practice that “*NAGE* made a sufficient and timely request for bargaining on the impact and effects of the reorganization....” *Id.*

The Hearing Examiner, applying the above Board precedents, reviewed the record to find:

AFSCME made no proper and timely request to bargain regarding the DCPS evaluation process IMPACT 2.0. Further, the Hearing Examiner finds that, based on the *NAGE* precedent, the facts in [PERB Case No.] 10-U-49 do not establish that AFSCME ‘made a sufficient and timely request for bargaining on the impact and effects’ of IMPACT 2.0. Finally, the Hearing Examiner finds that the facts establish DCPS never refused to bargain because it never received a proper and timely request to bargain from AFSCME.

(Remanded Report at 7).

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The question of whether there has been a timely request for impact and effect bargaining is an issue of fact. *National Association of Government Employees, Local R3-06 v. D.C. Water and Sewer Authority*, 47 D.C. Reg. 7551, Slip. Op. No. 635, PERB Case No. 99-U-04 (2000). Here, the Hearing Examiner, applying Board precedent, made a factual determination that a timely request for impact and effects bargaining did not occur. The Board finds that the Hearing Examiner's conclusion is reasonable, supported by the record, and consistent with Board precedent.

B. Fait Accompli and Futility Argument

AFSCME argued before the Hearing Examiner on remand that, "even if AFSCME made no proper and timely request for bargaining, because DCPS's decision to implement IMPACT 2.0 was a *fait accompli* and a demand to bargain would be futile, no request to bargain was legally required and DCPS violated the CMPA." (Remanded Report at 8). AFSCME had made the same argument in its post-hearing brief to the Hearing Examiner. *Id.*

The Hearing Examiner found that the factual "basis for AFSCME's *fait accompli* allegation involved events that occurred in the fall of 2009 specifically arising out of a meeting between the Parties on or about November 4, 2009." *Id.* The Hearing Examiner concluded that AFSCME's August 10, 2011, Complaint was untimely in regards to allegations arising from the November 2009 meeting. *Id.*

In addition, AFSCME argued that it was futile to demand bargaining, because by the time the Union learned of the IMPACT 2.0 implementation, IMPACT 2.0 was "set in stone, but even if it was not, DCPS officials determined not to bargain and said so." (Remanded Report at 9). The Hearing Examiner found no factual evidence to support AFSCME's conclusion. *Id.* Further, the Hearing Examiner found that the factual grounds for AFSCME's futility argument were based around the above-discussed November 2009 meeting, which were untimely allegations raised in the August 10, 2011 Complaint. *Id.*

The Union filed its Complaint on August 10, 2011. The Board previously considered the timeliness of the Complaint's allegations, and found that it did not have jurisdiction to consider any allegations of actions taken prior to April 12, 2011. *See American Federation of State, County and Municipal Employees, District Council 20, Local 2921 v. District of Columbia Public Schools*, 60 D.C. Reg. 2602, Slip Op. No. 1363, PERB Case No. 10-U-49 (2013). The basis for the Union's *fait accompli* and futility arguments were found by the Hearing Examiner to have factually occurred during a November 2009 meeting. (Remanded Report at 9).

Board Rule 520.4 provides: "Unfair labor practice complaints shall be filed not later than 120 days after the date on which the alleged violations occurred." Board Rule 520.4 is jurisdictional and mandatory. *Hoggard v. District of Columbia Public Schools*, 43 D.C. Reg. 1297, Slip Op. 352, PERB Case No. 93-U-10 (1996); *see also Public Employee Relations Board v. D.C. Metropolitan Police Department*, 593 A.2d 641 (D.C. 1991). Hence, Board Rule 520.4 does not provide the Board with discretion to make exceptions for extending the deadline for initiating an action. *Id.* As the Union did not file its initial complaint until August 10, 2011, and its allegations pertaining to its *fait accompli* and futility arguments occurred in November 2009,

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the Board finds that the Hearing Examiner's conclusions with respect to those arguments are reasonable, supported by the record, and consistent with the Board's precedent.

IV. Conclusion

The Board has reviewed the record, the Hearing Examiner's analysis and conclusions, and relevant Board precedent. The Board adopts the Hearing Examiner's Remanded Report and Recommendation. The Complaint is dismissed with prejudice.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Complaint is dismissed with prejudice.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEES RELATIONS BOARD

Washington, D.C.

September 26, 2013

CERTIFICATE OF SERVICE

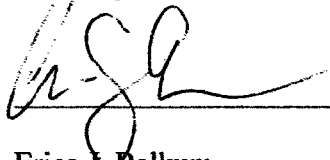
This is to certify that the attached Decision and Order in PERB Case No. 10-U-49 was transmitted via File & ServeXpress to the following Parties on the 30th of September, 2013.

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Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
American Federation of)	
Government Employees, Local 631,)	
)	PERB Case No. 11-U-36
Complainant,)	
)	Opinion No. 1425
v.)	
)	
District of Columbia)	
Department of Public Works,)	
Department of Public Works Office of)	
Administrative Services,)	
Department of Environment,)	
Department of Real Estate Services,)	
Department of Transportation)	
Office of Zoning, and)	
Office of Planning,)	
)	
Respondents.)	
_____)	

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 (“Complaint”), against Respondents District of Columbia Department of Public Works, Department of Public Works Office of Administrative Services, Department of Environment, Department of Real Estate Services, Department of Transportation, Office of Zoning, and Office of Planning (“Agencies” or “Respondents”) for alleged violations of sections 1-617.04(a)(1) and (5) of the Comprehensive Merit Protection Act (“CMPA”). Specifically, Complainant alleges that the Respondents repudiated the parties’ collective bargaining agreement (“CBA”) by furloughing bargaining unit members on holidays, refusing to strike for an arbitrator, and requesting the withdrawal of an arbitration panel. (Complaint at 4). Respondents filed a document styled

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Answer to Unfair Labor Practice Complaint ("Answer") in which they deny the alleged violations and raise the following affirmative defenses:

- (1) The Complaint fails to state a cause of action for which relief may be granted by the Board;
- (2) The Complainant fails to allege facts sufficient to support a finding of repudiation of contract; and
- (3) The Complainant is attempting to enforce what it alleges are contractual rights. Interpreting the arbitrability of contract rights cases is not within the jurisdiction of the [Board].

(Answer at 4).

II. Discussion

A. Facts

On October 6, 2009, the parties entered into a CBA which provided for twelve holidays. (Complaint at 2; Answer at 2). Respondents state that on January 20, 2011, they sent a letter to Union President Barbara Milton which provided notice of four legislatively mandated furlough days. (Answer at 2). Respondents further state that on February 3, 2011, Ms. Milton sent a letter acknowledging receipt of the January 20, 2011, letter. *Id.* On February 4, 2011, Respondents notified bargaining unit employees of the furlough days. (Complaint at 2). The Union filed a step 4 class grievance alleging that the furlough of bargaining unit employees violated the parties' CBA, which was subsequently denied by the Respondents. (Complaint at 2-3, Complaint Ex. 4-5; Answer at 3). In its grievance, the Union alleged that the furlough days violated Article 4, Sections B and D¹, and Article 33, Section A² of the parties' CBA, as well as D.C. Code §§ 1-612.02(a) and (3) and 1-617.04(a)(5). (Complaint Ex. 4). In its letter denying the step 4 class grievance, the Respondents stated that "the subject matter of the grievance is substantively neither grievable nor arbitrable but must be challenged pursuant to 'applicable law' as provided for in Article 38, Sec. D" of the parties' CBA.³ The letter further stated that the

¹ Article 4, Sections B and D state:

B: "Authority of this Agreement

Where any Employer regulation or policy, in effect and/or developed after the effective date of this Agreement conflicts with this Agreement and/or any supplemental agreement, this Agreement shall prevail and/or govern.

D: "Bargaining

No Employer regulation or policy that is a negotiable issue is to be adopted or changed without first bargaining with the Union.

² Article 33, Section A: "Holidays" lists New Year's Day, Dr. Martin Luther King, Jr.'s Birthday, President's Day, Emancipation Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day, and Inauguration Day as holidays, as well as "[a]ny other day designated to be a legal holiday by the Congress or the Mayor or the U.S. President."

³ Article 38, Section D: "General" states:

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furlough was mandated by the Balanced Budget Holiday Furlough Emergency Act of 2011 and the Public Safety Civilian Emergency Personnel Furlough Exemptions Emergency Amendment Act of 2011, and asserted that the CBA language “merely lists the holidays outlined in the law,” and that the “legislative history of the CMPA clearly states that holidays are non-negotiable.” (Complaint Ex. 5).

On March 8, 2011, the Union invoked arbitration and requested a panel of arbitrators from the Federal Mediation and Conciliation Service (“FMCS”), pursuant to Article 38⁴ of the parties’ CBA. (Complaint at 3, Complaint Ex. 6; Answer at 3). On March 21, FMCS sent the parties the panel of arbitrators. (Complaint at 3, Complaint Ex. 7; Answer at 3). On March 31, the Union requested the Respondents to participate in the process to select an arbitrator from the FMCS panel. (Complaint at 3; Answer at 3). On April 5, 2011, the Respondents requested FMCS withdraw the panel of arbitrators. (Complaint at 3; Answer at 3). In its letter to FMCS, Respondents maintained that “the grievance was substantially neither grievable nor arbitrable, but must be challenged as provided for in Article 38, Sec. D of the collective bargaining agreement,” and cited to *AT&T Techs v. Communications Workers of America*, 475 U.S. 643, 656 (1986) for its allegation that “the courts have determined that arbitrability is a matter to be determined by the court.” (Complaint Ex. 9). On April 8, 2011, the Union requested FMCS directly designate an arbitrator. (Complaint at 3, Complaint Ex. 10; Answer at 3). On April 11, 2011, the Respondents again requested FMCS withdraw the panel of arbitrators, reiterating its argument that the parties’ CBA requires issues of substantive arbitrability be determined by the courts in accordance with applicable law, and contending that the Abolishment Act renders the arbitration clause invalid. (Complaint at 3, Complaint Ex. 11; Answer at 4). On April 22, 2011, FMCS issued a letter refusing to withdraw the panel of arbitrators or directly designate an arbitrator. (Complaint at 4, Complaint Ex. 12; Answer at 4). FMCS stated:

The arguments contained in your letters and attachments would require FMCS to decide whether the matter is arbitrable based on

1. If the Agency declares a grievance procedurally not grievable/arbitrable, it must make such declaration in writing in response to the Step 3 grievance or, if the initial step is after Step 3, in the response at the initial step. All questions of procedural grievability/arbitrability not raised in response to the Step 3 grievance or, if the initial step is after Step 3, the response at the initial step, shall be deemed waived. Questions of procedural grievability/arbitrability are for the arbitrator to decide and shall be decided by the same arbitrator selected to hear the merits of the grievance. Questions of substantive arbitrability/grievability will be pursued in accordance with applicable law.

⁴ Article 38, Section F “Selection of Arbitrator” states:

1. Selection of an Arbitrator – within ten (10) work days of the written notice to arbitrate, the Union shall request the Federal Mediation and Conciliation Service (“FMCS”) to refer a panel of seven (7) impartial arbitrators. A copy of the FMCS panel request shall be sent to the Director, Office of Labor Relations and Collective Bargaining. Within fifteen (15) days of receipt of the FMCS panel, the parties shall select one of the names on the list as mutually agreeable, or if there is no mutually agreeable arbitrator, each party alternately strikes a name from the FMCS panel until one remains. A coin shall be tossed to determine who shall strike first. If none of the submitted arbitrators are acceptable, one (1) new panel may be sought before the selection process begins.
2. FMCS shall be empowered to make a direct designation of an arbitrator to hear the case if either party refuses to participate in the selection of an arbitrator.

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either the collective bargaining agreement, the Balanced Budget Holiday Furlough Emergency Act of 2011 and/or the Public Safety Civilian Emergency Personnel Furlough Exemptions Emergency Amendment Act of 2011.

(Complaint Ex. 12). Further, FMCS stated that it may not “decide the merits of a claim by either party that a dispute is not subject to arbitration,” and that “to appoint an arbitrator at this time would exceed our authority.” *Id.* FMCS denied “both the request of the union to make a direct appointment of an arbitrator and the request of the employer to rescind the panel,” and stated that if the issue “is resolved in an appropriate forum that FMCS has authority to appoint an arbitrator, we will reconsider this decision.” *Id.*

B. Analysis

As a threshold matter, the Board must address the Respondents’ allegation that the Board lacks jurisdiction to decide this matter. In their Answer, the Respondents raise the affirmative defense that “[t]he Complainant is attempting to enforce what it alleges are contractual rights. Interpreting the arbitrability of contract rights cases is not within the jurisdiction of the [Board].” (Answer at 4).

The Board “distinguishes between those obligations that are statutorily imposed under the CMPA and those that are contractually agreed upon between the parties.” *American Federation of Government Employees, Local 2741 v. District of Columbia Dep’t of Recreation and Parks*, 50 D.C. Reg. 5049, Slip Op. No. 697, PERB Case No. 00-U-22 (2002). In addition, it is well established that the Board’s “authority only extends to resolving statutorily based obligations under the CMPA.” *Id.* Although a violation that is solely contractual is not properly before the Board, a contractual violation will be deemed an unfair labor practice if the complainant can establish that it also violates the CMPA, or constitutes a repudiation of the parties’ CBA. *University of the District of Columbia Faculty Ass’n v. University of the District of Columbia*, 60 D.C. Reg. 2536, Slip Op. No. 1350 at p. 2, PERB Case No. 07-U-52 (January 2, 2013).

In the instant case, the Union contends that the Respondents repudiated the CBA when they implemented furlough days on four legal holidays, when they refused to strike for an arbitrator, and when they contacted FMCS to request the withdrawal of the arbitration panel. (Complaint at 4). A party’s refusal to implement a viable collective bargaining agreement is an unfair labor practice. *See Teamsters Local Union Nos. 639 and 730 v. D.C. Public Schools*, 43 D.C. Reg. 6633, Slip Op. No. 400, PERB Case No. 93-U-29 (1994). If an employer entirely fails to implement the terms of a negotiated or arbitrated agreement, such conduct constitutes a repudiation of the collective bargaining process and a violation of the duty to bargain. *Id.* at 7; *see also American Federation of State, County, and Municipal Employees, District Council 20 v. District of Columbia Government*, Slip Op. No. 1387 at p. 4; PERB Case No. 08-U-36 (May 9, 2013).

The parties do not dispute that the Respondents implemented the furlough days, refused to strike for an arbitrator, and requested FMCS withdraw the arbitration panel. (Complaint at 2-

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4; Answer at 2-4). The Union's unfair labor practice allegations are predicated on the Respondents' refusal to arbitrate over the furloughs, and the essential legal question is whether the dispute over the furloughs was arbitrable. If the furloughs were not arbitrable, then the Respondents could not have repudiated the contract, and thus have not committed an unfair labor practice, by refusing to proceed to arbitration.

In general, Board precedent states that "arbitrability is an initial question for the arbitrator to decide." *American Federation of Government Employees, District Council 20 v. D.C. General Hospital, et al.*, 36 D.C. Reg. 7101, Slip Op. No. 227 at p. 5, PERB Case No. 88-U-29 (1989); see also *D.C. Dep't of Public Works v. American Federation of Government Employees, Local 872*, 38 D.C. Reg. 5072, Slip Op. No. 280 at p. 3, PERB Case No. 90-A-10 (1991); *American Federation of Government Employees, Local 2725 v. D.C. Dep't of Consumer and Regulatory Affairs, et al.*, 59 D.C. Reg. 5347, Slip Op. No. 930, PERB Case No. 06-U-43 (2008). However, Article 38, Section D(1) of the parties' CBA distinguishes between the treatment of questions of substantive arbitrability and procedural arbitrability. While the CBA states that questions of procedural arbitrability are to be determined by an arbitrator, "[q]uestions of substantive arbitrability/grievability will be pursued in accordance with applicable law." *Id*

Therefore, this case will proceed to an unfair labor practice hearing to determine whether the furloughs at issue in this case are arbitrable.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Board's Executive Director shall refer the American Federation of Government Employees, Local 631's Unfair Labor Practice Complaint to a hearing examiner.
2. The Notice of Hearing shall be issued seven (7) days prior to the date of the hearing.
3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

September 30, 2013

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 11-U-36 was transmitted via U.S. Mail and e-mail to the following parties on this the 30th day of September, 2013.

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/s/ Erin E. Wilcox

Erin E. Wilcox, Esq.
Attorney-Advisor

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:)	
)	
Antoino Richardson, Edwin Hull, Keith Allison,)	
Dancy Simpson, James Jones, Gerald Rowlette,)	
Scott Roman, Beverly Richardson, Joyce Webb,)	
Tanya Flournoy, Judy Brown, Inga Campbell,)	
Tammy Weathers, Benita Bagley, Satonya Brooks,)	
Swanda Dunn, Tyrone Jenkins,)	
Complainants,)	
v.	)	PERB Case No. 11-S-01
Fraternal Order of Police D.C. Department of)	
Corrections Labor Committee, Fraternal Order	)	Opinion No. 1426
of Police Lodge 1,)	
Respondents.)	

DECISION AND ORDER

I. Statement of the Case

On January 28, 2011, a document styled “Mo[t]ion for Preliminary Relief/Temporary Restraining Order Injunct[i]ve/Standards of Conduct Complaint” (“Complaint”) was filed *pro se* with the Public Employee Relations Board (“Board”). The Complaint names seventeen (17) individuals as complainants (“Complainants”) and names as respondents the Fraternal Order of Police D.C. Department of Corrections Labor Committee and Fraternal Order of Police Lodge 1 (“Union”). The Complaint alleges irregularities in Union elections from 2006 to 2010. The Union filed an answer and an “Opposition to Complainant’s Motion for Preliminary and Injunctive Relief.”

The answer raises the following defenses: (1) The Complaint is brought as a class action. Neither the CMPA nor Board rules authorize class actions. Rather, Board Rule 544.2 authorizes standards of conduct complaints to be filed by aggrieved individuals. (2) The Complaint alleges violations of the Union’s by-laws. A violation of union by-laws standing alone does not constitute a cause of action within the Board’s jurisdiction. (3) The Union’s by-laws provide that members pledge not to bring an action against the Union without first submitting it to the Labor

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Committee. The Complainants did not do so. The answer also denies nearly all the material allegations of the Complaint and asserts the untimeliness of many of them.

II. Discussion

After reviewing the pleadings in a light most favorable to the Complainants, we believe that the Complainants have failed to state a claim under the Comprehensive Merit Personnel Act ("CMPA"). Therefore, for the reasons discussed below, we are dismissing the Complaint in its entirety. In light of our disposition of the Complaint, it is not necessary to consider the Complainants' request for preliminary relief. This disposition results from application of principles of timeliness and standing.

A. Timeliness

A complaint alleging a standards of conduct violation "shall be filed not later than one hundred twenty (120) days from the date the alleged violation occurred." Board Rule 544.4. The instant Complaint was filed January 28, 2011. One hundred twenty days before that date is September 30, 2010. Thus, any allegation of a violation occurring before September 30, 2010, is untimely.

There are several such allegations in the Complaint. Paragraphs 4 and 5 complain of a rule change made on July 27, 2008. Paragraph 12 complains that new "probation correctional officers" were not permitted to vote in a May 2010 Union election. Paragraphs 13-15 object to the conduct of Union elections held in May 2006, July 2007, May 2008, September 2008, and May 2010. All of the foregoing allegations are untimely.

B. Standing

In *Barganier v. Fraternal Order of Police/Department of Corrections Labor Committee*, the Board considered a complaint that purported to be brought on behalf of the complainant as well as a "class of Labor Committee members at the D.C. Jail." 45 D.C. Reg. 4013, Slip Op. No. 542 at p. 1, PERB Case No. 98-S-03 (1998). The Board stated:

We note that while the effect of remedying any standards of conduct violation found would affect any FOP member affected by the violative conduct, neither the CMPA nor Board Rules formally provide for standards of conduct complaints purportedly brought on behalf of a class by an individual that does not in fact or officially represent the class described. Standards of conduct complaints may be brought by "[a]ny individual(s) aggrieved because a labor organization has failed to comply with the Standards of Conduct for labor organizations. . . ." Board Rule 544.2.

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Page 3

Id. The Board treated the *Barganier* complaint as one brought on behalf of the complainant only. The Complainants in the present case do not expressly purport to bring a class action, but they do refer to themselves as “the membership.” The Board will deem this to be a collective noun referring only to the Complainants and not to the entire membership of the Union.

Rule 544.2 provides: “Any individual(s) aggrieved because a labor organization has failed to comply with the Standards of Conduct for labor organizations may file a complaint with the Board for investigation and appropriate action.” This rule requires that complainants not only be individuals but also “aggrieved” individuals. *Dupree v. F.O.P./Dep’t of Corrs. Labor Comm.*, 43 D.C. Reg. 5130, Slip Op. No. 465 at p. 2 n.2, PERB Case No. 96-U-05 (1996) (noting that a non-member of FOP “could not be aggrieved by FOP’s alleged failure to comply with the standards of conduct for labor organizations, and would lack standing to allege such a violation by FOP.”) *See also F.O.P. Metro. Police Dep’t Labor Comm. D.C. Metro. Police Dep’t*, 28 D.C. Reg. 5018, Slip Op. No. 23 at p. 3, PERB Case Nos. 81-R-05, 81-S-02, and 81-R-09 (1981) (construing former Board Rule 108.2). In order to state a claim that they are aggrieved, complainants must allege an actual injury. *See Durant v. F.O.P./Dep’t of Corrs. Labor Comm.*, 43 D.C. Reg. 5130, Slip Op. No. 430 at p. 1 n.2, PERB Case Nos. 94-U-18 and 94-S-02 (1995).

Thus, to avoid dismissal the Complainants must have alleged that an actual injury resulted from the remaining alleged violations, i.e., those that are not untimely. The allegations that were brought timely are the following. (1) No shop steward election was held in September 2010. (Complaint ¶¶ 1, 2, 9, 15). (2) Paragraph 3 of the Complaint vaguely asserts that the Union violates the CMPA and does not act in the best interests of the membership. Paragraph 3 alleges no particular standards of conduct violation. (3) A January 3, 2011, list of shop stewards omits some shop stewards. (Complaint ¶ 8). (4) The time and place of membership meetings have lead to low turnout at the meetings. (Complaint ¶ 10). (5) At the December 21, 2010 meeting, no annual budget was approved and no financial documentation was made available to members. (Complaint ¶ 11). The Board has held that similar allegations, including allegations of inconvenient meeting times and places and failure to provide financial reports, had to be supported by allegations of actual injury. *Butler v. F.O.P./Dep’t of Corrs. Labor Comm.*, 46 D.C. Reg. 4409, Slip Op. No. 580 at pp. 1 n.1, 4, PERB Case No. 99-S-02 (1999).

The Complainants have not alleged actual injuries that they suffered as result of the above alleged violations. None of the Complainants are even mentioned in the paragraphs of the Complaint cited above. In those paragraphs, “the complaint is not supported by an allegation that there is an aggrieved person.” *F.O.P. Metro. Police Dep’t Labor Comm. and D.C. Metro. Police Dep’t*, 28 D.C. Reg. 5018, Slip Op. No. 23 at 3, PERB Case Nos. 81-R-05, 81-S-02, and 81-R-09 (1981).

As each of the alleged violations raised in the Complaint is either untimely or unsupported by an allegation that there is an aggrieved person, the Complaint fails to state a claim under the CMPA. Therefore, the Complaint is dismissed.

Decision and Order
PERB Case No. 11-S-01
Page 4

ORDER

IT IS HEREBY ORDERED THAT:

1. The standards of conduct complaint is dismissed.
2. Pursuant to Board Rule 559.2, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.
September 26, 2013

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PERB Case No. 11-S-01
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CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 11-S-01 was transmitted via U.S. Mail to the following parties on this the 10th day of October, 2013.

Antonio Richardson, Tyrone Jenkins, Swanda Dunn,
Edwin Hull, Keith Allison, and Dancy Simpson
c/o Tyrone Jenkins
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VIA U.S. MAIL

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Adessa Barker
Administrative Assistant

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:)	
)	
American Federation of Government Employees, Local 3721,	)	PERB Case No. 12-U-33
)	
Complainant,	)	Opinion No. 1427
)	
v.)	
	)	Decision and Order
District of Columbia Department of Fire and Emergency Medical Services,)	
)	
and)	
)	
District of Columbia Office of Labor Relations And Collective Bargaining,)	
)	
)	
Respondents.)	
)	

DECISION AND ORDER

I. Statement of the Case

Complainant 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”) (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

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PERB Case No. 12-U-33
Page 2

response to an information request. (Complaint, at 1-8). In addition, AFGE stated that it believed OLRCB's attorneys advised FEMS to not comply with the Order and thus further violated the CMPA. *Id.*, at 5-6.

In their Answer, Respondents denied that they refused to comply with the Order and information requests. (Answer, at 1-7). Furthermore, Respondents denied the allegation that OLRCB's attorneys advised FEMS not to comply with the Order. *Id.*, at 5.

The parties thereafter filed various motions and requests, which PERB resolved in *American Federation of Government Employees, Local 3721 v. District of Columbia Department of Fire and Emergency Medical Services and District of Columbia Office of Labor Relations*, 60 D.C. Reg. 12110, Slip Op. No. 1408, PERB Case No. 12-U-33 (2013). PERB's Decision and Order granted AFGE's motions to amend the Complaint to: 1) add the additional allegations that Respondents had refused and failed to comply with the Arbitrator's Award as to the payment of attorneys' fees and that Respondents had failed to provide documents and information in accordance with another information request AFGE sent on September 27, 2012; and 2) add the additional requested remedy of interest on the amount owed under the Award and Order from the time that liquidated damages ceased to accumulate. Slip Op. No. 1408, *supra*. As a result of PERB's granting of AFGE's motions to amend its Complaint, PERB provided Respondents additional time to answer AFGE's Amended Complaint. *Id.*

In their Answer to the Amended Complaint, Respondents asserted that FEMS paid the attorneys' fees owed under the Award and Order on February 12, 2013; asserted that all of the documents AFGE asked for in its various information requests had been provided; denied AFGE's request for the additional remedy of interest on the amount owed from the time that liquidated damages ceased to accumulate; and asserted that funds for the payment of the back-pay owed had been secured and that it was planning to coordinate with AFGE to determine the method by which it will begin making the payments. (Amended Answer, at 1-6).

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,

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PERB Case No. 12-U-33
Page 3

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 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 issued an enforcement order¹ of [Slip Op. No. 1258, *supra*]." *Id.*, at 5-6.

On July 29, 2013, PERB granted AFGE's motions to amend the Complaint, and on August 21, 2013, Respondents filed their Answer to the newly Amended Complaint, as outlined above.

III. Discussion

While a complainant does not need to prove its case on the pleadings, it must plead or assert allegations that, if proven, would establish a statutory violation of the CMPA. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, et al.*, 59 D.C. Reg. 5427, Slip Op. No. 984 at p. 6, PERB Case No. 08-U-09 (2009). If the record demonstrates that the allegations do concern violations of the CMPA, then the Board has jurisdiction over those allegations and can grant relief accordingly if they are proven. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 60 D.C. Reg. 9212, Slip Op. No. 1391 at p. 22, PERB Case Nos. 09-U-52 and 09-U-53 (2013).

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.

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PERB Case No. 12-U-33
Page 4

In addition, PERB Rule 520.8 states: “[t]he Board or its designated representative shall investigate each complaint.” Rule 520.10 states that “[i]f the investigation reveals that there is no issue of fact to warrant a hearing, the Board may render a decision upon the pleadings or may request briefs and/or oral argument.” However, Rule 520.9 states that in the event “the investigation reveals that the pleadings present an issue of fact warranting a hearing, the Board shall issue a Notice of Hearing and serve it upon the parties.” (Emphasis added).

Here, Respondents asserted in their original Answer that they did not deny that FEMS was required to comply with the Award and Order and AFGE’s information requests. (Answer, at 5-6). Rather, Respondents contended that they had not violated the CMPA because, due to the voluminous and complicated nature of the information, AFGE did not give FEMS a reasonable amount of time to fully comply with the Award and Order and the information requests before filing its Complaint. *Id.* Respondents now assert that as of August 21, 2013, the only portion of the Award and Order that remained unfulfilled was the payment of the back-pay, which they contend FEMS will begin paying soon. (Amended Answer, at 5).

Even if Respondents’ assertions are true, and even if FEMS does fulfill its uncontested obligation to pay all of the back-pay owed in the coming months, it is still possible that Respondents violated D.C. Code §§ 1-617.04(a)(1) and (5) of the CMPA if AFGE can prove that Respondents’ delay in fully complying with the Award and Order was unreasonable or intentional, and/or that Respondents delay in producing and delivering the documents AFGE asked for in their information requests was unreasonable or intentional, and/or if AFGE can prove that OLRCB’s attorneys did advise FEMS to not comply with the Order. Respondents’ denial of these allegations creates an issue of fact in accordance with PERB Rule 520.9. (Amended Answer, at 1-6).

While PERB precedent and D.C. law provide for an award of interest to be included with an arbitrator’s award of back-pay, it is unclear whether such can be “implied” in an arbitrator’s award without it being expressly granted by the award, and/or whether PERB can grant such an award of interest pursuant to its power to provide remedies in unfair labor practice disputes, as AFGE contends. See (Second Motion to Amend, at 1-3); and *FOP v. MPD, supra*, Slip Op. No. 1391 at p. 22, PERB Case Nos. 09-U-52 and 09-U-53; see also *University of the District of Columbia and University of the District of Columbia Faculty Association/NEA (On Behalf of Barbara Green)*, 41 D.C. Reg. 2738, Slip Op. No. 317, PERB Case No. 92-A-02 (1992) (in which a Grievant returned to the arbitrator to obtain an express supplemental award of interest on back-pay she had been previously awarded). Respondents deny that AFGE is entitled to the relief requested and further assert that because they have “engaged [AFGE] in good faith,

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PERB Case No. 12-U-33
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provided all information requested, and have substantially complied with the award ... an interest award in the present case in unwarranted. (Amended Answer, at 5).

The Board finds that all of the foregoing constitutes an issue of fact that cannot be resolved on the pleadings alone. Therefore, 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. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 59 D.C. Reg. 5957, Slip Op. No. 999 at p. 9-10, PERB Case 09-U-52 (2009).

ORDER

IT IS HEREBY ORDERED THAT:

1. The Board's Executive Director shall refer the Unfair Labor Practice Complaint to a Hearing Examiner to develop a factual record and present recommendations in accordance with said record.
2. The Notice of Hearing shall be issued seven (7) days prior to the date of the hearing.
3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

September 26, 2013

CERTIFICATE OF SERVICE

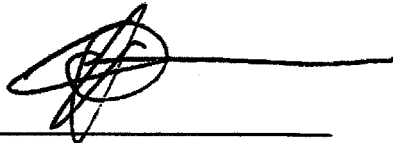
This is to certify that the attached Decision and Order in PERB Case No. 12-U-33, Slip Op. No. 1427, was transmitted via File & ServeXpress™ and e-mail to the following parties on this the 10th day of October, 2013.

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Colby J. Harmon
Attorney-Advisor

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

<hr/>		
In the Matter of:)	
)	
National Association of Government Employees,)	
Local R3-07,)	
	)	PERB Case No. 12-U-37
Complainant,)	
	)	Opinion No. 1428
v.)	
	)	Decision and Order
District of Columbia)	
Office of Unified Communications,)	
)	
Respondent.)	
<hr/>		

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.

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PERB Case No. 12-U-37
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OUC filed a Motion to Dismiss the Complaint, in which it contended that NAGE violated PERB Rule 561.8(a) in its service of the Complaint on OUC. (Motion to Dismiss, at 1-4). PERB denied OUC's Motion and granted OUC additional time to file an Answer to the Complaint. *National Association of Government Employees, Local R3-07 v. District of Columbia Office of Unified Communications*, 60 D.C. Reg. 12123, Slip Op. No. 1409, PERB Case 12-U-37 (2013).

In its Answer, OUC denied violating the CMPA and raised several affirmative defenses.

No other pleadings having been filed in this matter, NAGE's Complaint and OUC's affirmative defenses are now before the Board for disposition.

II. Background

At the time the matters complained of in this case occurred, NAGE and OUC were parties to a collective bargaining agreement. (Complaint, at 3). On April 3, 2012, NAGE filed a grievance with OUC alleging that OUC had improperly recognized another representative. *Id.*, at 2. On April 25, 2012, OUC filed a response to the grievance in which it "[confirmed] that the Agency would contact the Union to ensure no representation conflicts would arise in the future" and requested that NAGE provide OUC with a list of all authorized Union representatives, which NAGE later provided. *Id.* In its Answer, OUC admitted that NAGE filed a grievance and that it responded to the grievance on April 25, 2012, but denied that it had "improperly recognized another representative of the bargaining unit employees." (Answer, at 3).

NAGE alleged that on June 26-27, 2012, OUC Assistant Watch Commander, Lajuan Sullivan ("AWC Sullivan"), announced at morning roll call that the International Union of Public Employees ("IUPE") would be meeting with bargaining unit members on those days. (Complaint, at 2). NAGE alleged that this announcement constituted the wrongful "use of Agency resources for the purposes of establishing another union on-site" and a "blatant endorsement" of another union which intimidated, coerced, and interfered with NAGE bargaining unit employees. *Id.* OUC admitted that AWC Sullivan made the announcements as alleged, but asserted that said announcements were "not made at the direction or with the knowledge of the OUC upper management" and that "once it was made aware that IUPE non-employee advocates planned to hold a meeting at the OUC for the purposes of establishing a union at OUC, OUC told IUPE employee advocates that the IUPE non-employee advocates could not hold a meeting at the OUC for the purposes of establishing a union at OUC." (Answer, at 3). Furthermore, OUC denied that it "allowed the use of its resources for the purposes of

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PERB Case No. 12-U-37
Page 3

establishing another union on-site” and asserted that it “did not allow, consent to, or grant permission for the purposes of establishing another union on-site.” *Id.*

NAGE further alleged that on June 26, 2012, OUC interfered with its rights as the exclusive representative when it allowed IUPE to meet with three (3) bargaining unit employees on OUC property and when, on an unspecified date, OUC “agreed to authorize a meeting between NAGE bargaining unit employees and IUPE” in which IUPE was able to “collect 150 signatures.” (Complaint, at 3). OUC denied this allegation in its entirety. (Answer, at 3-4).

NAGE alleged that in July 2012, OUC allowed IUPE to circulate a petition and to “coerce and fraudulently” solicit signatures from bargaining unit members on the operations floor of the 911 and 311 call center during the members’ tours of duty. (Complaint, at 2-3). NAGE further alleged that OUC interfered with the bargaining unit members’ exercise of free choice by allowing IUPE’s advocates to “[coerce at least twenty-eight members] into signing this petition with the false understanding that it was an authorization for a meeting, not a petition to disaffiliate with NAGE.” *Id.*, and Exhibit 1. OUC denied the entirety of these allegations and stated it is “without knowledge as to whether 28 or more bargaining unit employees were coerced into signing [the alleged petition].” (Answer, at 2, 5).

On July 30, 2012, IUPE filed a petition with PERB for exclusive representation (PERB Case No. 12-RC-02, *supra*) of the bargaining unit, after which OUC allegedly “allowed IUPE, through its employee advocates, to [continuously] distribute flyers, pamphlets and brochures on the 911 and 311 call center operations floor, during [the members’] tours of duty.” (Complaint, at 2-3). OUC admitted that IUPE filed a recognition petition with PERB, but denied that it allowed IUPE to distribute flyers, pamphlets or brochures in the call center. (Answer, at 2, 4). Rather, OUC asserted that it instructed “both IUPE employee advocates and [IUPE] not to distribute [such items] in the call center.” *Id.*, at 4.

In addition, NAGE alleged that it made numerous requests to negotiate a new collective bargaining agreement, but that OUC failed to respond to the requests for “over a month” and did not meet with NAGE to begin negotiations until just four (4) days before the then current CBA was set to expire. (Complaint, at 3). NAGE contended that OUC’s “refusal to bargain collectively, in good faith, [interfered] with NAGE’s right as the exclusive representative of the bargaining unit employees.” *Id.* OUC denied these allegations in their entirety and asserted that OUC had attempted to negotiate a new collective bargaining agreement with NAGE as early as 2011, but that NAGE refused OUC’s request to bargain. (Answer, at 4-5). OUC further contended the parties negotiated the ground rules for the negotiation of a new collective bargaining agreement between January and September 2012, and that since then, OUC has

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Page 4

“engaged in negotiations with the Union for a new contract on October 25, 2012, November 8, 2012, December 6, 2012, January 10, 2013, January 17, 2013, January 24, 2013, January 31, 2013, February 7, 2013, February 21, 2013, March 28, 2013, April 4, 2013, April 25, 2013, May 2, 2013, May 23, 2013, May 30, 2013, June 6, 2013, and August 8, 2013.” *Id.*

Last, NAGE alleged that OUC interfered with its “right to bargain over workplace changes affecting bargaining unit employees” and “intimidated employees in the exercise of their rights” when it “attempted to move forward with [the implementation of a new 12-hour shift plan for employees] without consulting the Union” and after having only met with NAGE once to discuss the impact and effects of the plan. (Complaint, at 3). NAGE stated that even though OUC “has since agreed to [resume impact and effects bargaining over the plan], it has continuously failed to provide the Union any updates on this issue.” *Id.* While OUC admitted it notified NAGE that it planned to implement a 12-hour shift, it denied it failed to provide NAGE with information concerning the change and denied it attempted to implement the new shift plan without consulting NAGE. (Answer, at 5). Furthermore, OUC asserted it “met with the Union on July 16, 2012, September 26, 2012, March 4, 2013, March 25, 2013, and May 13, 2013, to discuss such implementation.” *Id.*

Based on its allegations, NAGE alleged OUC “has engaged in a pattern of objectionable interference with NAGE’s right to exclusive representation of the bargaining unit employees at OUC.” (Complaint, at 2). OUC denied this allegation in its entirety. (Answer, at 2).

NAGE sought as a remedy that PERB: 1) find OUC committed an unfair labor practice in violation of the CMPA; 2) order OUC to cease current and future interference with NAGE’s right to exclusive representation; 3) block the election in PERB Case No. 12-RC-02, *supra*; 4) order OUC to “immediately proceed negotiating with NAGE ... on all workplace changes affecting bargaining unit employees”; 5) order OUC to undergo training “on its duty to remain neutral in labor recognition disputes” and to continue to negotiate in good faith with NAGE; 6) order OUC to continue to recognize NAGE during the election in PERB Case No. 12-RC-02, *supra*; and 7) order all “other relief deemed just and appropriate.” (Complaint, at 4).

OUC raised the affirmative defenses that: 1) NAGE’s Complaint is defective because it alleged OUC violated “D.C. Code § 1-617.04 (a)(1), (2), (3) and (5)” rather than “D.C. Official Code § 1-617.04 (a)(1), (2), (3) and (5)” and therefore asked PERB to “perform a legal impossibility” in finding violations of statutes that do not exist¹; 2) PERB’s certification of

¹ OUC further contended that, to the extent NAGE intended to cite “D.C. Official Code § 1.617.4 (a)(1), (2), (3) and (5)”, it failed to allege any facts in the Complaint that would demonstrate a violation of “D.C. Official Code § 1.617.4 (a)(3)”, which states: “(a) The District, its agents, and representatives are prohibited from: (3)

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PERB Case No. 12-U-37

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NAGE as the exclusive representative of the bargaining unit in question in PERB Case No. 12-RC-02, *supra*, rendered moot paragraphs 2-9 in the Complaint's statement of facts and paragraphs 3 and 6 in the Complaint's prayer for relief; and 3) the parties' current negotiation of a successor agreement renders moot paragraphs 10-13 in the Complaint's statement of facts and paragraph 4 in the Complaint's prayer for relief. (Answer, at 1-7)

III. Discussion

The District of Columbia Official Code directs that the Code be cited as "D.C. Code, 2001 Ed. § ____".² (District of Columbia Official Code (West), Vol. 1 at p. IL (2001)). Therefore, the Board finds that NAGE's omission of the word "Official" in its citations to the D.C. Code did not render the Complaint "defective" as OUC argued. *Id.* The Board further notes that even if NAGE's references to the D.C. Code had been improperly cited, such, by itself, would not constitute a sufficient basis to declare the entire Complaint "defective" or to warrant a dismissal of its allegations. (See PERB Rule 501.1³).

While a complainant does not need to prove its case on the pleadings, it must plead or assert allegations that, if proven, would establish a statutory violation of the CMPA. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, et al.*, 59 D.C. Reg. 5427, Slip Op. No. 984 at p. 6, PERB Case No. 08-U-09 (2009). If the record demonstrates that the allegations do concern violations of the CMPA, then the Board has jurisdiction over those allegations and can grant relief accordingly if they are proven. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 60 D.C. Reg. 9212, Slip Op. No. 1391 at p. 22, PERB Case Nos. 09-U-52 and 09-U-53 (2013).

Here, OUC argues that because PERB Case No. 12-RC-02, *supra*, has been decided, paragraphs 2-9 in the Complaint's statement of facts and paragraphs 3 and 6 in the Complaint's prayer for relief are moot. (Answer, at 6-7). The Board agrees that OUC's requested remedies that PERB block the election in PERB Case No. 12-RC-02, *supra*, and that PERB order OUC to continue to recognize NAGE during the election in PERB Case No. 12-RC-02, *supra*, are now

Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization, except as otherwise provided in this chapter".

² Additionally, the Bluebook® format for citing to statutory compilations in the District of Columbia is "D.C. Code § x-x (<year>)". (THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION 236 tbl.T.1 (Columbia Law Review Ass'n et al. eds., 19th ed. 2010)).

³ PERB Rule 501.1: "The rules of the Board shall be construed broadly to effectuate the purposes and provisions of the CMPA."

Decision and Order

PERB Case No. 12-U-37

Page 6

moot because the election in PERB Case No. 12-RC-02, *supra*, has already been held and the case has been brought to a final conclusion. Notwithstanding, the Board does not agree that NAGE's alleged statements of fact relating to OUC's possible behavior and actions preceding that election are moot because said allegations, if proven, could still constitute violations of the CMPA. *FOP v. MPD, et al., supra*, Slip Op. No. 984 at p. 6, PERB Case No. 08-U-09. Therefore, the Board accepts OUC's affirmative defense that paragraphs 3 and 6 in the Complaint's prayer for relief are moot, but rejects its affirmative defense that paragraphs 2-9 in the Complaint's statement of facts are moot. *Id.*

Similarly, if NAGE's allegations in paragraphs 10-13 in the Complaint's statement of facts are proven to have occurred, such conduct could constitute violations of the CMPA, despite any actions that OUC may have subsequently taken. *Id.* Furthermore, if NAGE's allegations are proven, then the Board would be authorized to grant the relief requested in the Complaint. *FOP v. MPD, supra*, Slip Op. No. 1391 at p. 22, PERB Case Nos. 09-U-52 and 09-U-53. Therefore, the Board rejects OUC's affirmative defense that the parties' alleged current negotiation of a successor agreement renders moot paragraphs 10-13 in the Complaint's statement of facts and paragraph 4 in the Complaint's prayer for relief. *FOP v. MPD, et al., supra*, Slip Op. No. 984 at p. 6, PERB Case No. 08-U-09.

Finally, PERB Rule 520.8 states: "[t]he Board or its designated representative shall investigate each complaint." Rule 520.10 states that "[i]f the investigation reveals that there is no issue of fact to warrant a hearing, the Board may render a decision upon the pleadings or may request briefs and/or oral argument." However, Rule 520.9 states that in the event "the investigation reveals that the pleadings present an issue of fact warranting a hearing, the Board shall issue a Notice of Hearing and serve it upon the parties." (Emphasis added).

In the instant case, OUC disputes most—if not all—of NAGE's characterization of the facts, material allegations, and legal conclusions. (Answer, at 1-7). As such, the Board finds that this matter presents a material dispute of fact that cannot be reconciled by a review of the pleadings alone. Therefore, 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. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 59 D.C. Reg. 5957, Slip Op. No. 999 at p. 9-10, PERB Case 09-U-52 (2009).

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ORDER

IT IS HEREBY ORDERED THAT:

1. The Board's Executive Director shall refer the Unfair Labor Practice Complaint to a Hearing Examiner to develop a factual record and present recommendations in accordance with said record.
2. The Notice of Hearing shall be issued seven (7) days prior to the date of the hearing.
3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

September 26, 2013

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 12-U-37, Slip Op. No. 1428, was transmitted via File & ServeXpress™ and e-mail to the following parties on this the 10th day of October, 2013.

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