



District of Columbia

REGISTER

HIGHLIGHTS

- DC Council passes Resolution 19-763, Safety-Based Traffic Enforcement Emergency Declaration Resolution of 2012
- DC Council passes Resolution 20-1, Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 20, Resolution of 2013
- DC Council schedules a public oversight roundtable on the District of Columbia Health Benefit Exchange Authority
- Board of Ethics and Government Accountability establishes procedures for investigations, hearings, and appeals
- Department of Health proposes procedures for the operation of tanning facilities
- Office of the State Superintendent of Education proposes early intervention program for infants and toddlers with disabilities
- Office of the State Superintendent of Education announces funding availability for the DC Physical Activity for Youth (DC PAY) Program

DISTRICT OF COLUMBIA REGISTER

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ENROLLED ORIGINAL

A RESOLUTION

19-757

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with the respect to the need to ensure that all youth in foster care have access to all information regarding their rights and responsibilities while in foster care.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Foster Youth Statements of Rights and Responsibilities Emergency Declaration Resolution of 2012”.

Sec. 2. (a) There exists an immediate need to consolidate the exiting rights of youth in foster care; ensure that foster youth are informed of their rights; that training on the rights of foster youth is provided for social workers, providers, foster parents, and other persons who are associated with the care of youth; and that there is a mechanism in place by which youth or someone on their behalf can report concerns regarding their care, placement, and services provided through the Child and Family Services Agency. Additionally, there is an immediate need to ensure that youth in foster care receive vital identification, health care, medical, and educational documents at least 30 days before leaving care.

(b) Emergency legislation is necessary to ensure that foster youth receive the services and supports that they are entitled to and are protected while in care.

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 Foster Youth Statements of Rights and Responsibilities Emergency Amendment Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

19-758

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to approve Contract No. NFPHC-MC-002a to provide health benefits to eligible Not-for-Profit Hospital Corporation employees; Contract No. NFPHC-MC-002b to provide health benefits to eligible employees; Contract No. NFPHC-MC-002c to provide health benefits to eligible employees; and to authorize payment for the services received and to be received under the contracts.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “NFPHC Omnibus Health Benefits Approval and Payment Authorization Emergency Declaration Resolution of 2012”.

Sec. 2. (a) In the winter of 2010, only months after the establishment of the Not-for-Profit Hospital Corporation (“NFPHC”) as an instrumentality of the District of Columbia operating the only District hospital east of the Anacostia River, the NFPHC, through its insurance brokers, competitively bid the provision of health benefits for its employees. Group Hospitalization and Medical Services, Inc., d/b/a CareFirst BlueCross BlueShield, and CareFirst BlueChoice, Inc., (“CareFirst”) quoted the lowest price for the best services.

(b) The NFPHC entered into a contract with CareFirst for the provision of health benefits to its eligible employees for January 1-December 31, 2011.

(c) Council approval is necessary for NFPHC-MC-002c because this contract for the provision of these vital services, with a cost to NFPHC of \$1,361,766.41, was paid by NFPHC to CareFirst, without prior Council approval and is in excess of \$1 million in a 12-month period.

(d) The NFPHC has taken necessary steps to prevent future occurrences, including purchasing a contracts database and hiring additional contract personnel.

Sec. 3. (a) In the winter of 2011, the NFPHC, through its insurance brokers, competitively bid the provision of health benefits for its employees for calendar year 2012. CareFirst quoted the lowest price for the best services, with no change in premium rates.

(b) The NFPHC entered into a contract with CareFirst for the provision of health benefits to its eligible employees for January 1-December 31, 2012.

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(c) Council approval is necessary for NFPHC-MC-002b because this contract for the provision of these vital services, with a cost to NFPHC of \$1,361,766.41, is in excess of \$1 million in a 12-month period.

(d) The NFPHC has taken necessary steps to prevent future occurrences, including purchasing a contracts database and hiring additional contract personnel.

Sec. 4. (a) In the winter of 2012, the NFPHC, through its insurance brokers, competitively bid the provision of health benefits for its employees for calendar year 2013. CareFirst worked cooperatively with NFPHC management, including its finance department under the purview of the Office of the Chief Financial Officer, to negotiate market competitive rates based on benchmark data analysis in the Washington metropolitan area.

(b) The NFPHC proposes to enter into a contract with CareFirst for the provision of health benefits to its eligible employees for January 1-December 31, 2013.

(c) Council approval is necessary for NFPHC-MC-002a to allow this contract, with a cost to NFPHC of \$1,933,550.67, to be paid as it is in excess of \$1 million in a 12-month period.

Sec. 5 Council approval of these contracts is necessary to enable the NFPHC to continue to provide its employees at the only District of Columbia hospital east of the Anacostia River with high-quality health benefits. Doing so will allow the NFPHC to maintain a healthier group of employees, which decreases overall absenteeism rates, increases productivity, and improves the overall quality of life for these employees. Lastly, approval of the contracts will allow NFPHC to continue to be competitive with other hospitals in recruiting and retaining a high-quality workforce.

Sec. 6. The Council of the District of Columbia determines that the circumstances enumerated in sections 2 through 5 constitute emergency circumstances making it necessary that the NFPHC Omnibus Health Benefits Approval and Payment Authorization Emergency Act of 2012 be adopted after a single reading.

Sec. 7. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

19-759

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to require the District of Columbia Board of Elections to schedule the District of Columbia Democratic State Committee elections during the special election to fill the at-large Council seat to take place on April 23, 2013.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Democratic State Committee Elections Emergency Declaration Resolution of 2012".

Sec. 2. (a) This emergency declaration resolution is necessary to require the District of Columbia Board of Elections ("Board") to schedule the election for District of Columbia Democratic State Committee ("Committee") officials during the special election to fill the at-large Council seat, which is to take place on April 23, 2013.

(b) On August 26, 2011, the Committee notified the Board that due to the presidential election of 2012, the Democratic National Committee had advised the Committee to avoid scheduling its election of party officials in the middle of the delegate selection process for the 2012 Democratic National Convention.

(c) The Committee advised the Board that it would elect its party officials through a State Convention instead of during the primary held on April 3, 2012; however, the election never took place.

(d) The Constitution of the Committee states that the election of the party officials must be held at each primary election and makes no exceptions to how the party officials of the Committee are elected.

(e) The Committee requested that the Board hold an election for its party officials on November 6, 2012.

(f) The Board notified the Committee that pursuant to section 10(a)(1) of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 702; D.C. Official Code § 1-1001.10(a)(1)), elections of party officials can take place only on 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.

(g) According to the Board's determination, at this point an election of Committee officials cannot be held until 2016.

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(h) The Committee has faced allegations of not being open and transparent with its proceedings.

(i) All of the current party Committee officials have served beyond their expired terms. It would be irresponsible to wait until 2016 to allow the over 300,000 registered Democrats in the District of Columbia to vote for Committee party officials.

(j) It would be more open, fair, and transparent to have the Board hold the election for the party officials of the Committee during the special election to fill the at large Council seat on April 23, 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 District of Columbia Democratic State Committee Elections Emergency Amendment Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

19-760

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to restore the applicability provision of the real-property-tax exemption granted to the United House of Prayer for All People.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “United House of Prayer for All People Real Property Tax Exemption Technical Emergency Declaration Resolution of 2012”.

Sec. 2. (a) Section 3 of the United House of Prayer for All People Real Property Tax Exemption Act of 2011 (“D.C. Law 19-51”) provides that the act shall apply as of March 1, 2011 upon inclusion of the act’s fiscal effect in an approved budget and financial plan.

(b) Funding for D.C. Law 19-51 was included in the fiscal year 2013 budget. However, in repealing the subject-to-appropriation language in the Fiscal Year 2013 Budget Support Act of 2012, effective September 20, 2012 (D.C. Law 19-168; 59 DCR 8025), the entire applicability provision was inadvertently repealed. Emergency legislation is necessary to restore the March 1, 2011, applicability date of the exemption for the United House of Prayer for All People and to resolve pending tax bills.

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 United House of Prayer for All People Real Property Tax Exemption Technical Emergency Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

19-761

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to amend Chapter 10 of Title 47 of the District of Columbia Official Code to exempt from taxation certain property owned or ground leased by Washington Latin Public Charter School or Latin Rudolph QALICB, LLC, nonprofit corporations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Washington Latin Public Charter School Campus Property Tax Exemption Emergency Declaration Resolution of 2012”.

Sec. 2. (a) Washington Latin Public Charter School ("Washington Latin"), a tax-exempt, 501(c)(3) organization, will be the tenant under a long-term ground lease with the District of Columbia Public Schools for property located in Ward 4 at 5200 2nd Street, N.W., which formerly housed the Rudolph School. Washington Latin will move into the building after completing a multi-million dollar renovation.

(b) Washington Latin is currently pursuing a financing solution for its renovation project through the New Market Tax Credit (“NMTC”) program, which is administered by the United States Treasury Department. The NMTC financing will allow Washington Latin to obtain financing terms that are far more favorable than what is available in a conventional financing program. In order to qualify for the NMTC financing, and as required by the Internal Revenue Service, Washington Latin will form a subsidiary corporation known as a Qualified Active Low-Income Community Business (“QALICB”) that will act as the borrower. At execution of the lease agreement, Washington Latin will assign its leasehold interest to the QALICB, triggering transfer and recordation taxes.

(c) Without this emergency legislation, Washington Latin would be exempt from District real estate, recordation, and transfer taxes with respect to the Rudolph Campus Property, but the subsidiary QALICB would not be exempt from these taxes. It is a quirk of the federal legislation that to qualify for the financing, Washington Latin must create a company that is not tax exempt under District law. Nevertheless, the NMTC financing transaction, for the purposes of utilizing federal credits, is wholly consistent with the intent of the statute otherwise exempting all charter schools from taxation. Washington Latin will not profit from the NMTC structure described in subsection (b) of this section. The only reason for the structure is to facilitate compliance with

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the NMTC program. Washington Latin cannot close on the NMTC financing without tax exemptions for the subsidiary QALICB.

(d) Other educational institutions, and most recently Meridian Charter School, have been exempted from real property taxes caused by the NMTC requirements.

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 Latin Public Charter School Campus Property Tax Exemption Emergency Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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A RESOLUTION

19-762

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to order the closing of a portion of a public alley in Square 393, bounded by Florida Avenue, N.W., 8th Street, N.W., and 9th Street, N.W., in Ward 1.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Closing of a Public Alley in Square 393, S.O. 11-08780, Emergency Declaration Resolution of 2012".

Sec. 2. (a) The Council has considered on first reading on December 4, 2012, and final reading on December 18, 2012, Bill 19-787, the Closing of a Public Alley in Square 393, S.O. 11-08780, Act of 2012, following mark-up by the Committee of the Whole.

(b) The alley closing legislation will facilitate the development of a residential building with ground floor retail in Square 393. The alley closing requires the recordation of a covenant establishing new portions of the alley system by easement as shown on the Surveyor's plat in S.O. 11-08780, and the applicant agrees to maintain the new portions of the alley system established by easement. The reconfigured alley system results in an improved alley system for traffic flow through and around the square. In addition, this development will have a positive fiscal impact on the District of Columbia through the generation of substantial new property tax revenues and new residential income tax, will provide affordable housing and will result in important streetscape improvements. The development will also create approximately 200 jobs during construction and additional permanent jobs after completion of the project.

(c) The Advisory Neighborhood Commission 1B ("ANC"), the ANC within which the project is located, unanimously voted to support the alley closing and the establishment of an alley easement.

(d) Approval of emergency legislation will allow the construction of the proposed development to proceed expeditiously. Securing the alley closing approval is essential for the applicant to move forward in a timely manner with the development and is necessary for the applicant to obtain the required construction financing commitment.

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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 Closing of a Public Alley in Square 393, S.O. 11-08780, Emergency Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

19-763

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to require the Mayor to assess the potential safety impact from lower fines, to post general automated enforcement warning signs, to evaluate existing speed limits and revise existing speed limits through rulemaking, and to submit an automated enforcement expansion plan, to prohibit the Mayor from adopting an order, regulation, or rule concerning posted speed limits by emergency rulemaking, and to repeal any such order, regulation, or rule adopted after December 15, 2012; to amend the District of Columbia Traffic Adjudication Act of 1978 to modify the process for Council approval of mayoral changes to the fine schedule; to amend the Pedestrian Protection Amendment Act of 1987 with regard to when a vehicle must stop for a pedestrian in a marked crosswalk or unmarked crosswalk at an intersection; and to amend the District of Columbia Municipal Regulations to reduce traffic fines for certain moving violations, including speeding, failure to clear the intersection, failure to stop and give right-of-way to a pedestrian in a roadway, failure to come to a complete stop before turning right on red, and failure to obey a “no turn on red” sign.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Safety-Based Traffic Enforcement Emergency Declaration Resolution of 2012”.

Sec. 2. (a) There exists an immediate need to implement Bill 19-1013, the Safety-Based Traffic Enforcement Amendment Act of 2012, which was approved by the Council on 1st reading on December 4, 2012.

(b) Bill 19-1013 amends the District of Columbia Municipal Regulations to reduce the fines for several traffic violations, including speeding, failure to clear an intersection, right turn on red violations, and failure to stop and give right of way to a pedestrian in a roadway. Bill 19-1013 further requires that the Mayor transmit to the Council an assessment of any safety impact resulting from the fine reductions under the bill, post signs identifying the District as a strict traffic enforcement zone, transmit to the Council a plan for the expansion of automated traffic enforcement in the District, complete a District-wide assessment of speed limits, and revise

ENROLLED ORIGINAL

existing speed limits in the District through rulemaking. Bill 19-1013 also clarifies the requirements for a vehicle stopping for a pedestrian in a crosswalk.

(c) Bill 19-1013 as approved on first reading specified one speeding fine tier (11-15 mph over the existing limit) as subject to appropriations for fiscal year 2013. Bill 19-1013 was approved on 2nd reading on December 18, 2012 with an amendment that removed the subject to appropriations language in the bill for fiscal year 2013 by changing, from \$75 to \$92, the fine for that tier for fiscal year 2013. Amendments at 2nd reading also made clear that the Mayor cannot change existing speeding fines without review by the Council, the Mayor may not adopt speed limit changes through emergency rulemaking, and any emergency rulemaking concerning posted speed limits after December 15, 2012 is repealed.

(d) Late in the day on December 17, 2012, the Council was informed that the Mayor had ordered an emergency rulemaking to raise the speed limit on four additional roadways in the District, to take effect at 12:01 a.m. on December 18, 2012.

(e) This rulemaking will entirely circumvent pending Bill 19-1013, which is based on certain revenue assumptions that would be altered by the Mayor's emergency rulemaking.

(f) This emergency would implement all of the provisions of Bill 19-1013 as amended.

(g) It is necessary to implement Bill 19-1013 on an emergency basis in order to repeal the most recent emergency rulemaking changing several posted speed limits, and to prevent the Mayor from changing speeding fines and posted speed limits by emergency rulemaking without Council review.

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 Safety-Based Traffic Enforcement Emergency Amendment Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

19-764

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to amend the District of Columbia Election Code of 1955 to amend the current election laws governing circulators of petitions for the purposes of placing initiative and referendum measures on the ballot, nominating candidates for elected office, and recalling elected officials.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Elections Petition Circulation Requirements Emergency Declaration Resolution of 2012".

Sec. 2. (a) There exists an arguable conflict between current election laws governing circulators of petitions and certain decisions of the United States Supreme Court and various United States Courts of Appeals concerning conditions placed on the ballot-initiative process and restrictions on ballot petition circulators.

(b) In *Buckley v. American Constitutional Law Foundation, Inc.*, No. 97-930, 525 U.S. 182 (1999), the United States Supreme Court declared unconstitutional, on First Amendment grounds, a Colorado statutory requirement that initiative-petition circulators be registered voters.

(c) Subsequently, a number of U.S. Courts of Appeal have extended this reasoning to invalidate registration requirements for circulators of candidate-nominating petitions and, further, to hold that even residency requirements on circulators of initiatives and candidate-nominating petitions are impermissible. *See, e.g., Krislov v. Rednour*, 226 F.3d 852 (7th Cir. 2000), *cert. denied sub. nom., McGuffage v. Krislov*, 531 U.S. 1147 (2001) (striking registration and residency requirements); *Nader v. Blackwell*, 545 F.3d 459 (6th Cir. 2008); *Nader v. Brewer*, 531 F.3d 1028 (9th Cir. 2008), *cert. denied*, 129 S.Ct. 1580 (2009); *Yes on Term Limits v. Savage*, 550 F.3d 1023 (10th Cir. 2008); *see also Daien v. Ysursa*, 711 F.Supp.2d 1215 (D.Idaho 2010).

(d) Currently, initiative-petition circulators as well as circulators of petitions for the purposes of nominating candidates for elected office and recalling elected officials are required to be qualified registered electors of the District of Columbia. (D.C. Official Code §§ 1-1001.08(b)(2), 1-1001.16(h)(5), 1-1001.16(k)(1)(E), 1-1001.17(f)(5), and 1-1001.17(i)(6). This requirement is in apparent conflict with the Supreme Court's decision in *Buckley v. American Constitutional Law Foundation, Inc.*).

(e) Further well-reasoned decisions by a number of United States Courts of Appeals strongly suggest that the residency requirement on petition circulators, even in the absence of a registration requirement, could be successfully challenged on First Amendment grounds.

(f) Plaintiffs in the civil action, *Libertarian Party, et al. v. Deborah Nichols, et al.*, 12-cv-01248 (CKK), currently pending in the United States District Court for the District of Columbia, challenge both the registration and the residency requirements imposed upon ballot- petition circulators by the District of Columbia Election Code of 1955.

(g) The amendments to the District of Columbia Election Code of 1955 abolishing the registration and residency requirements for initiative-petition circulators and for circulators of petitions for the purposes of nominating candidates for elected office and recalling elected officials would conform District of Columbia election law concerning petition circulation requirements to legal precedent requiring that jurisdictions reasonably minimize restrictions on core political speech while protecting the integrity of the electoral process. These amendments would also require non-resident petition circulators to register with the Board of Elections and consent to being subject to the subpoena power of the District of Columbia.

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 Petition Circulation Requirements Emergency Amendment Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

19-765

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to approve Modification Nos. M0009 and M0010 to DCTO-2009-C-0253 with Northrop Grumman Systems Corporation for technical assistance and support services for the Department of Employment Services Unemployment Tax Accounting System and to authorize payment for services received and to be received under these modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract DCTO-2009-C-0253 Modification Nos. M0009 and M0010 Approval and Payment Authorization Emergency Declaration Resolution of 2012".

Sec. 2 (a) There exists an immediate need to approve Modification Nos. M0009 and M0010 to Contract DCTO-2009-C-0253 with Northrop Grumman Systems Corporation to provide technical assistance and support services for the Unemployment Tax Accounting System to the Department of Employment Services and to authorize payment for the services received and to be received under these modifications.

(b) On November 25, 2008, the Office of Contracting and Procurement ("OCP") awarded Contract DCTO-2009-C-0253 to Northrop Grumman Systems Corporation for technical assistance and support services in the not to exceed amount of \$927,726.00 for the base year. Subsequently, OCP has exercised Option Years One, Two, and Three for the cumulative period November 25, 2010, through November 24, 2012, in the cumulative estimated amount of \$3,622,053.00.

(c) On November 21, 2012, the OCP partially exercised Option Year Four, for the period November 25, 2012 through January 24, 2013, in an estimated amount of \$177,400.00. Now, OCP proposes to exercise the remainder of Option Year Four, for the period January 24, 2013 through November 25, 2013, in the estimated amount of \$887,069.00.

(d) OCP now seeks Council approval to increase the total not to exceed amount for Option Year Four to \$1,064,469.00.

(e) Approval is necessary to allow the continuation of these vital services. Without this approval, Northrop Grumman Systems Corporation cannot be paid for services provided in excess of \$1,000,000 for the 4th option year.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract DCTO-2009-C-0253 Modification Nos. M0009 and M0010 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

19-766

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to approve a multiyear contract with Washington Humane Society, Inc., to operate the District's animal care and control facility.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. DCHC-2012-C-0526 Emergency Declaration Resolution of 2012".

Sec. 2. (a) On August 1, 2012, the Office of Contracting and Procurement , on behalf of the Department of Health, Health Regulation and Licensing Administration , ("OCP") entered into a letter contract with Washington Humane Society, Inc., to operate the District's animal care and control facility. OCP now desires to definitize a multiyear agreement with Washington Humane Society, Inc.

(b) The estimated total expenditure under the 3-year base term of this multiyear contract with Washington Humane Society, Inc., is \$9,838,595.

(c) Council approval is necessary to allow the District to continue to receive the benefit of these vital services from Washington Humane Society, Inc.

(d) These critical services can only be obtained through an award of the multiyear contract to Washington Humane Society, Inc.

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. DCHC-2012-C-0526 Emergency Approval Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

19-767

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to authorize payments incurred in the amounts of \$16,596,598.30 under voided Contract No. DCKA-2009-C-0140 with Alta Bicycle Share, Inc. for the services and equipment received by the District for the Capital Bikeshare program.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Capital Bikeshare Program Payment Authorization Emergency Declaration Resolution of 2012".

Sec. 2. (a) There exists an immediate need to authorize payments for services and equipment rendered by Alta Bicycle Share, Inc. ("Alta") and received by the District Department of Transportation ("DDOT") under voided Contract No. DCKA-2009-C-0140 for the Capital Bikeshare program.

(b) On May 20, 2010, DDOT entered into a contract with Alta to establish and operate a Bikeshare program throughout the District. The contract authorized Alta to retain certain revenue from the Bikeshare program as a portion of its payments under the contract.

(c) On May 19, 2011, DDOT exercised the first option year of the contract, and on May 18, 2012, DDOT exercised the second and current option year of the contract. Neither option year included the revenue payment provision.

(d) Since its inception, the District's Bikeshare program has become one of the premier bike sharing systems in the country. Currently there are 128 stations with 1275 bikes, 22,200 annual members and 247,000 daily members, all of who take 3,360,000 bicycle trips each year.

(e) On December 12, 2012, however, the Office of the Attorney General determined that the contract with Alta was void *ab initio* as a result of the revenue payment provision in the base year contract, stating that that provision constituted a violation of anti-deficiency laws.

(e) Because the base year contract was determined to be void *ab initio*, the option year contracts were also determined to be void.

(f) Under the base year contract, DDOT made payments to Alta in the total amount of \$6,464,470.64 for the purchase of equipment and the operation of the Bikeshare program.

ENROLLED ORIGINAL

(g) Under the first year option contract, DDOT made payments to Alta in the total amount of \$4,405,968.56 for the purchase of equipment and the operation of the Bikeshare program.

(h) Under the current year option contract, DDOT has made payments to Alta in the total amount of \$551,601.00 for the purchase of equipment and the operation of the Bikeshare program. In addition, DDOT has received invoices from Alta for the purchase of equipment and the operation of the Bikeshare program in the total amount of \$4,013,773.04, which have not yet been paid.

(i) Council authorization is necessary to compensate Alta for services and goods provided since execution of the contract, to ratify the payments already made to Alta under the base year and option year contracts, and to authorize payment to Alta in the amount of the outstanding invoices under the current option year contract.

(j) Without this authorization, Alta cannot be paid fully for services and goods provided. In addition, the District's failure to timely make full payment to Alta for the goods provided and services rendered could result in a lapse in the operation of the Bikeshare program, which would create a significant disruption in transportation options for District residents.

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 Capital Bikeshare Program Payment Authorization Emergency Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

19-768

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to approve Modification Nos. 1 and 2 to Contract DCPO-2011-T-0139 with Level 3 Communications, LLC for enterprise telecommunication services and to authorize payment for goods and services received and to be received under that contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract DCPO-2011-T-0139 Modifications Approval and Payment Authorization Emergency Declaration Resolution of 2012".

Sec. 2. (a) There exists a need to approve Modification Nos. 1 and 2 to Contract DCPO-2011-T-0139 with Level 3 Communications, LLC to provide enterprise telecommunication services and to authorize payment for goods and services received and to be received under the contract.

(b) On July 14, 2011, the Office of Contracting and Procurement ("OCP") awarded Contract DCPO-2011-T-0139 to Level 3 Communications, LLC for enterprise telecommunication services in an amount not to exceed \$900,000.00 for the base year.

(c) On June 27, 2012, the OCP exercised option year one in an amount not to exceed \$900,000.00.

(d) OCP now seeks Council approval to increase the total amount not to be exceeded for option year one to \$5,050,000.00.

(e) Council approval is necessary to allow the continuation of vital services provided by Level 3 Communications, LLC. Without Council approval, Level 3 Communications, LLC cannot be paid for services provided in excess of \$1 million for the first option year.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract DCPO-2011-T-0139 Modifications 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

19-769

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to approve Modification Nos. M0004 and M0005 to Contract Number DCAM-2011-C-0115 to provide biodiesel fuel to designated District fuel sites as needed, and to authorize payment for the services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modification No. M0004 and Modification No. M0005 to Contract Number DCAM-2011-C-0115 Approval and Payment Authorization Emergency Declaration Resolution of 2012”.

Sec. 2. (a) There exists an immediate need to approve Modification Nos. M0004 and M0005 to Contract Number DCAM-2011-C-0115 to provide biodiesel fuel to designated District fuel sites and to authorize payment for the services received and to be received under the contract.

(b) On June 28, 2011, Contract Number DCAM-2011-C-0115 was awarded to Tri Gas & Oil Co., Inc. to expire on September 30, 2011 in the amount of \$4.5 million.

(c) On October 19, 2011, Modification No. 0001 was issued exercising partial option year one of Contract Number DCAM-2011-C-0115 from October 28, 2011 through December 31, 2011 in an amount not to exceed \$999,999.00.

(d) On December 19, 2011, Modification No. 0002 was issued exercising the balance of the first option period from January 1, 2012 through October 27, 2012. The total estimated amount for the full option year (Modification No. 0001 and Modification No. 0002) was \$7,037,370.00.

(e) On October 26, 2012, Modification No. 0004 was issued exercising partial option year 2 from October 28, 2012 through December 31, 2012 in an amount not to exceed \$999,999.00.

(f) The District is now requesting approval of proposed Modification No. 00005 for the period of January 1, 2013 through October 27, 2013. The total estimated amount for the full second year option period (Modification No. 00004 & Modification No. 00005) is \$5,890,713.00.

ENROLLED ORIGINAL

(g) Council approval is necessary to allow the continuation of vital services provided by Tri Gas & Oil Co., Inc. Without Council approval, Tri Gas & Oil Co., Inc. cannot be paid for services provided in excess of \$1 million.

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 Modification No. M0004 and Modification No. M0005 to Contract Number DCAM-2011-C-0115 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

19-770

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to establish the State Athletic Activities, Programs, and Office Fund for the deposit of funds generated by sponsorships, advertisements, and fees related to state athletic activities and programs.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "State Athletic Activities, Programs, and Office Fund Emergency Declaration Resolution of 2012".

Sec. 2. (a) Throughout the school year, District educational institutions conduct extracurricular activities to enrich the lives of our young people. Ongoing fiscal challenges throughout the District government often prevent beneficial programs and events from achieving their potential due to a lack of funding. The District benefits from having numerous residents and corporate citizens who are willing to support the District's youth by funding shortfalls in these critical programs, particularly in an athletic context.

(b) Due to longstanding restrictions against commercial advertising involving District property, sponsorships may not be solicited or accepted as a donation absent specific legislative authority.

(c) There is precedent for this type of public-private partnership initiative. In 2011, the Council approved a sponsorship for the District's premier high school football game, the Turkey Bowl. In the Department of Parks and Recreation Revenue Generation Amendment Act of 2011, effective September 14, 2011 (D.C. Law 9-21; 58 DCR 6628), the Council authorized the Department of Parks and Recreation ("DPR") to contract for advertisements and sponsorships for facilities within the DPR inventory.

(d) The proposed legislation would create a special fund, the State Athletic Activities, Programs, and Office Fund ("Fund") to be used to enhance the development of state interscholastic athletic programs and competitions and to supplement the operations budget of the District of Columbia State Athletic Association ("DCSAA"). The Statewide Director of Athletics will prioritize resources from the Fund to ensure well-designed and effective interscholastic athletic programs and competitions throughout the District of Columbia.

(e) The Fund will be used for the financial support of state athletic programs and competitions, including for championship events, equipment, memorabilia, training, security,

ENROLLED ORIGINAL

awards, and related operations, to ensure well-designed and effective state athletic programs and events that comply with the standards of the National Federation of State High School Associations and with District of Columbia laws and regulations.

(f) Creation of the Fund on an emergency basis will allow the DCSAA to immediately accept resources to benefit District students for the remainder of the 2012-2013 school year.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the State Athletic Activities, Programs, and Office Fund Emergency Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

19-771

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to authorize the Office of the State Superintendent of Education to solicit sponsorships from individuals or organizations to generate revenue for state athletic programs and activities in exchange for advertisements in agency publications, on the website, or in public at state athletic events.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “State Athletic Activities, Programs, and Office Revenue Generation and Sponsorship Emergency Declaration Resolution of 2012”.

Sec. 2. (a) Throughout the school year, District educational institutions conduct extracurricular activities to enrich the lives of our young people. Ongoing fiscal challenges throughout the District government often prevent beneficial programs and events from achieving their potential due to a lack of funding. The District benefits from having numerous residents and corporate citizens who are willing to support the city’s youth by funding shortfalls in these critical programs, particularly in an athletic context.

(b) Due to longstanding restrictions against commercial advertising involving District property, sponsorships may not be solicited or accepted as a donation absent specific legislative authority.

(c) There is precedent for this type of public-private partnership initiative. In 2011, the Council approved a sponsorship for the District’s premier high school football game, the Turkey Bowl. In the Department of Parks and Recreation Revenue Generation Amendment Act of 2011, effective September 14, 2011 (D.C. Law 9-21; 58 DCR 6628), the Council authorized the Department of Parks and Recreation (“DPR”) to contract for advertisements and sponsorships for facilities within the DPR inventory.

(d) The proposed legislation would permit the District of Columbia State Athletic Association (“DCSAA”) to solicit and accept sponsorships to be used to enhance the development of state interscholastic athletic programs and competitions, and supplement the operations budget of the DCSAA. Sponsorship funds would be deposited into a newly established State Athletic Activities, Programs and Office Fund (“Fund”). The Statewide Director of Athletics will prioritize resources from the Fund to ensure well-designed and effective interscholastic athletic programs and competitions throughout the District of Columbia.

ENROLLED ORIGINAL

(e) The Fund will be used for the financial support of state athletic programs and competitions, including for championship events, equipment, memorabilia, training, security, awards, and related operations, to ensure well-designed and effective state athletic programs and events that comply with the standards of the National Federation of State High School Associations standards and with District of Columbia laws and regulations.

(f) Only advertisements would be agreed to in exchange for corporate goods, services, or currency. There would be no limit of the value of goods, services, or currency that may be received from a foreign organization registered or not outside of the District of Columbia or an individual domiciled outside of the District of Columbia. A \$1,000 limit shall be imposed on the value of goods, services, and currency that may be received during one school year from a domestic organization registered or not within the District of Columbia or from an individual domiciled in the District of Columbia.

(g) Authorizing the solicitation of sponsorships will allow the District to immediately accept resources to benefit District students for the remainder of the 2012-2013 school year.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the State Athletic Activities, Programs, and Office Revenue Generation and Sponsorship Emergency Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

19-772

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2012

To declare the existence of an emergency with respect to the need to approve Contract No. DCGO-2011-C-0008-M01 to provide school bus maintenance and repair services, 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. DCGO-2011-C-0008-M01 Approval and Payment Authorization Emergency Declaration Resolution of 2012".

Sec. 2. (a) There exists an immediate need to approve Contract No. DCGO-2011-C-0008-M01 with Precision Truck Repair, Inc., ("Precision") to provide school bus maintenance and repair services and to authorize payment for the services received under that contract.

(b) On April 1, 2011, the Office of Contracting and Procurement ("OCP"), on behalf of the Office of the State Superintendent of Education (OSSE), entered into a contract with Precision to provide school bus maintenance service in an amount not to exceed \$900,000.

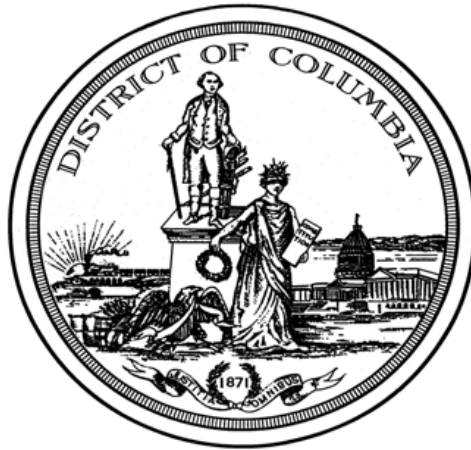
(c) On March 19, 2012, OSSE conducted a reconciliation of all purchase orders executed to fund Contract No. DCGO-2011-C-0008-M01. The total amount of the 4 purchase orders (PO359302, PO365516, PO375016, and PO390287) issued for this contract exceeds \$1 million. Based on the statement from the contractor, the total amount of all invoices for the period April 1, 2011, through March 31, 2012, is \$1,559,212.

(d) Council approval is necessary as the contract is now for more than \$1 million during a 12-month period.

(e) Council approval is necessary to allow the continuation of these vital services. Without this approval, Precision cannot be paid for services provided in excess of \$1million.

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. DCGO-2011-C-0008-M01 Approval and Payment Authorization Emergency Act of 2012 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.



RULES OF ORGANIZATION AND PROCEDURE FOR THE COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD 20

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ARTICLE I—DEFINITIONS.**101. DEFINITIONS.**

For the purposes of these Rules, the term:

(1) “Agency” includes any of the organizational units of the District of Columbia including a department, board, division, commission, or office, whether subordinate to or independent of the Mayor; provided, that “agency” does not include the Council or the District of Columbia courts.

(2) “Auditor” means the Auditor of the District of Columbia as established by section 455 of the Charter (D.C. Official Code § 1-204.55).

(3) “Bill” means a proposed act of the Council.

(4) “Borrowing request” means a borrowing request submitted by the Mayor to the Council pursuant to section 10 of the Funds Control Act (D.C. Official Code § 47-309).

(5) “Budget” or “budget request” means the entire request for appropriations and loans or spending authority for all activities of all agencies, the Council and the District of Columbia courts, financed from all existing or proposed resources including both operating and capital expenditures.

(6) “Budget of the Council” means the entire request for appropriations by the Council.

(7) “Budget structure resolution” means a resolution submitted by the Mayor to the Council pursuant to section 9 of the Funds Control Act (D.C. Official Code § 47-308).

(8) “Ceremonial resolution” means an expression of appreciation, an honorarium of limited application, or a declaration of no legal effect that is adopted without objection.

(9) “Chairman” means the Chairman of the Council of the District of Columbia, as established by section 401 of the Charter (D.C. Official Code § 1-204.01).

(10) “Charter” means Title IV of the Home Rule Act (D.C. Official Code § 1-204.01 *et seq.*).

(11) “Comprehensive Plan” means the comprehensive plan for the National Capital, including any elements of the plan, as provided in section 423 of the Charter (D.C. Official Code § 1-204.23).

(12) “Control budget act” means an act submitted for consideration by the Council pursuant to section 8 of the Funds Control Act (D.C. Official Code § 47-307) to establish a control budget for the District of Columbia government or to establish as part of a control budget grants awarded during the fiscal year.

(13) “Council” means the Council of the District of Columbia established by section 401 of the Charter (D.C. Official Code § 1-204.01).

(14) “Council Period” means the legislative session of the Council beginning at noon on January 2nd of each odd-numbered year and ending at noon on January 2nd of the following odd-numbered year.

(15) “Council website” means the website with the address of <http://www.dccouncil.us>.

(16) “Emergency-declaration resolution” means a resolution declaring the existence of emergency circumstances within the meaning of section 412(a) of the Charter (D.C. Official Code § 1-204.12(a)).

(17) “Engrossing” or “engrossment” means the process by which there is finally prepared the text of a bill that has passed any reading prior to final reading.

(18) “Enrolling” or “enrollment” means the process by which there is finally prepared the text of a measure that has passed final reading.

(19) “Ethics Board” means the Board of Ethics and Government Accountability established by section 202 of the Government Ethics Act of

2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.02).

(20) "Fiscal impact statement" means a statement prepared by the Chief Financial Officer or the Budget Director that includes an estimate of the costs which will be incurred by the District as a result of the enactment of a measure in the current and each of the first 4 fiscal years for which the measure is in effect, together with a statement of the basis for such estimate.

(21) "Funds Control Act" means the District of Columbia Funds Control Act of 1980, effective September 26, 1980 (D.C. Law 3-104; D.C. Official Code § 47-381 *et seq.*).

(22) "Grant application" means any grant application required to be submitted by the Mayor to the Council pursuant to section 6 of the Funds Control Act (D.C. Official Code § 47-385).

(23) "Gross planning budget resolution" means the gross planning budget resolution submitted by the Mayor for approval by the Council pursuant to section 7 of the Funds Control Act (D.C. Official Code § 47-306).

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

(25) "Independent agency" means an agency of the District of Columbia government not subject to the administrative control of the Mayor.

(26) "Mayor" means the Mayor of the District of Columbia as established by section 421 of the Charter (D.C. Official Code § 1-204.21).

(27) "Measure" means a bill, resolution, or amendment to a bill or resolution, a motion pending before the Council or before a committee of the Council, a proposed reorganization plan, reprogramming request, non-offsetting budget modification request, grant application, proposed state plan, contract, or proposed municipal regulation transmitted by law to the Council for its approval.

(28) "Meeting" means, except for purposes of sections 371 through 375, the formal convening of a committee or the Council, other than solely for the purpose of receiving testimony, held at a designated time and place for the purpose of transacting public business, including official action of any kind.

(29) "Member" means a member of the Council established by section 401 of the Charter (D.C. Official Code § 1-204.01) and includes the Chairman, unless the context clearly indicates otherwise.

(30) "Normal business hours" means 9:00 a.m. through 5:30 p.m., Monday through Friday, except legal holidays.

(31) "Official action" has the same meaning as in section 742 of the Home Rule Act (D.C. Official Code § 1-207.42).

(32) "Person" means an individual, partnership, association, corporation, or any other organization.

(33) "Reading" means, within the meaning of section 412 of the Home Rule Act (D.C. Official Code § 1-204.12), an opportunity for the Members to debate and vote on proposed legislation at a regular or additional legislative meeting of the Council. A reconsideration of legislation after it has been transmitted to the Mayor is considered a "reading" where there has been at least 13 days intervening between the last reading of the legislation and the reconsideration date.

(34) "Recess of the Council" or "Council Recess" means periods of time during which regularly scheduled meetings of the Council are not held; i.e., the month of August through September 15th, the 9-day period beginning on the Friday immediately preceding Easter, the 17-day period beginning on July 15th of each year, and the 9-day period ending on December 31st of each year.

(35) "Register" means the District of Columbia Register.

(36) "Remuneration" means the rate or level of compensation to be paid an employee for the performance of his or her duties up to and including, but no more than, the maximum authorized and appropriated by law.

(37) "Reprogramming Policy Act" means the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Official Code § 47-361 *et seq.*).

(38) "Reprogramming request" means any reprogramming request or budget modification submitted to the Council pursuant to sections 4 and 5, respectively, of the Reprogramming Policy Act (D.C. Official Code §§ 47-363 and 364).

(39) "Resolution" means an expression of a simple determination, decision, or direction of the Council of a special or temporary character and includes actions of the Council concerning its internal management and conduct.

(40) "Sense of the Council Resolution" means a resolution to express a simple determination, decision, or direction of the Council of a special or temporary character;

(41) "Short title" means the term by which an act or resolution may be cited.

(42) "State plan approval request" means a request to approve a state plan submitted by the Mayor to the Council pursuant to section 6 of the Funds Control Act (D.C. Official Code § 47-385).

(43) "Subpoena" means subpoena ad testificandum or subpoena duces tecum, or both.

(44) "Transcription" means a verbatim recordation, including a tape recording.

ARTICLE II—ORGANIZATION.**201. OATH OF OFFICE.**

(a) On January 2nd of each odd-numbered year, Councilmembers whose terms begin at that time shall take and subscribe an oath of office in accordance with subsection (c) of this section. The oath of office to the Councilmembers shall be administered by a person of the Councilmember's choosing who is legally authorized to administer oaths. The Secretary shall supply printed copies of the oath, which shall be subscribed by the Councilmembers and returned to the Secretary and recorded in the Council records as conclusive proof of the fact that the signer took the oath in accordance with law.

(b) A Councilmember whose term of office does not begin at the beginning of a Council Period shall take and subscribe the oath of office as soon as practicable after he or she has been duly certified as having been elected or selected for the position.

(c) The oath of office shall be as follows: "I, (Councilmember's name) do solemnly swear (or affirm) that I will faithfully execute the laws of the United States of America and of the District of Columbia, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States and the District of Columbia Home Rule Act, and will faithfully discharge the duties of the office on which I am about to enter."

202. CODE OF OFFICIAL CONDUCT.

(a) Councilmembers and staff shall maintain a high level of ethical conduct in connection with the performance of their official duties and shall refrain from taking, ordering, or participating in any official action that would adversely affect the confidence of the public in the integrity of the District government. Councilmembers and staff shall strive to act solely in the public interest and not for any personal gain or take an official action on a matter as to which they have a conflict of interest created by a personal, family, client, or business interest, avoiding both actual and perceived conflicts of interest and preferential treatment.

(b) Councilmembers and staff shall take full responsibility for understanding and complying with the letter and spirit of all laws and regulations governing standards of conduct for District public officials, including those relating to conduct, conflicts of interest, gifts, disclosures, campaign finance, political activity, and freedom of information.

(c) Councilmembers and staff shall specifically adhere to the Code of Official Conduct of the Council of the District of Columbia.

(d)(1) The Council shall proactively review the District's overall ethics program, including structure, training, enforcement, and overall ethics culture, and work to comply with national standards for the creation of effective compliance and ethics programs.

(2) The Ethics Counselor for the Council, in coordination with the Board of Ethics and Government Accountability and Office of Campaign Finance, shall conduct mandatory training on the conflict of interest and ethics laws and regulations applicable to Councilmembers and staff on at least an annual basis. Ethics training materials, including summary guidelines to all applicable laws and regulations, shall be prepared by the Ethics Counselor for the Council and made readily available on the Council's website.

A. EXECUTIVE OFFICERS OF THE COUNCIL.**211. CHAIRMAN.**

The Chairman shall be the presiding and chief executive officer of the Council.

212. CHAIRMAN PRO TEMPORE.

In each Council period, the Chairman shall nominate one Councilmember as Chairman Pro Tempore who will act in the place of the Chairman when the Chairman is absent or has recused himself or herself. The Council shall act on the nomination by resolution.

213. VACANCY IN OFFICE OF CHAIRMAN.

Whenever a vacancy occurs in the Office of the Chairman or the Chairman is serving as Acting Mayor, the Chairman Pro Tempore selected pursuant to section 212 shall convene the Council. The Council, by resolution, shall elect one of its at-large members as Chairman and another at-large member as Chairman Pro Tempore until the vacancy in the Office of Chairman is filled or until the return of the regularly elected Chairman.

B. COMMITTEE MEMBERSHIP.**221. SELECTION.**

At the organizational meeting convened in accordance with section 301 at the beginning of the Council Period, the Chairman shall nominate the chairperson and members of each committee of the Council and the Council shall by resolution act on the Chairman's nominations.

222. CHAIRMAN AS EX-OFFICIO MEMBER.

The Chairman shall be an ex-officio, voting member of all committees. The Chairman may be counted for purposes of a quorum, but does not increase the quorum requirement for the committee.

223. VACANCIES.

Whenever a vacancy occurs in the membership or chair of a committee, the Chairman shall nominate a Councilmember to fill the vacancy and the Council shall by resolution act on the Chairman's nomination.

224. DISTRIBUTION OF RESPONSIBILITY.

The Chairman and Council shall endeavor to distribute committee responsibility as evenly as possible among the members and in no event shall an individual member chair more than one standing committee. The principle of seniority shall be respected in the assignment of committee chairs.

225. PARTICIPATION OF MEMBERS IN COMMITTEE MEETINGS.

(a) Any Councilmember may attend the meeting of any committee and may participate in committee discussions, but only a committee member may make a motion or cast a vote.

(b) Any Councilmember may participate fully in a hearing or roundtable of any committee.

226. RULES OF COMMITTEES.

(a) Each committee shall adopt written rules, not inconsistent with these Rules or other applicable law, to govern its procedures. The committee rules shall incorporate the following requirements:

(1) The scheduling of regular meeting days, which shall not be less frequent than monthly, for conducting business;

(2) A procedure for rescheduling or cancelling a regular meeting;

(3) A procedure for holding additional meetings to be called by the chairperson;

(4) A procedure for holding special meetings, which shall be called at the request of a majority of the members of the committee;

- (5) Procedures to govern the chair of a committee meeting in the absence of the chairperson;
- (6) Procedures for keeping a complete record of all committee action, which shall include roll-call votes;
- (7) If, at the time of approval of a measure by a committee, a member of the committee gives notice of the intention to submit supplemental, minority, or additional views, that member shall be entitled to not less than 5 business days within which to file the views, which shall be included in the report of the committee on the measure;
- (8) A procedure for amending the committee rules by a vote of a majority of the committee;
- (9) A requirement that if an amendment is orally moved during a committee meeting, it shall, upon request by a member, be reduced to writing and read by the Committee Clerk or other staff of the Committee, and made available for public inspection as soon as practicable;
- (10) A requirement for the circulation of notice of the date, hour, and place of all committee meetings to all Councilmembers at least 24 hours before the date of the meeting, along with a copy of the agenda of the meeting and a draft of any measures to be considered, unless at least 4 members of the committee agree to a shorter notice;
- (11) A procedure for providing at least 24 hours' notice of the cancellation of a regularly scheduled meeting;
- (12) A procedure to ensure that meetings of the committee do not conflict with a previously scheduled meeting of another committee; and
- (13) A procedure for the adoption of a consent agenda.
- (b) The provisions of these Rules shall be considered rules of the committee.
- (c) Where these Rules are silent, a committee may adopt additional rules. Committee rules adopted under this section shall be consistent with these Rules and other applicable law, and shall be filed with the Secretary.
- (d) Each committee shall adopt its rules and appoint committee staff pursuant to section 272 within 14 business days of the organizational meeting held pursuant to section 301 and shall file the adopted rules and staff appointments.

227. COMMITTEE-ACTIVITY REPORT.

Each committee shall file a committee-activity report not later than 15 days before the end of each Council period that details the committee's oversight and legislative activities. The format and content of the committee-activity report shall be determined by the Secretary.

C. STANDING COMMITTEES.

231. COMMITTEE OF THE WHOLE.

(a) The Committee of the Whole is responsible for the annual budget, and amendments, additions, or supplements to the budget; coordinating the Council's relationships with the Congress and the Federal executive branch; monitoring the progress of Council legislation through Congress; monitoring the status of original legislative proposals in Congress that may affect the District, the Council, or its legislation; amendments to the District Charter; Council appointments to Boards and Commissions; public-space naming; street and alley acquisition and closing; reapportionment and realignment of the political subdivisions of the District; Council administration and personnel; the scheduling of all matters for consideration by the Council in the legislative meeting; legislative matters related to the District as a political entity, including voting rights and statehood; grants management; government procurement; responsible for coordinating the Council's relationships with appropriate regional, state, and national associations and

organizations; labor relations; the Council's relationship with regional authorities and other regional bodies and organizations not specifically assigned to other committees; truancy (jointly with the Committee on Education); District employees' retirement; the development of the comprehensive plan and other matters pertaining to land use; matters related to statehood and self-determination for the District; revision and codification of Title 49 of the D.C. Official Code; public education matters exclusively concerning the University of the District of Columbia or the Community College of the District of Columbia; international business and affairs; and other matters assigned to it by these Rules or by the Chairman.

(b) The Chairman of the Council is the Chairman of the Committee of the Whole and its members include all members of the Council. The Committee of the Whole shall meet on the third Tuesday of each month, except during periods of Council Recess, in a work session to consider measures which have been reported and timely filed by committees pursuant to subsection (c) of this Rule, and for the introduction and referral of legislation. The Chairman shall prepare the agenda for each meeting of the Committee of the Whole. The Chairman may not withhold a measure duly reported and timely filed by another committee from the agenda of a regular Committee of the Whole meeting and the Chairman may not hold a measure in the Committee of the Whole that has been properly reported by another committee unless the Committee of the Whole votes to table the measure.

(c)(1) Except as provided in section 339, each measure reported by the committees of the Council identified in sections 232 to 241 shall be referred to the Committee of the Whole for a review of its legal sufficiency and technical compliance with the drafting rules of the Council; for ascertaining completion of the record; for a determination of the sufficiency of the fiscal impact statement; and for scheduling for the legislative meeting pursuant to section 302.

(2) No measure may be reported by a committee of the Council for consideration at the Committee of the Whole unless it is accompanied by a fiscal impact statement and legal sufficiency determination.

(3) Amendments made by committees that are outside the legislative jurisdiction of the committee shall be referred to the relevant committee before the legislation is agendaized for the legislative meeting at the Committee of the Whole.

(4) The Secretary shall prepare a log of committee reports that have been filed timely for review by the Committee of the Whole. The log may be updated to reflect additional filings as of noon on the third business day before the Committee of the Whole meeting.

(d) Notwithstanding any other provision of the Rules, the Committee of the Whole may hold a hearing or roundtable, or conduct an investigation, on any matter relating to District affairs.

(e) The following agencies shall come within the purview of the Committee of the Whole:

Council of the District of Columbia
District of Columbia Auditor
Board of Zoning Adjustment
Commemorative Works Committee
Community College of the District of Columbia
Community College Transition to Independence Advisory Board
Contract Appeals Board
District of Columbia Retirement Board, including the District of Columbia Police Officers and Fire Fighters' Retirement Fund and the Teachers' Retirement Fund
District of Columbia Statehood Commission
District of Columbia Statehood Compact Commission

Historic Preservation Review Board
 Labor/Management Partnership Council
 Metropolitan Washington Airports Authority
 Metropolitan Washington Council of Governments
 National Capital Planning Commission
 Office of Budget and Planning
 Office of Contracting and Procurement
 Office of Labor Relations and Collective Bargaining
 Office of Planning
 Office of Zoning
 Statehood Delegation Fund Commission
 Tax Revision Commission
 Tobacco Settlement Financing Corporation
 Tobacco Settlement Trust Fund Board of Trustees
 University of the District of Columbia
 Zoning Commission of the District of Columbia

232. COMMITTEE ON BUSINESS, CONSUMER, AND REGULATORY AFFAIRS.

(a) The Committee on Business, Consumer, and Regulatory Affairs is responsible for matters concerning small and local business development policy; consumer and regulatory affairs; the conduct of Emancipation Day celebrations within the District of Columbia and the regulation of banks and banking activities, securities, and insurance, including private health insurance, but not including the Health Benefit Exchange.

(b) The following agencies come within the purview of the Committee on Business, Consumer, and Regulatory Affairs:

District of Columbia Small and Local Business Opportunity
 Commission
 Board of Accountancy
 Board of Architecture and Interior Designers
 Board of Barber and Cosmetology
 Board of Condemnation of Insanitary Buildings
 Board of Consumer Claims Arbitration for the District of Columbia
 Board of Funeral Directors
 Board of Industrial Trades
 Board of Professional Engineering
 Board of Real Estate Appraisers
 Commission on Fashion Arts and Events
 Construction Codes Coordinating Board
 Department of Consumer & Regulatory Affairs
 Department of Insurance, Securities and Banking
 Department of Small and Local Business Development
 District of Columbia Boxing and Wrestling Commission
 Emancipation Commemoration Commission
 Financial Literacy Council
 Office of Motion Picture and Television Development
 Office of the Tenant Advocate
 Public Access Corporation
 Real Estate Commission
 Securities Advisory Committee

233. COMMITTEE ON ECONOMIC DEVELOPMENT.

(a) The Committee on Economic Development is responsible for matters related to economic, industrial, and commercial development; the disposition of property for economic development purposes; development, maintenance, preservation, and regulation of the housing stock, including

rental housing; and neighborhood development, improvement, stabilization, and urban affairs; cable television; and matters relating to the Washington Metropolitan Area Transit Authority.

(b) The following agencies come within the purview of the Committee on Economic Development:

- Department of Housing and Community Development
- Deputy Mayor for Planning and Economic Development
- District of Columbia Housing Authority
- Housing Finance Agency
- Housing Production Trust Fund
- Office of Cable Television
- Rental Housing Commission
- Washington Metropolitan Area Transit Authority

234. COMMITTEE ON EDUCATION.

(a) The Committee on Education is responsible for all matters related to public education, including authorizing public charter schools, but not including matters exclusively within the University of the District of Columbia or the Community College of the District of Columbia; truancy (jointly with the Committee of the Whole); and public libraries.

(b) The following agencies come within the purview of the Committee on Education:

- Bullying Prevention Task Force
- District of Columbia Public Charter School Board
- District of Columbia Public Library system
- District of Columbia Public Schools
- Education Licensure Commission
- Healthy Youth and Schools Commission
- Office of the State Superintendent of Education (including Advisory Panel on Special Education, Early Childhood Development Coordinating Council, Non-Public Tuition, Special Education Transportation)
- Office of the Deputy Mayor for Education
- State Board of Education
- Public Charter School Credit Enhancement Fund Committee

235. COMMITTEE ON FINANCE AND REVENUE.

(a) The Committee on Finance and Revenue is responsible for matters relating to taxation and revenue for the operation of the government of the District of Columbia; general obligation bond acts, revenue anticipation notes, and industrial revenue bonds; and tourism and cultural affairs.

(b) The following agencies come within the purview of the Committee on Finance and Revenue:

- Board of Review of Anti-Deficiency Violations
- College Savings Program Advisory Board
- Commission on Arts and Humanities
- Destination DC
- District of Columbia Lottery and Charitable Games Control Board
- Multistate Tax Commission
- Office of Finance and Treasury
- Office of Financial Management
- Office of Financial Operations
- Office of Tax and Revenue
- Office of the Chief Financial Officer
- Real Property Tax Appeals Commission for the District of Columbia
- Sports Authority Subsidy

Washington Convention and Sports Authority/Events DC

236. COMMITTEE ON GOVERNMENT OPERATIONS.

(a) The Committee on Government Operations is responsible for matters relating to elections, government ethics, campaign finance, general services, personnel, including employee appeals and general administration of the government of the District of Columbia; public utilities; maintenance of public buildings, property management, including the declaration of government property as no longer required for public purposes; grants management; matters relating to the general operations and services of government; matters regarding Advisory Neighborhood Commissions.

(b) The following agencies come within the purview of the Committee on Government Operations:

Advisory Neighborhood Commissions
 Board of Ethics and Government Accountability
 Department of General Services
 Department of Human Resources
 Disability Compensation Fund
 District of Columbia Board of Elections
 Executive Office of the Mayor, including the Office of Policy and Legislative Affairs, Serve DC, and the Office of Community Affairs
 Office of Campaign Finance
 Office of Employee Appeals
 Office of Partnerships and Grants Services
 Office of People's Counsel
 Office of Risk Management
 Office of the Chief Technology Officer
 Office of the City Administrator
 Office of the Inspector General
 Public Employees Relations Board
 Public Service Commission
 Secretary of the District of Columbia (including the Notaries Public Board of Review)

237. COMMITTEE ON HEALTH.

(a) The Committee on Health is responsible for matters concerning health and environmental health; the regulation of health occupations and professions, and health care inspectors.

(b) The following agencies come within the purview of the Committee on Health:

Advisory Committee on Acupuncture
 Advisory Committee on Anesthesiologist Assistants
 Advisory Committee on Naturopathic Medicine
 Advisory Committee on Physician Assistants
 Advisory Committee on Polysomnography
 Advisory Committee on Surgical Assistants
 Board of Allied Health
 Board of Audiology and Speech-Language Pathology
 Board of Behavioral Health
 Board of Chiropractic
 Board of Dentistry
 Board of Dietetics and Nutrition
 Board of Marriage and Family Therapy
 Board of Massage Therapy
 Board of Medicine
 Board of Nursing

Board of Nursing Home Administration
 Board of Occupational Therapy
 Board of Optometry
 Board of Pharmacy
 Board of Physical Therapy
 Board of Podiatry
 Board of Professional Counseling
 Board of Psychology
 Board of Respiratory Care
 Board of Social Work
 Board of Veterinary Examiner
 Committee on Metabolic Disorders
 Commission on HIV/AIDS
 Council on Physical Fitness, Health, and Nutrition
 Department of Health
 Department of Health Care Finance
 Department of Mental Health
 Deputy Mayor for Health and Human Services
 District of Columbia Health Benefit Exchange Authority
 Health Information Exchange Policy Board
 Mental Health Planning Council
 Metropolitan Washington Regional Ryan White Planning Council
 Not-For-Profit Hospital Corporation
 State Rehabilitation Council
 Statewide Health Coordinating Council

238. COMMITTEE ON HUMAN SERVICES.

(a) The Committee on Human Services is responsible for matters concerning welfare; social services; youth affairs (other than juvenile justice); disability services; and the regulation of alcoholic beverages.

(b) The following agencies come within the purview of the Committee on Human Services:

Advisory Committee on Child Abuse and Neglect
 Alcoholic Beverage Regulation Administration
 Child and Family Services Agency
 Children and Youth Investment Trust Corporation
 Citizen Review Panel on Child Abuse and Neglect
 Commission on Persons with Disabilities
 Department on Disability Services
 Department of Human Services
 Department of Youth Rehabilitation Services
 Developmental Disabilities State Planning Council
 Interagency Council on Homelessness
 Office of Disability Rights
 Statewide Independent Living Council

239. COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY.

(a) The Committee on the Judiciary and Public Safety is responsible for matters affecting the judiciary and judicial procedure which are within the authority of the Council; matters affecting decedents' estates and fiduciary affairs; matters affecting administrative law and procedure; matters affecting criminal law and procedure; ex-offender affairs; matters arising from or pertaining to the police and fire regulations of the District of Columbia; and other matters related to police protection, correctional institutions (including youth corrections), fire prevention, emergency medical services, homeland security, criminal justice, and public safety.

(b) The following agencies come within the purview of the Committee on the Judiciary and Public Safety:

Access to Justice Initiative
 Child Support Guidelines Commission
 Commission on Ex-Offender Affairs
 Commission on Judicial Disabilities and Tenure
 Commission on Selection and Tenure of Administrative Law Judges
 Corrections Information Council
 Criminal Justice Coordinating Council
 Department of Corrections
 Department of Forensic Sciences
 Deputy Mayor for Public Safety and Justice
 District of Columbia Judicial Nomination Commission
 District of Columbia National Guard
 District of Columbia Sentencing and Criminal Code Revision
 Commission
 Fire and Emergency Medical Services Department
 Homeland Security and Emergency Management Agency
 Homeland Security Commission
 Juvenile Justice Advisory Group
 Juvenile Abscondence Review Committee
 Metropolitan Police Department
 Motor Vehicle Theft Prevention Commission
 Office of Administrative Hearings (including the Advisory Committee
 to the Office of Administrative Hearings)
 Office of Justice Grants Administration
 Office of Police Complaints
 Office of the Attorney General for the District of Columbia
 Office of the Chief Medical Examiner
 Office of Unified Communications
 Office of Victims Services
 Office on Ex-Offender Affairs
 Police Complaints Board
 Police Officer Standards and Training Board
 Pretrial Services Agency
 Public Defender Service
 Uniform Law Commission
 Security Officer Advisory Commission

240. COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT.

(a) The Committee on the Transportation and the Environment is responsible for matters relating to environmental protection regulation and policies; highways, bridges, traffic, vehicles, and other transportation issues; the regulation of taxicabs; maintenance of public spaces; recycling; waste management; and water supply and wastewater treatment.

(b) The following agencies come within the purview of the Committee on Transportation and the Environment:

Department of Motor Vehicles
 Department of Public Works
 District Department of the Environment
 District Department of Transportation
 District of Columbia Bicycle Advisory Council
 District of Columbia Taxicab Commission
 Environmental Planning Commission
 Green Buildings Advisory Council

Pedestrian Advisory Council
 Soil and Water Conservation District
 Streetcar Financing and Governance Task Force
 Sustainable Energy Utility Advisory Board
 Washington Aqueduct
 Water and Sewer Authority

241. COMMITTEE ON WORKFORCE AND COMMUNITY AFFAIRS.

(a) The Committee on Workforce and Community Affairs is responsible for matters related to workforce-development issues; employment and manpower development; the concerns of the aging; human rights; Latino, African, and Asian and Pacific Islander affairs; gay, lesbian, bisexual, and transgender affairs; issues related to women; and veterans affairs; public parks and recreation.

(b) The following agencies come within the purview of the Committee on Workforce and Community Affairs:

Advisory Commission on Caribbean Community Affairs
 Advisory Committee to the Office of GLBT Affairs
 Apprenticeship Council
 Commission on African Affairs
 Commission on African American Affairs
 Commission on Asian and Pacific Islander Affairs
 Commission for Women
 Commission on Aging
 Commission on Human Rights
 Commission on Latino Community Development
 Department of Employment Services
 Department of Parks and Recreation
 Interfaith Council
 Occupational Safety and Health Board
 Office of Asian and Pacific Islanders Affairs
 Office of Gay, Lesbian, Bisexual, and Transgender Affairs
 Office of Human Rights
 Office of Latino Affairs
 Office of Veterans Affairs
 Office on African Affairs
 Office on Aging
 Unemployment Compensation Fund
 Recreation Assistance Board
 Workforce Investment Council

D. CREATION OF SUBCOMMITTEES.

245. SUBCOMMITTEES.

The Chairman of the Council shall nominate the chairperson and members of each subcommittee of the Council. The Council shall act by resolution on the Chairman's nominations. A subcommittee may use subpoenas to obtain testimony or documents only if the standing committee of which it is a subcommittee authorizes the issuance of subpoenas. Each bill or resolution reported by a subcommittee shall be referred to its standing committee for a vote and scheduling for the Committee of the Whole. Subcommittees shall comply with the requirements of these Rules.

E. SPECIAL COMMITTEES AND SPECIAL PROJECTS.

251. CREATION OF SPECIAL COMMITTEES.

The Council may establish by resolution a special committee to consider investigations, ethics, and other matters. The resolution shall set

forth the jurisdiction, size, duration, and date for final action of the special committee.

252. USE OF SUBPOENAS BY SPECIAL COMMITTEE.

A special committee may use subpoenas to obtain testimony or documents only if the resolution creating the special committee authorizes the issuance of subpoenas. Subpoenas issued by special committees shall comply with the requirements of Article VI of these Rules.

253. SPECIAL PROJECTS.

The Council may establish by resolution a special project related to policy development or oversight. The resolution shall set forth the timetable, budget, goals, and deliverables of the special project, and specify whether the project will be undertaken by a standing or special committee, or another method of organization.

F. APPOINTED OFFICERS OF THE COUNCIL.

261. APPOINTMENT OF OFFICERS.

The appointed officers of the Council are the Secretary, General Counsel, and Budget Director. The Chairman shall recommend the assignment and removal of these officers, and the Council shall act by resolution on the Chairman's recommendation.

262. SECRETARY.

The Secretary is the chief administrative officer of the Council and is responsible for maintaining records of Council actions including the filing of bills and proposed resolutions, amendments to bills and resolutions, requests for hearings, committee reports, and other records and reports assigned by these Rules, the Council, or the Chairman, and for proposing and administering the fiscal year budget of the Council.

263. GENERAL COUNSEL.

The General Counsel is responsible for advising the Council on matters of parliamentary procedure, identifying legislative problems, providing members with alternatives in terms of policy options to solve those problems, representing the Council in any legal action to which it is a party or in which the Council has a significant interest, providing legal representation for a Councilmember or employee for actions taken within the scope of their legislative duties, supervising the publication of the District of Columbia Official Code, preparing technical-amendment and enactment bills, providing legislative drafting assistance to all members, engrossing and enrolling measures, make determinations about the legal sufficiency of legislation, and making necessary technical and conforming changes in measures during enrollment. The General Counsel shall serve as Ethics Counselor for the Council.

264. BUDGET DIRECTOR.

The Budget Director is responsible for advising members of the Council on matters related to the budget including the development of annual and multiyear budgets and financial plans, review of contracts, and analysis of the fiscal impact of legislation. The budget staff shall also serve as a resource for all Council committees and members.

G. COUNCIL PERSONNEL AND APPOINTMENTS.**271. SUBORDINATE STAFF OF APPOINTED OFFICERS.**

The appointed officers may assign, remove, and determine the remuneration for their respective professional and clerical staffs, subject to appropriations and positions allocated by the Council.

272. COMMITTEE STAFF.

(a) Within 14 business days of the organizational meeting held pursuant to section 301, the chairperson of each committee shall appoint and shall present for the approval of committee members the names and responsibilities of each committee staff person. The chairperson shall remove, and determine the remuneration for the staff of the committee, subject to appropriations and positions allocated by the Council.

(b) The chairperson of each committee shall notify the members of the committee of such action within 3 business days.

273. COUNCILMEMBERS' PERSONAL STAFF.

Each Councilmember may assign, remove, and determine the remuneration for his or her personal staff, subject to appropriations and positions allocated by the Council.

274. SEPARATION PAY AND BUDGET ACCOUNTING.

(a) Notwithstanding sections 271, 272, and 273 of these Rules, when an employee is separated for non-disciplinary reasons, a Councilmember may not authorize severance pay in excess of one week of the employee's basic pay for each year of service in the District government, unless the Council otherwise authorizes by resolution a larger amount of severance pay.

(b) If it is known that a Councilmember will be in office for a time period that is less than the remaining fiscal year, the Councilmember's budget shall be adjusted to account for the time to be served, unless the Council otherwise authorizes by resolution a different amount.

275. COUNCIL APPOINTMENT TO OTHER BODIES.

Where the law provides for the Council to appoint an individual to another body, the Chairman shall nominate an individual and the Council shall act by resolution on the nomination. A Council appointee shall report to the Council on a periodic basis. The Council may instruct by resolution its representative as to the position to take on a particular matter.

276. APPOINTMENT BY COMMITTEES AND MEMBERS.

(a) Where the law provides for a committee to appoint an individual to another body, the committee shall act by resolution on the appointment.

(b) Where the law provides for a member to appoint a person to a board or commission, the member shall make the appointment by filing a memorandum with the Secretary that states:

(1) The legal capacity in which the member is acting, e.g., as a member of the Council or as chairperson or a member of a particular committee;

(2) The date of appointment;

(3) The official name of the board or commission to which the person is being appointed;

(4) The name, complete mailing address, and ward designation of the person appointed;

(5) The law under which the appointment is being made; and

(6) The term of the appointment.

277. RESIDENCY REQUIREMENT FOR APPOINTMENTS.

Each member of a District of Columbia board or commission who is appointed under sections 275 or 276, shall be a resident of the District of Columbia at the time of appointment, unless the law or order that established the board or commission specifically authorizes the appointment of a nonresident as a member of the board or commission or if a majority of the Council waives the residency requirement.

H. COMPUTING TIME, CIRCULATION, AND FILING REQUIREMENTS.**281. COMPUTING TIME.**

(a) Unless a law or rule specifically provides otherwise, when counting a time period:

(1) Stated in days or a longer unit of time:

- (A) Exclude the day of the event that triggers the period;
- (B) Count every day, including Saturdays, Sundays, and

legal holidays;

- (C) Exclude days of recess; and

- (D) Include the last day of the time period, but if the last day is a Saturday, Sunday, legal holiday, or day of recess the period continues to run until the end of the next day that is not a Saturday, Sunday, legal holiday, or day of recess.

(2) Stated in hours:

- (A) Begin counting immediately on the occurrence of the event that triggers the period;

- (B) Count each hour, including hours during intermediate Saturdays, Sundays, and legal holidays;

- (C) Exclude hours during days of recess; and

- (D) If the period would end on a Saturday, Sunday, legal holiday, or day of recess the period continues to run until the same time on the next day that is not a Saturday, Sunday, legal holiday, or day of recess.

(b) For purposes of these Rules, when counting a time period stated in "business days":

- (1) Exclude the day of the event that triggers the period;

- (2) Exclude intermediate Saturdays, Sundays, legal holidays, and days of recess; and

- (3) Include the last day of the time period, but if the last day is a Saturday, Sunday, legal holiday, or day of recess the period continues to run until the end of the next day that is not a Saturday, Sunday, legal holiday, or day of recess.

(c) For purposes of these Rules, when counting a time period for a notice requirement under these Rules, include days of recess.

282. FILING WITH THE SECRETARY.

(a) Unless a law or rule specifically provides otherwise, when a Councilmember is required to file a document or provide notice with the Secretary, the Councilmember shall deliver a hard copy of the document or the notice to the Secretary.

(b) A Councilmember shall also ensure that an electronic copy of the following documents is filed on the "v" drive or the intranet portal:

- (1) A measure introduced pursuant to sections 401 and 402;

- (2) A committee print and report;

- (3) Amendments; and

- (4) Any other document required to be electronically filed by rule or law or that the Secretary determines should be filed electronically.

(c) Notwithstanding subsection (a) of this section, the Secretary may elect to receive a document electronically or establish a system or method for electronic filing of any document.

283. CIRCULATION TO MEMBERS AND COMMITTEES

(a) The Secretary shall distribute, upon introduction, a hard copy of each measure to each Councilmember and, upon referral, to the committee chairman of the committee to which the measure is referred. The Secretary shall also distribute to each Councilmember, upon introduction or filing, a notice of investigation by subpoena, and Mayoral disapproval of a Council act.

(b)(1) Any document that is not required to be distributed under subsection (a) of this section may be distributed electronically, if a Councilmember elects to receive the document electronically and the electronic document is identical to the document that is circulated in hard copy, including any attachments, tables, or charts.

(2) A Councilmember may elect to receive an electronic copy of any document that is required to be distributed under subsection (a) of this section instead of a hard copy, provided that the electronic document shall be identical to the document that is circulated in hard copy, including any attachments, tables, or charts.

(3)(A) Notwithstanding any other rule, the following documents may be distributed electronically:

- (i) A notice of intent to waive Rule 231(c);
- (ii) A notice of new business under section 429;
- (iii) A draft committee print and report; or
- (iv) Any other document required to be

distributed electronically by rule or law or that the Secretary determines should be filed electronically.

(B) If a document under this paragraph is required to be circulated and filed, the document shall be filed as provided in section 282.

(c) Unless a law or rule specifically provides otherwise, when a Councilmember is required to circulate a document or provide notice to a committee, the Councilmember shall deliver either an electronic copy or a hard copy of the document or the notice to the members of the committee.

(d) Each document required by these Rules to be distributed to Councilmembers shall be distributed to the Council Officers.

ARTICLE III—PROCEDURES FOR MEETINGS.**A. LEGISLATIVE MEETINGS.****301. ORGANIZATIONAL MEETING.**

On the first day of each Council Period that is not a Saturday, Sunday, or legal holiday, the Council shall convene an organizational meeting for the purpose of considering the adoption of Rules of Organization and Procedure, selecting a Chairman Pro Tempore pursuant to section 212, appointment of committee chairs and memberships, appointment of Councilmembers to regional bodies, and appointment of Council officers. If a quorum is not present, the Chairman shall convene an organizational meeting as soon as feasible.

302. REGULAR MEETINGS.

(a) The Council shall hold a regular legislative meeting on the first Tuesday of every month except during a Council Recess. When the day for a regular legislative meeting falls on a legal holiday, the meeting shall be held at the same time on the next day. Regular legislative meetings shall begin at 10:00 a.m.

(b) Regular meetings of the Council shall be held in the Council Chamber, Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

(c) The Chairman may designate another time, day, or place for a legislative meeting at a prior legislative meeting or meeting of the Committee of the Whole by circulating and filing notice with the Secretary at least 48 hours before the meeting.

(d) The Chairman may cancel a future regularly scheduled meeting. The Secretary shall circulate notice to each Councilmember and the public of a meeting cancellation.

303. ADDITIONAL AND SPECIAL MEETINGS.

(a) The Chairman may call additional legislative meetings of the Council.

(b) Any 2 Councilmembers may request that the Chairman call a special legislative meeting. The request shall be filed with the Secretary. Immediately upon the filing of the request, the Secretary shall notify the Chairman and other Councilmembers of the filing of the request. If, within 24 hours after the request is filed, the Chairman does not call the requested special meeting, to be held within 72 hours after the request is filed, a majority of the Councilmembers may file with the Secretary a written notice that a special legislative meeting will be held, specifying the date, hour, place, and agenda of the special legislative meeting. The Council shall meet at that date and hour. Immediately upon the filing of the notice, the Secretary shall circulate notice to each Councilmember as provided in subsection (c) of this section.

(c) Whenever an additional or special legislative meeting is called, the Secretary shall circulate notice to each Councilmember not less than 48 hours before the additional or special meeting. The Secretary shall provide timely notice of the meeting to the public. The notice shall state the date, hour, place, and agenda of the meeting and may state whether items are to be considered on a consent or non-consent agenda.

(d) No matter shall be considered at an additional or special legislative meeting except those stated in the request and notification. An additional legislative meeting to consider an emergency and temporary matter may be called upon shorter notice, if a majority of the members agree in writing to the shorter notice. The Chairman may add to the agenda of an additional legislative meeting, with the written agreement of a majority of the

Councilmembers, an emergency or temporary measure or, without objection, a permanent measure.

304. QUORUM.

(a) A majority of the Councilmembers constitutes a quorum for the lawful convening of a meeting and for the transaction of business, except that a lesser number may hold hearings.

(b) A meeting shall not begin until a quorum is ascertained by the Chairman.

(c) Once a quorum has been ascertained, the meeting shall proceed, unless a member raises the absence of a quorum, whereupon the Chairman shall direct the calling of the roll and shall announce the result.

(d) In the absence of a quorum, the Chairman may order a Call of the House, during which no debate or motion shall be in order except a motion to adjourn.

(e) During a Call of the House, the Council shall stand in recess for no more than 20 minutes to find absent members. After the recess, the roll shall be called again. If a quorum is present, the meeting shall proceed. If a quorum is not present, the meeting shall be adjourned.

305. HEARING THE MAYOR.

The Mayor has the right to be heard by the Council upon request and at reasonable times set by the Council.

306. RECESS.

(a) Except as set forth in subsection (b) of this section, no measure, other than an emergency-declaration resolution, emergency measure, and accompanying temporary bill, or a resolution to approve or disapprove a contract, to be considered at a special or additional meeting called pursuant to these Rules, may be introduced during a recess of the Council. No committee may take official action during a recess of the Council; except that, when specifically authorized to do so by a vote of a majority of the Council, a committee may hold a public hearing or roundtable. A notice of future committee action may be filed during a recess of the Council.

(b)(1) A resolution approving or disapproving a contract in excess of \$1 million or a multiyear contract may be introduced during any recess period.

(2) A proposed contract in excess of \$1 million during a 12-month period or a multiyear contract for goods or services that is required to be submitted to the Council pursuant to section 451 of the District Charter may be transmitted to the Secretary during the 30-day period before the end of the summer recess of the Council, a committee may hold a public hearing and take official action on the proposed contract in excess of \$1 million or multiyear contract during this period, and a resolution approving or disapproving a contract in excess of \$1 million or a multiyear contract may be introduced during this recess period.

(3) A proposed federal aid highway contract in excess of \$1 million during a 12-month period that is required to be submitted to the Council for its review pursuant to section 451 of the District Charter may be transmitted to the Secretary during a recess of the Council, a committee may hold a public hearing and take official action on the proposed federal aid highway contract during the recess, and a resolution approving or disapproving the proposed federal aid highway contract may be introduced during the recess and during the 10-day period following submission of the proposed federal aid highway contract to the Council.

(c) During any period of recess, the Secretary is authorized to receive measures returned by the Mayor.

307. COUNCIL REVIEW OF CONTRACTS.

(a) Notwithstanding section 402(b) of these Rules, the time period for Council review of a proposed contract in excess of \$1 million during a 12-month period or a multiyear contract that is required to be submitted to the Council pursuant to section 451 of the District Charter shall begin on the first day (excluding Saturdays, Sundays, and holidays) following its receipt by the Secretary. The Secretary shall ensure that a copy of the proposed contract is designated as urgent and circulated in a folder of a distinctive color to the office of each member of the Council within 24 hours (excluding Saturdays, Sundays, and holidays), following its receipt by the Secretary.

(b) Notwithstanding any other provision of these rules, the Mayor may transmit a resolution declaring the existence of an emergency and accompanying emergency bill to the Council for approval of a modification to a contract that, once merged with the underlying contract or a modification, would involve an expenditure in excess of \$1 million during a 12-month period, if the contract or a modification:

(1) Has not been previously submitted to the Council for approval; and

(2) Was not otherwise required to have been submitted to the Council for approval.

(c) Notwithstanding sections 401 and 402 of these Rules, no proposed contract in excess of \$1 million during a 12-month period or a multiyear contract that is required to be submitted to the Council pursuant to section 451 of the District Charter may be submitted between July 8, 2013, and July 15, 2013, or between July 7, 2014, and July 14, 2014.

(d) Notwithstanding sections 401 and 402 of these Rules, a resolution approving or disapproving a proposed contract shall be introduced by at least 3 Councilmembers.

(e) The submission of an annual capital program of federal-aid highway projects to the Council for review and approval and approval of the annual program is deemed as approval of the individual contracts that make up the annual program.

(f) The Secretary shall place an electronic copy of the summary of a proposed contract on the Legislative Information Management System in a manner that it may be accessed through the Council website, and on the Council "v" drive or intranet portal within 24 hours (excluding Saturdays, Sundays, and holidays) following its receipt.

B. ORDER OF BUSINESS FOR MEETINGS.**311. ORDER OF BUSINESS FOR REGULAR MEETINGS.**

During a regular legislative meeting, the Council shall take up business in the following order unless a different order has been set for a particular meeting by action of the Committee of the Whole:

(1) Call to order at the time and place set forth pursuant to section 302;

(2) Moment of silence;

(3) Determination by the Chairman of the presence of a quorum;

(4) Presentation of ceremonial resolutions;

(5) Secretary's report on the filing of reports by committees, unless the formal reading of the report is waived without objection;

(6) Secretary's report of the introduction of new measures filed with that office, unless the formal reading of the report is waived, and the introduction by Councilmembers of new measures by reading the short title without objection;

(7) Approval of the consent agenda without objection;

- (8) Reading by short title and votes on proposed ceremonial resolutions;
- (9) Final reading by short title and final vote on bills that have been pending at least 13 days since they were previously read;
- (10) Reading by short title and vote on reported and discharged bills;
- (11) Reading by short title and vote on proposed resolutions except as provided in paragraph (8) of this section;
- (12) Reading by short title and vote on resolutions declaring the existence of emergencies and accompanying emergency measures;
- (13) Reading by short title and vote on temporary legislation;
- (14) Official communications received from the Mayor or an agency; and
- (15) Other business.

312. ORDER OF BUSINESS FOR ADDITIONAL AND SPECIAL MEETINGS.

During an additional or special meeting, the Council shall take up business in the following order:

- (1) Call to order at the time and place set forth in the meeting notice;
- (2) Moment of silence;
- (3) Determination by the Chairman of the presence of a quorum;
- (4) Such items in the order set forth in the meeting notice.

313. PROCEEDING OUT OF ORDER.

The Chairman, without objection, or upon the vote of a majority of the Councilmembers present and voting, may proceed on any item of business out of order.

C. RULES OF DECORUM.

321. DECORUM OF MEMBERS.

(a) Councilmembers shall refrain from private discourse or other acts tending to distract the attention of the Council from the business before it.

(b) In debate, a Councilmember shall confine remarks to the pending question and avoid use of personalities.

(c) A Councilmember, in referring to another Councilmember, should avoid using the Councilmember's name, rather identifying that member by ward or at-large status, as the Councilmember who last spoke, or by describing the Councilmember in some other manner.

(d) It is not the person but the measure that is the subject of debate, and it is not allowable to question or impugn the motives of a Councilmember, but the nature or consequences of a measure may be condemned in strong terms.

322. DECORUM OF MEMBERS OF THE PUBLIC.

(a)(1) No person may commit any act tending to distract the attention of the Council from the business before it.

(2) No person may engage in loud, threatening, or abusive language, or disruptive conduct in the John A. Wilson Building with the intent and effect of impeding or disrupting the orderly conduct of business in the building.

(b) The Chairman shall maintain order during a meeting. If the Chairman determines that the removal of a person other than a Councilmember is necessary to maintain order, after warning the person, the Chairman may order the removal of the person.

(c) Unless permitted by the Chairman, no person may enter the area designated as the well or the dais of the Chamber during an official meeting of the Council.

(d)(1) No signs, placards, posters, or attention devices of any kind or nature shall be carried or placed within the Council hearing or meeting rooms or Chamber. No demonstrations are permitted in the Chamber or any area in which a Council proceeding or a public hearing is being conducted.

(2) This prohibition shall not apply to armbands, emblems, badges, or other articles worn on the personal clothing of individuals; provided, that such armbands, badges or emblems are of such a size and nature as not to interfere with the vision or hearing of other persons at a meeting nor extend from the body as may cause injury to another.

(3) Any person who violates the provisions of this subsection, relating to signs, or who willfully interrupts or disturbs Council proceedings, after warning to desist, may be removed from the premises.

(4) Models, photographs, maps, charts, drawings, and other such demonstrative materials intended for use in a presentation by a specific person in testimony before the Council shall be permitted without objection.

(e) No person, except a Councilmember or staff, shall be allowed in the anterooms of the Chamber during the course of any hearing or other proceeding of the Council or any committee of the Council, except upon invitation of the Chairman or the chairman of the committee holding the public hearing.

D. RULES OF DEBATE.

331. OBTAINING THE FLOOR.

A Councilmember who wishes to speak, give notice, make a motion, submit a report, or wishes to obtain the floor for any other purpose, shall address and be recognized by the Chairman before addressing the Council.

332. TIME LIMITS FOR DEBATE.

(a) No Councilmember may be recognized more than once to debate or make a motion relating to a pending matter until all Councilmembers who wish to speak have been recognized.

(b) A member may speak no more than 3 minutes during the first round of debate on a pending matter, and no more than 2 minutes on a subsequent round.

(c) A member may yield all or part of his or her time provided by this section to another member.

(d) The Chairman may in his or her discretion modify time limitations with respect to specific matters scheduled for debate.

333. PERSONAL PRIVILEGE.

Any member, as a matter of personal privilege, may speak no more than 10 minutes concerning a matter that may affect the Council collectively, its rights, its dignity or the integrity of its proceedings, or the rights, reputation, or conduct of its individual members in their representative capacities only.

334. POINTS OF ORDER.

A point of order is not debatable unless the Chairman permits debate. If the Chairman permits debate on a point of order, the Chairman may limit debate.

335. APPEAL.

An appeal may be taken from any decision of the Chairman. A Councilmember shall state the basis for appealing a decision, to which the

Chairman may respond. An appeal is not debatable and shall be acted upon immediately. An affirmative vote of a majority of the members present and voting is required to sustain the Chairman.

336. [RESERVED.]

337. RECOGNITION OF NON-MEMBERS.

The Chairman may recognize a person who is not a Councilmember if the participation of the person would, in the judgment of the Chairman, enhance the understanding of the matter under consideration by the Council. Recognition of a non-Councilmember during a legislative meeting shall be limited to situations in which emergency action by the Council is under consideration.

338. PRESENTATION OF CEREMONIAL RESOLUTIONS.

(a) A ceremonial resolution that has been adopted by the Council may be presented from the well of the Chamber during a legislative meeting by the Councilmember who introduced the resolution, or another Councilmember designated by the Councilmember who introduced the resolution.

(b) During a Council Period, no Councilmember may present more than 8 ceremonial resolutions, except that a Councilmember may yield his or her right to present a ceremonial resolution under this section to another Councilmember.

(c) No Councilmember may speak for more than 2 minutes on each ceremonial resolution.

(d) No recipient of a ceremonial resolution may present a display or performance during a legislative meeting.

(e) No more than one recipient for each ceremonial resolution shall be permitted to speak during a legislative meeting.

339. EXPEDITED OPTIONAL PROCEDURE FOR REPROGRAMMINGS, REVENUE BONDS, AND REVIEW RESOLUTIONS.

(a) This section shall apply to a resolution regarding a reprogramming request, revenue bonds, rules, regulations, confirmation resolutions, and other actions that:

(1) Are proposed for promulgation or adoption by the Mayor or an independent agency;

(2) Are required by law to be approved, disapproved, or reviewed by the Council before taking effect; and

(3) Take effect after a set period of time by operation of law.

(b) A resolution covered by this section may, at the option of the committee chairperson, be placed on the non-consent agenda of the next regular legislative meeting following approval by a committee, without referral to the Committee of the Whole.

(c) If the committee report for a measure is not filed before noon on the third business day before the legislative meeting, a resolution may not be placed on the legislative agenda pursuant to this section.

(d) If a reported resolution is considered at a legislative meeting under this section, the legal sufficiency, technical compliance with the drafting rules of the Council, completion of the record of the reported resolution, and the sufficiency of the fiscal impact statement, shall be reviewed at the legislative meeting at which it is considered.

E. MOTIONS.

341. MOTIONS RECOGNIZED DURING DEBATE.

When a question is under debate, the Chairman may entertain only the following motions, which shall take precedence in the order listed:

- (1) To adjourn;
- (2) To recess;
- (3) To reconsider;
- (4) To lay on the table;
- (5) To move the previous question;
- (6) To close debate;
- (7) To postpone to a day certain;
- (8) To recommit to committee;
- (9) To amend or substitute; or
- (10) To postpone indefinitely.

342. WITHDRAWAL OR MODIFICATION OF MOTIONS.

Any motion may be withdrawn or modified by the mover at any time before it has been amended or voted on.

343. ADJOURN.

The Chairman shall adjourn a meeting when there is no more business before the Council. A Councilmember may move to adjourn at any time. A motion to adjourn is not debatable, but the Chairman may inform the Councilmembers of any unfinished business requiring attention of the Council.

344. RECESS.

(a) The Chairman may, without a vote, recess a regular or legislative meeting of the Council to another time, day, or place.

(b)(1) A Councilmember may move to recess a meeting.

(2) A Councilmember may move to amend a pending motion to recess to set a different length of the recess.

(3) If a motion to recess does not specify the time, day, or place at which the meeting will reconvene, the Chairman may set a time, day, or place, or call the meeting to order and summons the members in accordance with section 367.

(4) Neither a motion to recess nor a motion to amend a pending motion to recess is debatable.

(c)(1) A Councilmember may move to recess a hearing or roundtable and reconvene the hearing or roundtable at a future time, day, or place.

(2) A recess may be taken under this subsection without a vote.

(3) If the Council recesses a hearing or roundtable without specifying the future time, day, or place for the hearing or roundtable, the Chairman must circulate notice of the new time, day, or place in accordance with section 283.

345. RECONSIDER.

(a) A Councilmember recorded as having voted with the prevailing side on a question may move to reconsider the question at any time, except as limited by this section.

(b)(1) An act may be reconsidered before it has been approved, deemed approved, or vetoed by the Mayor.

(2) A resolution may be reconsidered at any time before its implementation.

(3) A committee may reconsider its vote to report a measure at any time before the Council votes on the measure.

(4) A motion to reconsider a question considered at a different meeting shall not be in order unless the motion to reconsider has been noticed in accordance with section 429.

(c) For the purpose of this rule, a Councilmember who was present and voting on a question decided by a voice vote will be considered as having voted with the prevailing side on the question, unless the Councilmember

had asked to be recorded as voting against the prevailing side or "PRESENT".

(d) A motion to reconsider cannot be made by a Councilmember who was absent during a voice or roll-call vote on a question.

(e) A motion to reconsider requires the approval of a majority of the Councilmembers present and voting.

(f)(1) If the question to which a motion to reconsider applies is debatable, the motion to reconsider is debatable and the debate may go to the question.

(2) If the question to which a motion to reconsider applies is not debatable, the motion to reconsider is not debatable.

(g) If a motion to reconsider fails, the motion cannot be repeated.

(h) A motion to reconsider is not required to consider amendments accepted or rejected on a previous reading of a measure.

(i) Votes to approve or amend these Rules may not be reconsidered pursuant to this section.

346. LAY ON THE TABLE AND TO POSTPONE.

(a)(1) A Councilmember may make an unqualified motion to lay a question on the table, which is not debatable and, if adopted by a majority of Councilmembers present and voting, shall immediately end debate on the question.

(2) If an amendment to a measure is pending before the Council, a Councilmember may make a motion to lay the amendment on the table, which is not debatable and, if adopted by a majority of Councilmembers present and voting, shall immediately end debate on the amendment.

(b) A Councilmember may move to postpone a question to a time certain, which shall be adopted by a majority of Councilmembers present and voting. A motion to postpone to a time certain is debatable, though it is not in order to debate the merits of the underlying question.

(c) A Councilmember may move to postpone indefinitely any question pending before the Council. A motion to postpone indefinitely is debatable, and it is in order to debate the merits of the underlying question. Upon adoption of a motion to postpone indefinitely, the question may not be reconsidered unless 2/3rds of Councilmembers present and voting agree to reconsider the question.

(d) A committee chairperson may, without objection, carry over a measure reported by that committee from Council consideration until the next regular legislative meeting. If a measure has been sequentially referred, the committee chairperson of the last-reporting committee may carry over a measure under this subsection.

347. MOTIONS TO LIMIT DEBATE.

(a) Debate may be limited by a motion to close debate or a motion to move the previous question. Neither a motion to close debate nor a motion to move the previous question is debatable.

(b) A Councilmember may move to close debate, which shall require approval of 2/3rds of the Councilmembers present and voting. If a motion to close debate carries, no further debate is in order, except that (1) each Councilmember who has not spoken on the pending question may speak for no more than 2 minutes and (2) the Chairman may recognize the maker of the pending motion.

(c) A Councilmember may make a motion to move the previous question, which shall require approval of 2/3rds of the Councilmembers present and voting. If a motion to move the previous question carries, no further debate is in order on the pending question, and no further amendments to the main motion are in order absent a motion to reconsider the motion to move the previous question.

348. RECOMMIT

(a) A member may move to recommit a measure pending before the Council to a standing committee. If a majority of Councilmembers present and voting approve a motion to recommit, the Chairman shall refer to the measure to a standing committee or committees in accordance with section 405(b). A motion to recommit is debatable, though debate shall be limited to the desirability of committing the measure to the committee. Debate on the merits of the measure is not in order while a motion to recommit is pending.

F. AMENDMENTS.**351. AMENDMENTS TO BE WRITTEN.**

(a) Councilmembers shall endeavor to file with the Secretary amendments to pending measures by noon on the business day before the legislative meeting at which they are to be moved.

(b) If a Councilmember has filed an amendment with the Secretary before the legislative meeting in accordance with subsection (a) of this section, the Secretary shall provide a copy for each Councilmember before the legislative meeting begins. When the measure is to be considered, the Chairman shall recognize the Councilmember for a motion to amend.

(c)(1) If a Councilmember has not filed an amendment with the Secretary in accordance with subsection (a) of this section, the Councilmember shall circulate one copy for each Councilmember and 7 additional copies at the legislative meeting.

(2) A Councilmember shall file an amendment in accordance with subsections (a) and (b) of section 282 within 24 hours of the legislative meeting at which the amendment was offered if the amendment was not previously filed in accordance with subsection (a) of this section.

(d) Before a vote on a measure, oral amendments shall be reduced to writing and read by the General Counsel, and made available for public inspection as soon as practicable.

(e) No amendment may be approved by the Council without a fiscal-impact statement presented to the Council, at the time of its consideration, provided that the Chairman may waive these requirements if the Chairman concurs with the Budget Director that there is no adverse fiscal impact.

352. NON-GERMANE AMENDMENTS.

Every amendment proposed to an emergency or temporary measure must be germane to the subject matter of the measure to be amended. A non-germane amendment to a bill requires 2 readings and must be approved by 2/3rds of the members present and voting. To be germane, the amendment is required only to relate to the same subject. It may entirely change the effect of or be in conflict with the spirit of the original motion or measure and still be germane to the subject.

353. FRIENDLY AMENDMENTS.

Without objection, the mover of a motion or a measure may accept a friendly amendment, which, if accepted, shall be voted on simultaneously with the motion or measure. A friendly amendment to a second-degree amendment is not considered a third-degree amendment.

354. AMENDMENT IN THE NATURE OF A SUBSTITUTE.

(a) A notice of intent to move an amendment in the nature of a substitute to a measure at a legislative meeting shall be filed with the Secretary and circulated by noon on the business day before the legislative meeting. The notice shall be accompanied by the proposed amendment in the nature of a substitute.

(b) Whenever an amendment in the nature of a substitute is moved, it shall reflect all substantive changes from the prior version of the legislation (committee print or engrossment) by using strikeouts on the language which is proposed to be deleted from the prior version and an underscore on all new language being added by the amendment in the nature of a substitute.

(c) The mover of an amendment in the nature of a substitute may have a separate amendment considered simultaneously with the amendment in the nature of a substitute.

G. OTHER MOTIONS.

355. DISCHARGE.

The Council, by a vote of 2/3rds of the members present and voting, may discharge a committee from further consideration of a measure that has been referred to the committee. Upon approval of the discharge motion, the Council shall consider the measure as if it had been reported from the committee without amendment or modification or re-refer the measure to another committee.

356. TAKE FROM THE TABLE.

(a) When no question is pending before the Council, a Councilmember may move to take from the table any measure previously tabled during the legislative meeting.

(b) When a measure is pending before the Council, a Councilmember may move to take from the table any amendment to the measure which was previously tabled.

(c) Provided that a Councilmember provided notice required in section 429(2), the Councilmember may move to take from the table any measure previously tabled.

(d) A motion to take from the table is not debatable and shall be adopted by a majority vote of Councilmembers present and voting.

(e)(1) Upon adoption of a motion to take a question from the table, the question shall be before the Council in the same status as it was when the Council tabled the question.

(2) If the motion to take a question from the table does not occur during the legislative meeting at which the question was tabled, each Councilmember shall be entitled to debate the question as if the last motion adhering to the question was just made.

H. VOTING.

361. FORM OF VOTE.

Voting shall be in the form of "YES", "NO", and "PRESENT". A vote of "PRESENT" shall be deemed the equivalent of an abstention or a non-vote.

362. VOICE VOTES.

Except as provided in Rule 363, votes on all questions shall be by voice, with the results determined by the Chairman. A Councilmember's vote upon any matter shall be recorded upon request.

363. DEMAND FOR ROLL-CALL VOTE.

Any member, in advance of a vote or promptly thereafter, may demand a roll-call vote.

364. CALLING THE ROLL.

When a roll-call vote is demanded, the Secretary shall call the roll of the Councilmembers in rotating alphabetical order so that the Councilmember whose name is called first is the same member whose name was called second on the next previous vote, and so on through the roll, so

that the Councilmember whose name is called last is the same Councilmember whose name was called first on the next previous vote. At the end of the roll call, the names of those who failed to answer can be called again, or the Chairman can ask if anyone entered the room after the Councilmember's name was called. Changes of vote are also permitted at this time, before the result is announced. No Councilmember may vote "pass" more than once on the same amendment or the bill in its entirety. A second vote of "pass" shall be considered a vote of "present."

365. RECORDS OF VOTES.

(a) When a vote on legislation is by voice vote, the Secretary will record all members present as voting "yes" unless there has been a request to be recorded as having voted "no", a member votes "present," or a member has recused himself or herself from voting.

(b) When a roll-call vote is demanded, the Secretary will record the names of those voting "YES", "NO", or "PRESENT". Members will be recorded as absent if they are not in the Chamber when a vote is taken. Voting records are official records of the Council.

(c) After the Chairman has announced the result of a vote, a Councilmember may not change his or her vote.

366. PROXY VOTING PROHIBITED.

No proxy shall be permitted either for the purpose of voting or for the purpose of obtaining a quorum.

367. SUMMONS OF MEMBERS.

(a) Before putting a question to vote, the Chairman may hold open the vote for no more than 2 minutes for the purpose of summoning members who are absent. During that time, the Secretary shall summon the members who are absent from the Chamber. At the Chairman's direction, the Secretary shall call the names of the absent members.

(b) No Councilmember may be summoned more than once at the same legislative meeting.

I. OPEN MEETINGS.

371. OPEN MEETINGS, GENERALLY.

(a) Except as provided in section 375, a meeting of the Council shall be open to the public.

(b) For purposes of this part, a "meeting of the Council" means a gathering of a quorum of the Council for purposes of discussing Council business, whether informal or formal. A meeting of the Council does not include chance meetings, social gatherings, or press conferences. For purposes of these rules, a meeting of the Council does not apply to a gathering of a quorum for a committee.

372. MEETINGS OF COUNCIL DEEMED OPEN.

A meeting of the Council is deemed open if the:

- (1) Public is permitted to be physically present;
- (2) News media is permitted to be physically present; or
- (3) Meeting is televised.

373. NOTICE OF MEETINGS.

(a) Before a meeting of the Council is held, whether open or closed, at least one Councilmember attending the meeting shall notify the Secretary at least 48 hours before the meeting, unless emergency circumstances require less notice.

(b) Notice provided pursuant to this section shall be posted by the Secretary in plain view, the relevant Council office, or on the website of the Council.

(c) A notice for a meeting of the Council provided pursuant to this section shall include the:

- (1) Date;
- (2) Time;
- (3) Location; and
- (4) Planned agenda, if applicable, for the meeting.

(d) If a meeting of the Council, or any portion of the meeting, is expected to be closed, the notice shall include, if feasible, a statement of the intent to close the meeting, including the reasons for the closure.

374. RECORD OF MEETINGS.

(a) Except as provided in subsection (e) of this section, all meetings, whether open or closed, shall be recorded electronically. In accordance with section 447, the electronic recording shall be produced and maintained by the Secretary provided that if a recording is not possible detailed minutes of the meetings shall be kept by the Secretary.

(b) Copies of the records shall be provided to the public or any requester at his or her expense.

(c) A copy of the minutes shall be made available to the public or requester no more than 3 business days after the meeting.

(d) A copy of the full record including any recording or transcript shall be made available no later than 7 business days after the meeting.

(e) This section shall not apply to administrative meetings, breakfast meetings, open discussions, or other gathering of the Council where no official action is expected to take place; provided, however, that no official action may be taken at such meetings.

375. EXCEPTIONS TO OPEN MEETINGS.

A meeting of the Council may be closed for the following reasons:

(1) A law or court order requires that a particular matter or proceeding not be public;

(2) To discuss, establish, or instruct the public body's staff or negotiating agents concerning the position to be taken in negotiating the price and other material terms of a contract, including an employment contract, if an open meeting would adversely affect the bargaining position or negotiating strategy of the public body;

(3) To discuss, establish, or instruct the public body's staff or negotiating agents concerning the position to be taken in negotiating incentives relating to the location or expansion of industries or other businesses or business activities in the District;

(4)(A) To consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body, or to approve settlement agreements; provided, that, upon request, the public body may decide to waive the privilege.

(B) Nothing herein shall be construed to permit a public body to close a meeting that would otherwise be open merely because the attorney for the public body is a participant;

(5) Planning, discussing, or conducting specific collective-bargaining negotiations;

(6) Preparation, administration, or grading of scholastic, licensing, or qualifying examinations;

(7) To prevent premature disclosure of an honorary degree, scholarship, prize, or similar award;

(8) To discuss and take action regarding specific methods and procedures to protect the public from existing or potential terrorist activity or

substantial dangers to public health and safety, and to receive briefings by staff members, legal counsel, law enforcement officials, or emergency service officials concerning these methods and procedures; provided, that disclosure would endanger the public and a record of the closed session is made public if and when the public would not be endangered by that disclosure;

(9) To discuss disciplinary matters;

(10) To discuss the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials, including Councilmembers and staff;

(11) To discuss trade secrets and commercial or financial information obtained from outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained;

(12) To train and develop members of a public body, including the Council and staff;

(13) To deliberate upon a decision in an adjudication action or proceeding by a public body exercising quasi-judicial functions; and

(14) To plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations, if disclosure to the public would harm the investigation.

ARTICLE IV—LEGISLATION.**A. INTRODUCTION OF LEGISLATION.****401. WHO MAY INTRODUCE.**

(a)(1) Only a Councilmember may introduce legislation for consideration by the Council.

(2) At the time legislation is filed with the Secretary, the legislation shall be placed on the Council “v” drive or intranet portal.

(b)(1) Proposed legislation transmitted to the Council by the Mayor or an independent agency submitted in appropriate form and in compliance with these Rules shall be introduced by the Chairman, at the request of the Mayor or an independent agency.

(2) Unless proposed legislation by the Mayor or an independent agency filed with the Secretary by the second business day before a meeting of the Council, the proposed legislation may not be introduced or considered at the meeting.

(3) Proposed legislation from the Mayor or an independent agency shall be transmitted to the Council by hard copy, email, or any other medium as determined by the Secretary. All confirmation resolutions submitted to the Council by the Mayor shall include a copy of the current resume of the nominee. The Secretary shall place a copy of the proposed legislation on the Council “v” drive or intranet portal.

(4) Legislation transmitted under this subsection shall be filed with the Secretary during normal business hours, as defined by section 101(30).

(5) The Secretary shall determine whether the proposed legislation is in appropriate form and may return any proposed legislation that is not in appropriate form to the Mayor or the independent agency.

402. MANNER OF INTRODUCTION.

(a) A Councilmember may introduce a measure either by:

(1) Reading the short title of the measure, except a ceremonial resolution, during the period of a legislative meeting or a work session of the Committee of the Whole designated for introductions and immediately providing the Secretary with the signed original of the bill or resolution; or

(2) Filing the signed original of the measure with the Secretary during normal business hours.

(b) Unless a law specifically provides otherwise, no matter transmitted for a period of Council review before taking effect shall be deemed transmitted to the Council or the Chairman, and no time period for Council review shall begin to run until the matter has been formally introduced by the Chairman pursuant to subsection (a)(1) of this section.

(c) Whenever a measure would require the Secretary to transmit its text or anything associated with the text to a person, the Councilmember who introduced the measure shall provide the Secretary with the last-known address of the recipient.

(d) Proposed legislation transmitted for introduction by the Mayor or an independent agency shall be addressed to the Chairman and filed with the Secretary. The Secretary shall circulate the measure in accordance with these rules.

403. INTRODUCTION OF EMERGENCY LEGISLATION.

Emergency legislation, emergency-declaration resolutions, and temporary legislation may be introduced as provided in sections 401 and 402, or may be introduced at a meeting called to consider the emergency legislation and temporary legislation.

404. READING INTRODUCTIONS.

(a) At each legislative meeting and work session of the Committee of the Whole, during the period designated for introductions, the Secretary shall read the short titles of measures that were introduced pursuant to section 402(a)(2) between the previous reporting period and the 10 am of the business day before the legislative meeting or Committee of the Whole work session, and provide the numbers assigned as provided in section 805 and the committee referrals as provided in section 405.

(b) Measures may not be debated or amended when they are read for introduction.

(c) The formal reading of the Secretary's report as provided in subsection (a) of this section may be waived by unanimous consent.

(d) A Councilmember may raise questions regarding a committee referral included in the Secretary's report without a formal reading of the entire Secretary's report.

(e) A Councilmember may introduce no more than 3 measures at a legislative meeting or Committee of the Whole work session.

(f) A Councilmember may speak for no more than 3 minutes on each measure introduced.

(g) Only one Councilmember may speak on each introduced measure; provided, that a Councilmember may yield all or a part of the Councilmember's time provided by this section to another Councilmember.

405. COMMITTEE REFERRAL.

(a)(1) When a measure is introduced before a legislative meeting or Committee of the Whole work session, the Chairman may refer it to the appropriate committee or committees, taking into account standards of germaneness, unless the Council retains the measure. The referral is official unless the Chairman provisionally refers the bill to a committee or committees.

(2) If the Chairman provisionally refers the bill to a committee or committees, the referral shall be deemed official after 3 business days. If the Chairman refers the measure to another committee within the 3-business-day period or any time thereafter, the referral shall not become official until the next regular legislative meeting or Committee of the Whole work session. The Chairman may refer a bill or proposed resolution for comments at any time.

(b) When a bill is introduced by filing it with the Secretary, rather than introducing it at a meeting pursuant to subsection (a) of this section, the Chairman shall refer it to the appropriate committee or committees. Such referral is not official until it is read at a meeting pursuant to section 404.

(c)(1) The Chairman may refer a measure to 2 or more committees for sequential consideration of all or part of the measure, and may refer all or part of the measure to one or more committees for comments.

(2) Where there is a sequential referral, the Chairman may make the referral and specify a time period within which one or more of the committees must report the measure. If a committee fails to file a report within the specified time period, the measure shall be deemed discharged from the committee, and the Secretary shall provide notice that the measure is ready for subsequent action by another committee or to be agendized for Council consideration.

(c) The Chairman may re-refer a bill or resolution from one committee to another committee and the new referral shall become official at the next legislative meeting or Committee of the Whole work session.

(d) A committee may not consider a measure unless the Chairman has made an official referral.

406. COMMENTS BY EXECUTIVE.

The Executive may comment on any measure. Unless otherwise required by law, neither the Council nor a committee must wait for Executive comments before considering a measure.

407. WITHDRAWAL OF LEGISLATION.

(a) Whenever a rule, regulation, or resolution is proposed for promulgation by an entity other than the Council and is required by law to be approved, disapproved, or reviewed by the Council before its taking effect and would take effect automatically by operation of law, the proposal may be withdrawn formally by the proposer before final Council action or, if the Council takes no action, before any time limit imposed by law. The withdrawal shall render the original proposal a nullity as if it were never proposed. These proposed rules, regulations, and resolutions may be withdrawn only by written request transmitted to the Chairman.

(b) A Councilmember may withdraw any measure before any action has been taken by the committee to which the measure has been referred (i.e., hearing, markup, or vote). A withdrawal shall be filed with the Secretary. A withdrawal shall render the original measure a nullity, as if it were never introduced. If a measure has been introduced by more than one Councilmember, all co-introducers must consent to withdrawal under this subsection.

(c) Notwithstanding subsection (a) of this section, if a Councilmember withdraws a resolution approving or disapproving a contract or reprogramming after the date the contract or reprogramming would otherwise have been deemed approved, the measure shall be deemed approved on the date the resolution is withdrawn, unless it has been deemed approved before that time by operation of law.

B. COUNCIL APPROVAL.**411. CONSENT AGENDA.**

(a)(1) The Chairman shall prepare a consent agenda for each legislative meeting that shall include measures that the Chairman believes will be adopted by unanimous vote. The consent agenda shall be approved by the Committee of the Whole at a work session before the legislative meeting for which the agenda was prepared. Without objection, a Councilmember may amend the committee print of a measure without removing the bill or resolution from the consent agenda, if the amendment is filed with the Secretary at or before the Committee of the Whole meeting and circulated to the Councilmembers at the Committee of the Whole meeting.

(2) A Councilmember may remove a measure from the consent agenda at the Committee of the Whole meeting or at the legislative meeting before the vote on the consent agenda.

(3) Measures removed from the consent agenda shall be considered as provided in section 311, except that the Chairman may first consider items removed from the consent agenda.

(4) Before the vote on the consent agenda at a legislative meeting, and without objection from any other Councilmember, a Councilmember may request that a measure on the non-consent agenda be moved to the consent agenda.

(5) Approval of the consent agenda during a legislative meeting will include the unanimous approval of all matters included in the consent agenda. If a Councilmember asks for his or her vote to be recorded on a particular measure, the measure shall be removed from the consent agenda.

(b) A resolution declaring the existence of an emergency and accompanying emergency bill submitted by the Mayor or an independent agency pursuant to section 307(b) shall be included in the consent agenda

prepared by the Chairman for the first regularly scheduled legislative meeting that occurs more than 5 business days after the resolution declaring the existence of an emergency and accompanying emergency bill have been filed with the Secretary.

412. EMERGENCY LEGISLATION.

(a)(1) When a Councilmember proposes a measure to be passed immediately due to emergency circumstances, the Council may debate the question of the existence of an emergency and then shall vote on whether emergency circumstances exist.

(2) A Councilmember may debate the merits of a measure to determine whether emergency circumstances exist.

(3) If 2/3rds of the Councilmembers find that emergency circumstances exist, the Council shall consider the measure on its merits.

(b) For purposes of this section, an "emergency" means a situation that adversely affects the health, safety, welfare, or economic well-being of a person for which legislative relief is deemed appropriate and necessary by the Council, and for which adherence to the ordinary legislative process would result in delay that would adversely affect the person whom the legislation is intended to protect.

(c) Emergency legislation shall take effect, according to its terms, either immediately or at a specific time. Pursuant to section 412(a) of the Charter (D.C. Official Code § 1-204.12), emergency legislation shall be effective law for no more than 90 days.

413. TEMPORARY LEGISLATION.

If the Council approves an emergency bill under section 412, the Council may, at the same legislative meeting, consider a temporary bill on first reading without committee referral. The temporary bill must be substantially similar to the emergency bill and may remain effective for no more than 225 days.

414. TECHNICAL-AMENDMENT LEGISLATION.

(a) On an occasional basis, the General Counsel shall prepare a technical amendment bill for introduction by the Chairman.

(b) Notwithstanding section 501(a), no hearing is required before final adoption of a technical-amendment bill prepared in accordance with this section.

(c) A technical-amendment bill shall contain only amendments to existing law and no amendment included in the technical-amendment bill may make substantive changes to the existing law. Any amendment to the technical-amendment bill must be certified as technical by the General Counsel.

(d) An amendment to a technical-amendment bill that has not been certified as technical by the General Counsel shall be out of order for Council consideration.

415. ENACTMENT LEGISLATION.

(a) On an occasional basis, the General Counsel shall prepare an enactment bill for introduction by the Chairman.

(b) Notwithstanding section 501(a), no hearing is required before final adoption of an enactment bill prepared in accordance with this section.

(c) An enactment bill shall present, for each title of the District of Columbia Official Code proposed to be enacted into positive law, a compilation, restatement, and revision of the general and permanent laws of the District of Columbia that conforms to the understood policy, intent, and purpose of the Council or Congress in the original enactments, with such

amendments and corrections as to remove ambiguity, contradictions, and other imperfections, both of substance and of form.

(d) An amendment to an enactment bill that has not been proposed by the General Counsel as an amendment consistent with subsection (c) of this section shall be out of order for Council consideration.

416. VETOED LEGISLATION.

(a) Whenever the Mayor disapproves and returns an act pursuant to section 404(e) of the Charter (D.C. Official Code § 1-204.04(e)), the disapproved act shall be the property of the full Council. The Chairman may solicit comments or recommendations on the disapproved act from a committee or committees. A Councilmember may move for the Council to reenact the disapproved act before the end of the 30-day review period provided in section 404(e) of the Charter. If 2/3rds of the Councilmembers present and voting vote to reenact the act, the act shall become law subject to the provisions of section 602(c) of the Home Rule Act (D.C. Official Code § 1-206.02(c)).

(b) Whenever the Mayor disapproves and returns any item or provision of a budget act pursuant to section 404(f) of the Charter (D.C. Official Code § 1-204.04(f)), the disapproved act shall be the property of the full Council. The Chairman may solicit comments or recommendations on the disapproved item or provision from a committee or committees. A Councilmember may move for the Council to reenact any disapproved item or provision of the budget act before the end of the 30-day review period provided in section 404(f) of the Charter. If 2/3rds of the Councilmembers present and voting vote to reenact any item or provision of the budget act, the item or provision so reenacted shall be transmitted by the Chairman to the President of the United States.

417. TRANSMISSION OF ACTS.

The Chairman shall transmit adopted acts to the Mayor and enacted acts to the United States Senate and the United States House of Representatives as required by the Charter.

418. EFFECT OF END OF COUNCIL PERIOD.

(a)(1) A measure that has not been finally adopted by the Council before the end of the Council Period in which the measure was introduced lapses without prejudice to the measure's reintroduction in a subsequent Council Period.

(2) If temporary legislation has been passed on first reading pursuant to section 413 at the last legislative meeting in a Council Period, it may be considered on final reading during the next Council Period.

(3) A matter transmitted by the Mayor or an independent agency for a designated period of Council review that is pending at the end of a Council period shall be in the same status that the matter was at the end of the prior Council period and the legislation assigned a new number. If notice required by these Rules has been given in the prior Council period, no additional notice shall be required before action on the matter.

(b) Legislation that has been finally adopted by the Council during a Council Period shall not lapse simply because any of the following occurs:

- (1) Approval or veto by the Mayor;
- (2) Approval by operation of law;
- (3) Reenactment after a veto;
- (4) Submission to referendum; or
- (5) Transmittal to Congress.

(c) Records of measures that lapsed at the end of a Council Period may be incorporated by reference in the records of substantially similar measures

considered in a later Council Period, including the record of any hearing or roundtable that was held in a prior Council Period.

C. NOTICE AND PUBLICATION OF INTENDED ACTIONS.

421. GENERAL NOTICE BY PUBLICATION OF INTENDED ACTIONS AND HEARINGS.

(a)(1) Except as provided in these Rules, 15 days' notice by publication in the Register is required before Council adoption of a measure.

(2) Abbreviated notice under this subsection may be given upon good cause found and published in the Register with the notice.

(b) Except as provided in these Rules, 15 days' notice by publication in the Register is required before the conduct of a hearing.

(c) Abbreviated notice under subsection (b) of this section may be given:

(1) For a hearing on a permanent bill for the purpose of rescheduling the hearing where the hearing was previously noticed in the Register.

(2) For a hearing on a resolution, where a hearing is required, upon good cause found and published in the Register with the notice, and where the abbreviated notice provides at least 3 business days' notice; or

(3) For an oversight or investigative hearing, where such notice is posted on the Council website.

(b) No prior notice by publication is required for the adoption of a ceremonial resolution, an emergency bill or resolution, an emergency-declaration resolution, or a resolution adopting Council Rules, appointing Council officers and committee chairpersons and members, or pertaining to the internal operation or organization of the Council.

422. PERSONAL SERVICE OR ACTUAL NOTICE.

Notice by publication is not required if all persons subject to an intended action are named, and in accordance with law, either are served personally or have actual notice of the Council's intended action.

423. METHODS OF NOTICE.

(a) Where not otherwise required by these Rules or other provisions of law to be done in specific fashion, notice may be given by:

(1) Publication in the Register;

(2) Publication in one or more newspapers of general circulation;

(3) Mailing notices to a mailing list of organizations and individuals established and maintained by the Secretary;

(4) Use of other news media;

(5) Posting notice in a prominent place in the John A. Wilson Building and other public buildings or posting places;

(6) Facsimile;

(7) E-mail;

(8) Posting on the Council's official website; or

(9) In any other manner directed by the Council.

(b) Where notice to the public is required under these Rules, by law, otherwise, the Secretary shall post the notices on the Council website.

424. NOTICE OF EMERGENCY ACTIONS.

(a) When an emergency measure is to be considered, a notice that includes a statement of the reasons for the emergency and the intended effect of the emergency measure shall be filed, and a draft of the emergency measure and emergency-declaration resolution shall be circulated, by noon on the third business day before the legislative meeting at which the emergency

measure is to be considered, unless the nature of the emergency precludes such notice. If the nature of the emergency precludes the notice, the sponsor of the legislation shall circulate and file the measure with the Secretary and take steps to ensure that Councilmembers have notice at the earliest possible time before the meeting at which the emergency measure is to be considered.

(b) Notwithstanding the provisions of subsection (a) of this section, public notice of intended emergency action shall be given before adoption of an emergency bill or resolution by at least one method provided in section 423.

425. NOTICE OF TEMPORARY LEGISLATION.

(a) Each temporary bill adopted pursuant to section 413, shall be circulated and filed with the accompanying emergency measure in accordance with section 424. Following approval on first reading, the Secretary shall publish a notice of intent to adopt the temporary bill on second reading in the Register.

(b) When temporary legislation is to be considered under section 413, the notice of emergency action under section 424 shall include notice of the temporary legislation.

426. NOTICE OF WAIVER OF RULE 231(c).

(a) A notice of a request to waive Rule 231(c) shall be filed and circulated no later than noon on the third business day before the legislative meeting at which a measure is to be considered. The notice shall include a rationale for the request.

(b) If the committee report for a measure is not filed before noon on the third business day before the legislative meeting, a motion to waive 231(c) may not be placed on the legislative agenda.

(c) Before approval of a motion to waive Rule 231(c), a certification shall be made of a measure's legal sufficiency and technical compliance with the drafting rules of the Council; the completion of the record; and a determination made of the sufficiency of the fiscal impact statement.

(d) Approval of a motion to waive Rule 231(c) shall require a vote of 2/3rds of the members present and voting.

(e) A motion to waive Rule 231(c) is not in order if the legislation includes amendments made by one or more committees that are beyond the jurisdiction of the committee or committees.

427. NOTICE OF CEREMONIAL RESOLUTIONS.

Each ceremonial resolution shall be filed by noon on the business day before the legislative meeting at which it is to be considered. Without objection, ceremonial resolutions scheduled for presentation at a legislative meeting, may be presented at a Committee of the Whole meeting scheduled for the same day.

428. NOTICE AND PUBLICATION OF ADOPTED LEGISLATION.

Each measure adopted by the Council shall be published in the Register. Except as provided in section 204 of the District of Columbia Codification Act of 1975, effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code § 2-602), no measure shall become effective until after its publication. Once notice by publication has been given in accordance with this section, no additional publication is necessary for an act completing Congressional review to become effective law as provided in section 602 of the Home Rule Act of 1973(D.C. Official Code § 1-206.02).

429. NOTICE OF NEW BUSINESS.

Except as provided in these Rules, a Councilmember shall file a notice of intent by noon on the third business day before a legislative meeting, to make any of the following motions:

- (1) A motion to reconsider a measure that was considered at a prior legislative meeting;
- (2) A motion to take from the table a measure that was laid on the table at a prior legislative meeting;
- (3) A motion to discharge; or
- (4) Any other motion that brings new business before the Council.

ARTICLE V—HEARING PROCEDURES.**A. PROCEDURES FOR HEARINGS.****501. AUTHORITY TO CALL HEARINGS.**

(a)(1) The Council shall hold a hearing when required by law and may hold a hearing on any matter relating to the affairs of the District. A Council hearing may be called by the Chairman.

(2) A hearing shall be held on all permanent bills before final adoption by the Council. A hearing or roundtable is not required where a hearing on the same or a similar bill was held in the immediately preceding Council Period.

(b) A committee of the Council shall hold a hearing when required by law and may hold a hearing on any matter relating to the affairs of the District that is properly within the committee's jurisdiction as provided in these Rules.

(c) Unless a hearing is required by law or regulation, a committee may hold a roundtable on any matter relating to the affairs of the District that is properly within the committee's jurisdiction as provided in these Rules. A roundtable shall comply with the hearing requirements set forth in this Article. A committee is not required to meet the notice requirements of section 421 to hold a roundtable.

(d) A notice of a hearing or a roundtable shall be filed with the Secretary.

502. QUORUM.

One Councilmember, for the Council, or one member of a committee, for the committee, shall constitute a quorum for the purpose of holding a hearing or a roundtable.

503. PARTICIPATION BY MEMBERS.

(a) Each Councilmember may participate in hearings of the Council or of a committee, without regard to whether the Councilmember is a member of the committee conducting the hearing.

(b) Each Councilmember may question witnesses for no more than 10 minutes until after each Councilmember has had an opportunity to question the witnesses.

504. OPEN TO PUBLIC.

(a) All hearings and roundtables shall be open to the public unless, upon good cause shown, a majority of the Council or a committee approves the convening of a hearing in an executive meeting, and as provided in sections 371-375.

(b) Except as provided in subsection (c) of this section, testimony taken and evidence received in a closed hearing or roundtable shall be confidential and may not be released to the public.

(c)(1) Upon good cause shown and after notice as provided in this subsection, a majority of the Council or committee members may approve the release of testimony or evidence received in a closed hearing or roundtable.

(2) Ten days before the release of testimony or evidence under this subsection, the Council or committee must notify, in writing, the affected witness that the Council or committee intends to release the testimony or evidence.

(3) Before the expiration of the 10-day period, the affected witness may request, in writing directed to the presiding Council or committee member, and the Council or committee may consider withholding the testimony or evidence described in the notice.

(d)(1) If a committee, in the publication of notice of a hearing or roundtable, sets a deadline before which a person must contact the committee to be permitted to be a witness at the public hearing, then at the time that the public hearing is held, each person who complied with the committee's requirements shall be given an opportunity to testify.

(2) A person who fails to comply with the requirements of this subsection may not testify unless the presiding member allows the person to testify.

B. RECEIVING TESTIMONY.

511. QUESTIONING WITNESSES.

Witnesses may be questioned by Councilmembers and, with the consent of the presiding member, by authorized staff or counsel.

512. DECORUM OF WITNESSES.

(a) A witness may address a Councilmember only through the presiding member.

(b) A witness shall confine his or her remarks to the question under discussion and shall avoid making negative personal comments.

(c) The presiding member shall maintain order in the hearing or roundtable and, after issuing a warning, may order the removal of a disorderly person as provided in section 322.

C. RIGHTS OF WITNESSES.

521. RIGHT TO COUNSEL.

Any witness who appears before the Council or a committee has the right to be represented by counsel.

522. RIGHT TO MAKE OPENING STATEMENT.

Any witness testifying at a hearing or roundtable may submit an opening statement, which shall be placed in the record of the hearing or roundtable. The presiding member may permit the witness to read his or her statement at the hearing or roundtable.

D. RECORD OF HEARINGS.

531. HEARING RECORDS, REQUIRED.

(a) Within 10 business days after the close of the record for a hearing or roundtable, a committee chairperson shall file with the Secretary a hearing record, which shall be a complete record of the hearing or roundtable. The hearing record shall contain the following:

- (1) A copy of the published notice;
- (2) A copy of the witness list;
- (3) Copies of written testimony;
- (4) Statements or other materials submitted for the record;
- (5) Important correspondence with the Mayor, if applicable;

and

(6) Other information that the committee chairperson considers necessary.

(b) If new materials are provided to the committee after the close of the record, the committee chairperson may supplement the hearing record.

532. CLOSE OF RECORD.

Unless otherwise provided, the record for a hearing or roundtable shall close 10 business days after the hearing or roundtable.

ARTICLE VI—INVESTIGATIONS AND SUBPOENAS.**A. PROCEDURES FOR INVESTIGATIONS USING SUBPOENAS.****601. RESOLUTION AUTHORIZING THE USE OF SUBPOENAS IN AN INVESTIGATION.**

(a) In order to use subpoenas to obtain testimony or documents, the Council shall adopt a resolution authorizing an investigation by the Council or a special committee.

(b) In order to use subpoenas to obtain testimony or documents, a committee must adopt a resolution of the committee authorizing an investigation subject to the limits of section 501. This resolution must be filed in the Office of the Secretary.

(c) A resolution authorizing an investigation under this section shall delineate the purpose of the investigation and the subject matter to be investigated to afford witnesses adequate notice of the scope of the inquiry.

602. NOTICE OF INVESTIGATION.

Pursuant to section 421, the Secretary shall publish a notice of each investigation authorized under section 601 in the Register, which notice shall include a copy or description of the resolution authorizing the investigation and the date the resolution was filed in the Office of the Secretary.

603. REPORT OF INVESTIGATION.

(a) Within 90 days of the conclusion of an investigation under this article, a committee shall submit to the Council the results of the investigation, unless the Council, by majority vote of the members present and voting, extends the time limit.

(b) The committee, by a majority of the members present and voting, may vote not to release all or part of its report. The Council, by a majority of members present and voting, may direct a committee to release its report under terms that the Council sets.

604. TESTIMONY UNDER OATH.

A witness may be affirmed or sworn to give truthful testimony.

605. ISSUING THE OATH.

Any person authorized by law may issue an oath or affirmation to a witness.

606. DEPOSITIONS.

The Council or committee may authorize a Councilmember, staff, or counsel to take the testimony of witnesses by oral or written depositions.

B. SUBPOENAS.**611. ISSUANCE OF SUBPOENAS.**

The Council, any standing committee of the Council, and, if authorized by the resolution establishing it, any special committee, may subpoena the attendance and testimony of witnesses and the production of documents and other tangible items at meetings, hearings, and depositions in connection with an investigation. Subpoenas shall be issued in the form set forth in Appendix A, and, except as provided in section 613(b), shall be served not less than 5 business days before the return date.

612. REPORT TO SECRETARY REGARDING USE OF SUBPOENA.

Before issuing a subpoena, the Council, a standing committee, or authorized special committee shall submit a report to the Secretary outlining

the nature and scope of the investigation and the type of information sought through the use of the subpoena.

613. SERVICE OF SUBPOENAS.

(a) Except as provided in subsection (b) of this section, a subpoena shall be served personally on the witness or the witness's designated agent in one of the following ways, which may be attempted concurrently or successively:

(1) By a person at least 18 years of age, designated by the committee or the Council from among the staff appointed by the Secretary who is not directly involved in the investigation; or

(2) By a person, at least 18 years of age, engaged by the committee or the Council for this purpose.

(b) If, after a reasonable attempt, personal service on a witness or witness's designated agent cannot be obtained, service may be effectuated by registered or certified mail not less than 8 business days before the return date.

614. ENFORCEMENT OF SUBPOENAS.

A committee may refer to the Council any case of contumacy by a person subpoenaed to appear before the committee. The Council may refer by resolution any case of contumacy by any person subpoenaed by the Council or a committee to the Superior Court of the District of Columbia as provided in section 413 of the Charter (D.C. Official Code § 1-204.13).

C. RIGHTS OF WITNESSES.

621. RIGHT TO ASSERT PRIVILEGES.

(a) A witness has the right to refuse to answer a question that might tend to incriminate him or her by claiming his or her Fifth Amendment privilege against self-incrimination, other Constitutional privileges, or statutory or common law privileges recognized in the Superior Court of the District of Columbia.

(b) If a witness asserts a privilege, the presiding member shall inquire into the witness's reasons for claiming the privilege. If the presiding member determines that the claim of privilege is not warranted, the presiding member shall direct the witness to answer the question. A witness's continued claim of privilege in the face of an order by the presiding member to answer a specific question constitutes contumacy by the witness.

622. NOTIFICATION OF RIGHTS.

Where a witness under subpoena is not represented by counsel, the presiding member shall advise the witness of his or her privilege against self-incrimination.

623. RIGHT TO TRANSCRIPT.

A witness under subpoena is entitled to receive, at the cost of producing it, a written transcript or a transcription of his or her testimony in connection with an investigation.

624. RIGHTS OF PERSONS WHO ARE SUBJECTS OF INVESTIGATIONS.

Any person who is the subject of an investigation authorized under section 601 may submit written questions for the cross-examination of other witnesses at a public investigative hearing called by the Council or a committee. With the consent of the Councilmembers present and voting, the questions may be put to the witness by a Councilmember, by staff, or by counsel.

625. RIGHTS OF PERSONS IDENTIFIED IN INVESTIGATIONS.

Any person, who is named or specifically identified in connection with an investigation and who believes that the testimony or other evidence or comment by a member of the Council or a committee or its staff does not comport with the truth, may file a sworn statement of facts relevant to the testimony or other evidence or comment complained of.

D. CENSURE, REPRIMAND, AND EXPULSION PROCEDURES.**651. AD HOC COMMITTEES.**

(a) An ad hoc committee shall be established for the purposes of considering evidence of a violation of the Code of Conduct, policy, or law and making recommendations for further action. An ad hoc committee shall be established by request of any 5 members of the Council, or if a member is censured by the Ethics Board.

(b) The ad hoc committee shall be composed of 5 members appointed by the Chairman or, if the Chairman is the subject of the request or Ethics Board sanction, by the Chairman Pro Tempore. The committee shall not include the member making the request or the member who is the subject of the request. The committee's proceedings may be conducted in executive session in accordance with Council Rule 504, except that its recommendation for further action shall be made public

(c) No penalty pursuant to Rules 655 and 656, shall be imposed unless first recommended by an ad hoc committee of the Council.

652. AD HOC COMMITTEE INITIATED BY AN ETHICS BOARD CENSURE.

(a) An ad hoc committee shall be established by the Council within 72 hours of a censure of one of its members by the Ethics Board, or as soon as practicable. An ad hoc committee shall consider the findings of the Ethics Board, conduct an investigation if warranted, and report its findings and penalty recommendations, if any, to the Council within 45 days of being convened. The penalty recommendations may include:

- (1) Reprimand;
- (2) Censure; or
- (3) Expulsion.

(b) The Council shall meet to consider the recommendation within 7 days of receiving the recommendations from the committee.

653. AD HOC COMMITTEE BY REQUEST.

(a) A request for censure or expulsion of a member of the Council may be submitted to the Secretary by any 5 members of the Council. The request shall contain the specific charges on which the proposed sanction is based.

(b) The Secretary shall deliver a copy of the request for an ad hoc committee and the charges to each member of the Council at least 48 hours prior to the first meeting of the committee at which the request will be first considered.

(c) The committee's proceedings may be conducted in executive session in accordance with section 504. The committee shall permit testimony from both the member making the request and the member subject to the request and shall determine whether:

- (1) Further investigation of the charges is required to determine if a hearing is warranted;
- (2) The matter is to be set for a hearing; or
- (3) No further action should be taken with respect to the request.

(d) If the committee determines no further action should be taken with respect to the request, the committee shall report that to the Council at its earliest opportunity. If the committee determines that further investigation

is required, the committee shall conduct an investigation and report a summary of its proceedings and its findings, along with penalty recommendations, if any, to the Council at its earliest opportunity. The penalty recommendations, if any, may include:

- (1) Reprimand;
- (2) Censure; or
- (3) Expulsion.

(e) If the committee does not report its recommendation and findings to the Council within 90 calendar days of the receipt of the request to convene the committee, the matter shall be sent to the Council for its consideration.

(f) Upon receipt of the report of the committee, or at the expiration of the time for the committee to report to the Council, the Chairman shall place the matter on the Council's agenda to determine whether or not a hearing is warranted. If the Chairman decides to set the matter for a hearing, it shall be scheduled for no sooner than one week after the determination to hear the matter. Written notice of the hearing shall be delivered in person to the member of the Council who is the subject to the request or to the member's Council office at least 48 hours in advance of the scheduled hearing.

(g)(1) The hearing shall be conducted by the Chairman or, if the Chairman is the subject of the hearing, by the Chairman Pro Tempore. At the hearing, the member of the Council who is the subject of the request shall be given the opportunity to make an opening and a closing statement, to call witnesses on his or her behalf, and to question his or her accusers. The member who is the subject of the request may be represented by a persons of the member's choice whether or not the person is an attorney at law and may have that representatives speak or question witnesses on the member's behalf.

(2) The questioning or cross-examining of witnesses may be reasonably limited by the presiding member.

(3) Testimony shall be taken only from witnesses having direct knowledge of facts or circumstances relevant to the specific charges under consideration.

(4) The rules of evidence and judicial procedure applicable in courts of law shall not be applicable to this hearing, and the procedures shall be generally informal.

(h) Notwithstanding any other provision of this rule, the Chairman, pursuant to an authorizing resolution, may appoint any person or a standing or special committee to perform any investigation required by the rule.

654. REPRIMAND.

(a) A reprimand is a formal statement of the Council officially disapproving the conduct of one of its members. A reprimand shall be directed to a particular member of the Council based on a particular action or set of actions that is determined to be in violation of the Council's Rules, law, or policy, but is considered to be not sufficiently serious to require censure. A reprimand is distinguished from censure in that it is not punishment or discipline and, therefore, does not require an investigation or hearing.

(b) The Council may adopt a resolution of reprimand in the same manner as provided for the adoption of any resolution; provided, that the Councilmember who is the subject of the resolution is permitted to speak in his or her defense prior to action on the motion for adoption of the resolution. The fact that the Councilmember who is the subject of a reprimand does not choose to respond to the resolution or does not attend the meeting at which the resolution is to be adopted shall not prevent the Council from adopting the resolution; provided, that the Councilmember had actual notice of the inclusion of the resolution on the agenda and had a reasonable opportunity to attend the meeting.

655. CENSURE.

(a) Censure is a formal statement of the Council officially disciplining one of its members. It is a punitive action, which serves as a penalty imposed for wrongdoing, but it carries no fine or suspension of the rights of the member as an elected official. Censure should be used for cases in which the Council determines that the violation of law or policy is a serious offense. To protect the overriding principle of freedom of speech, the Council shall not impose censure on any member for the exercise of his or her First Amendment right, no matter how distasteful the expression of that right was to the Council and the District. Nothing in this rule shall be construed to prohibit the Council, as a body, from condemning and expressing its strong disapprobation.

(b)(1) The Council, by a 2/3rd vote of its members present and voting, may adopt a resolution of censure if it finds, based on substantial evidence, that a Councilmember took an action that amounts to a gross failure to meet the highest standards of personal and professional conduct.

(2) Substantial evidence is proof that a reasonable person would accept as adequate to support a conclusion or decision in favor of censure.

656. EXPULSION.

(a) Expulsion is the most severe punitive action, serving as a penalty imposed for egregious wrongdoing. Expulsion results in the removal of the member. Expulsion should be used for cases in which the Council determines that the violation of law is of the most serious nature, including those violations that substantially threaten the public trust. To protect the exercise of official councilmember duties and the overriding principle of freedom of speech, the Council shall not impose expulsion on any member for the exercise of his or her First Amendment right, no matter how distasteful the expression of that right was to the Council and the District, or in the official exercise of his or her office.

(b)(1) The Council, by a 5/6 vote of its members, may adopt a resolution of expulsion if it finds, based on substantial evidence, that a Councilmember took an action that amounts to a gross failure to meet the highest standards of personal and professional conduct.

(2) Substantial evidence is proof that a reasonable person would accept as adequate to support a conclusion or decision in favor of expulsion.

ARTICLE VII—BUDGET PROCEDURES.**A. BUDGET REVIEW PROCEDURES.****701. ROLE OF THE COMMITTEE OF THE WHOLE.**

The Mayor's annual budget request for the District government and any supplement or amendments to the budget submitted to the Council pursuant to section 442(a) of the Charter (D.C. Official Code § 1-204.42(a)) shall be referred to the Committee of the Whole.

702. BUDGET-REVIEW SCHEDULE.

The Budget Director, at the direction of the Chairman, shall prepare a budget-review schedule that includes a hearing schedule, establishes dates for closing hearing records, a template for the required format of and submitting and filing of committee budget reports, and schedule other budget activities as necessary or appropriate. The budget-review schedule shall be presented to the Committee of the Whole for approval. The Budget Director, at the direction of the Chairman, may change the schedule as necessary or appropriate and shall circulate the updated budget-review schedule and publish it on the Council website.

703. ROLE OF COUNCIL COMMITTEES.

(a) Each standing committee shall be responsible, in accordance with the budget-review schedule, for reviewing the budget requests for agencies within its purview, including:

(1) Holding public hearings on the proposed budget requests of agencies and receiving testimony on those budget requests from agency representatives, Advisory Neighborhood Commissions, other organizations, and private citizens;

(2) Recommending funding and personnel levels for each agency;

(3) Recommending appropriations language changes;

(4) Identifying additional budget needs not included in the committee's recommendation under paragraph (2) of this subsection, for which funding is sought;

(5) Identifying legislative actions required to implement the committee's budget recommendations; and

(6) Identifying issues for further analysis by the Mayor pursuant to section 442(a)(6) of the Charter (D.C. Official Code § 1-204.42(a)(6)).

(b) Each committee shall submit, in accordance with the budget-review schedule, the original committee markup and report with the Committee of the Whole. No committee may submit a markup or report that results in a net increase in the total amount of the budget request for all agencies under its purview, unless that markup or report also identifies additional revenue sources, additional budget reductions, or both, within the committee jurisdiction, sufficient to provide funding for the increase, unless another committee has directed funds to the committee for a specific purpose.

704. COMMITTEE OF THE WHOLE CONSIDERATION OF BUDGET REQUEST.

(a) The Budget Director, at the direction of the Chairman, upon receipt of committee reports and markups, shall prepare a summary of committee recommendations for presentation to the Committee of the Whole. This summary shall also include a comparison of the budget levels recommended by committees with any revenue level recommended by the Budget Director, at the direction of the Chairman, and the Chairman.

(b) The Council Budget Director, at the direction of the Chairman, shall refer any additional budget reductions recommended by a committee

pursuant to section 703(b) to the committee having purview over the agency affected by the additional budget reduction for review and comment.

(c) The Committee of the Whole shall meet to consider committee reports, recommendations, and comments, and the Chairman's recommendations, if any, and shall proceed to mark up the Mayor's budget request. No amendment shall have the effect of putting the budget out of balance. The Budget Director, at the direction of the Chairman, shall prepare a draft report and act reflecting the Committee of the Whole action.

705. COUNCIL CONSIDERATION OF THE BUDGET REQUEST.

Following the markup and report on the full budget request by the Committee of the Whole, the reported budget request shall be presented for a single reading at the next legislative meeting or additional meeting called by the Chairman for that purpose.

706. CONSIDERATION OF GROSS PLANNING BUDGET RESOLUTIONS.

Gross planning budget resolutions, submitted by the Mayor pursuant to section 7 of the Funds Control Act (D.C. Official Code § 47-306), shall be referred to the Committee of the Whole for consideration according to these Rules.

707. CONSIDERATION OF CONTROL BUDGET ACTS.

Control budget acts, submitted by the Mayor pursuant to section 8 of the Funds Control Act (D.C. Official Code § 47-307), shall be referred to the Committee of the Whole for consideration according to these Rules.

B. REPROGRAMMING POLICY ACT PROCEDURES.

711. EFFECT OF RECESS ON PROCEDURES.

Reprogramming requests and non-offsetting budget modification requests may not be submitted to the Council during a recess of the Council. No time period provided in this part for the consideration of the requests will continue to run during a recess of the Council.

712. COMMITTEE REFERRAL OF REQUESTS.

The Chairman may refer reprogramming requests and non-offsetting budget modification requests to the Committee of the Whole. The Chairman may also refer reprogramming requests for comments to the standing committee having oversight responsibility for the program or agency affected.

713. CIRCULATION OF REQUESTS.

The Secretary shall circulate copies of reprogramming requests within one business day of the filing of the request with the Secretary.

714. PUBLICATION OF NOTICE.

Upon receipt of a reprogramming request or a non-offsetting budget modification request, the Secretary shall publish a "notice of reprogramming request" or a "notice of non-offsetting budget modification request", as the case may be, in the Register that, at a minimum, includes:

- (1) A description of the action requested;
- (2) The date the request was received by the Council; and
- (3) A statement that the request will be deemed approved 14 days from the date it was received by the Council unless a notice of disapproval has been filed before that time by a member of the Council, and that if a notice of disapproval is filed, the request will be deemed approved 30 days from the date the request was received unless, before that time, the Council adopts a resolution to disapprove the request.

715. WITHDRAWAL OF REPROGRAMMING REQUESTS.

The Mayor may withdraw a reprogramming request or non-offsetting budget modification request at any time before the Council's taking final action on the request, or before its taking effect without Council action.

716. REQUIREMENTS FOR DISAPPROVAL OF REQUESTS.

(a) To initiate disapproval of a reprogramming request or a non-offsetting budget modification request, a Councilmember shall file a written notice of disapproval with the Secretary within 14 days after the Council receives the request. The Secretary shall circulate copies of the written notice of disapproval.

(b) If this notice is given, the Council may consider and take final action, as provided in this section, to disapprove the request within 30 calendar days after the Council receives the request.

717. AUTOMATIC APPROVAL OF REQUESTS.

If the notice of disapproval provided in section 716 is not given within 14 days after the Council receives the request, the reprogramming request shall be deemed approved. If the notice is given as provided in section 716(a) and the Council does not take final action to disapprove the request as provided in this section, the reprogramming request shall be deemed approved.

718. TRANSMITTAL TO MAYOR.

The Chairman shall transmit, by letter to the Mayor, notification of the Council's disapproval or failure to disapprove a reprogramming request.

C. FUNDS CONTROL ACT PROCEDURES.**721. APPLICABILITY OF PROCEDURES.**

(a) This part applies to the Council's consideration of grant applications, state plan approval requests, and budget structure resolutions.

(b) Except as provided in subsection (c) of this section, borrowing request resolutions shall be considered in accordance with Council Rules applicable to resolutions.

(c) Committee reports on borrowing requests shall comply, where appropriate, with the requirements for reports on measures set forth in section 803 and may include, but not be limited to:

- (1) The amount to be borrowed;
- (2) The purposes for which the funds are to be used, by control and responsibility center; and
- (3) An identification of the type and amount of revenue anticipated from each source to be used to repay the amount to be borrowed, the anticipated dates of receipt of the funds, and a schedule of repayment of the funds.

722. EFFECT OF RECESS ON FUNDS CONTROL ACT PROCEDURES.

No grant application, state plan approval request, or budget structure resolution may be submitted to the Council during a recess of the Council. No time period provided in this part for the consideration of these matters shall continue to run during a recess of the Council.

723. COMMITTEE REFERRAL OF REQUESTS.

Grant applications, state approval requests, and budget structure resolutions shall be referred to the Committee of the Whole with comments from the standing committee having oversight responsibility for the agency or program affected. Budget structure resolutions shall be referred to the Committee of the Whole.

724. CIRCULATION OF REQUESTS.

Grant applications, state plan approval requests, and budget structure resolutions shall be circulated within one business day after their receipt.

725. REQUIREMENTS FOR DISAPPROVAL.

(a) To initiate disapproval of a grant application, state plan approval request, or budget structure resolution, a Councilmember shall file a written notice of disapproval with the Secretary within 14 days after the Council receives the request.

(b) If this notice is given, the Council may consider and take final action, as provided in this section, to disapprove the request within 30 days after the Council receives the request.

726. AUTOMATIC APPROVAL OF REQUESTS.

If the notice provided in section 725(a) is not given within 14 days after the Council receives the request, the grant application, state plan approval request, or budget structure resolution shall be deemed approved. If the notice is given and the Council does not take final action to disapprove the request as provided in this section, the request shall be deemed approved.

727. TRANSMITTAL TO MAYOR.

The Chairman shall transmit, by letter to the Mayor, notification of the Council's disapproval or failure to disapprove grant applications, state plan approval requests, and budget structure resolutions.

D. SPECIFIED FUNDING ALLOCATION PROCEDURES.**730. REQUIRED INFORMATION PRIOR TO APPROVAL.**

(a) To receive an earmarked grant through the budget process or a supplemental budget, each named grantee shall submit 2 copies of the following, postmarked or hand delivered to the Budget Director no later than 7 days following the date of the scheduled vote of the Council on the Budget Request Act;

(1) The organization's Articles of Incorporation;

(2) Internal Revenue Service certification that the organization is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));

(3)(A) The organization's most recent financial audit, not more than 2 years old; or

(B) A recent financial statement, not more than 1 year old, prepared by a certified accountant that shows that the organization is in good financial standing and which delineates its:

(i) Existing assets and liabilities;

(ii) Pending lawsuits, if any; and

(iii) Pending and final judgments, if any;

(4) Internal Revenue Service Form 990 covering the organization's most recently completed fiscal year;

(5) A notarized statement from the grantee certifying that:

(A) The organization is current on District and federal taxes;

(B) The Council of the District of Columbia is authorized to verify the organization's tax status with the District of Columbia Office of Tax and Revenue and the Office of Tax and Revenue is authorized to release this information to the Council, the Mayor, and the D.C. Auditor;

(C) The organization focuses primarily on services to District of Columbia; and

(D) The District government shall have access to its financial, administrative, and operational records, including specific consent

for the District of Columbia Auditor to access its books, accounts, records, findings, and documents related to the grant; and

(6) A comprehensive program statement that includes a detailed:

(A) Scope of work; and

(B) Budget that describes how the grant funds shall be spent.

(b) Nothing in this title shall be construed as waiving the requirements to submit information required of all grantees by the grantor agencies or organizations.

(c)(1) If an organization cannot meet the submission requirements established in subsection (b) of this section, the organization shall be required to submit:

(A) A notarized statement designating a nonprofit organization, which does meet the criteria, to serve as its fiscal agent or fiscal sponsor postmarked or hand delivered to the Council's Office of the Budget Director no later than the time prescribed in subsection (a) of this section; and

(B) The information required by subsection (a)(5) of this section.

(2) The fiscal agent or fiscal sponsor shall be required to submit the following, postmarked or hand delivered to the Council's Office of the Budget Director no later than the time prescribed in subsection (a) of this section.

(A) A notarized statement agreeing to serve as fiscal agent or fiscal sponsor; and

(B) The information required by subsection (a) of this section.

(d) All earmarked grants shall be listed in the Budget Support Act to include the grantee name, grant amount, and purpose of the grant. Prior to the second reading of the Budget Support Act, the Council's Budget Director shall certify, which grantees have met the requirements of subsection (a) of this section. Any grantee that has not met the requirements, shall be removed from the Budget Support Act on second reading, and shall not receive funding through an earmarked grant.

731. PROHIBITION ON CONSECUTIVE ALLOCATIONS.

(a) Beginning with the Fiscal Year 2011 budget, an organization may not receive a specified funding allocation if the organization has received an award in the prior fiscal year.

(b) An organization that receives a specified funding allocation for a capital project shall be limited to only one capital award, annually.

732. LIMITS ON AWARD AMOUNTS.

Specified funding allocations shall be limited to \$250,000 for non-capital projects and \$1 million for all capital projects.

733. AUDIT REQUIREMENTS.

(a) Grantees shall be notified that the District of Columbia Auditor will randomly audit grant recipients.

(b) The District of Columbia Auditor's report shall be issued no later than March 1st of the fiscal year immediately following the year for which the grant was awarded.

734. DISCLOSURE REQUIREMENTS.

Councilmembers and staff and the officers and directors of a proposed grantee shall be required to disclose the existence of any personal, familial, or

financial relationship between a Councilmember or staff and any officer or director of the grantee.

ARTICLE VIII—COUNCIL RECORDS**A. COUNCIL RECORDS.****801. RESPONSIBILITY FOR RECORDS.**

(a) The Secretary shall maintain accurate and up-to-date Council records, described in sections 806 and 807, and shall make the records available to the public.

(b) Each committee shall make records on legislation assigned to the committee and on other committee activities and shall file the records with the Secretary. When records are in the custody of the committee, the committee shall make them available to the public.

802. FORM FOR INTRODUCTIONS.

(a) Each measure shall be introduced in typewritten form, signed by the Councilmember introducing it, include a long title that identifies the subject matter of the measure, and be in substantial compliance with the form required for final adoption. The Secretary shall make the determination as to whether the measure complies with this subsection.

(b) Co-introduction of a measure shall be evidenced by the signature of the co-introducer on the face of the measure. Co-sponsorship shall be permitted up to the close of business the day following the legislative meeting or Committee of the Whole work session at which the measure was officially referred or by indication on the record at the legislative meeting.

(c) A Councilmember may withdraw as a co-introducer or a co-sponsor by filing a notice of withdrawal with the Secretary within one business day of the legislative meeting or Committee of the Whole work session at which the measure was officially referred.

803. REPORTS ON LEGISLATION.

(a) Each measure that is adopted by a committee shall be accompanied by a report.

(b) The report shall be adopted by the committee at the same meeting at which the measure is approved.

(c) Each adopted report on a measure shall be in writing, signed by the committee's chairperson, accompanied by the final measure, and dated as of the day of the markup.

(d) Each adopted report shall contain the following information, in the order listed, regarding the reported legislation:

(1) A section stating the measure's purpose and effect (or background and need), which includes the committee's reasoning;

(2) A chronology of action, including the date:

(A) Of introduction;

(B) That the notice of intent to act on the measure was published in the Register;

(C) That the notice of hearing or roundtable was published in the Register;

(D) Of a hearing or roundtable on the measure; and

(E) Of the committee meeting at which the measure and report was adopted;

(3) The position of the Executive, if any, on the measure;

(4) The committee's response to each relevant issue and concern raised in a recommendation adopted by a resolution of an affected Advisory Neighborhood Commission, if any, that has been provided to the committee before the close of the record;

(5) A list of witnesses who testified at the hearing, or who submitted a statement for the record before close of the record;

(6) An explanation of the impact on existing provisions of law that the measure would modify or affect;

(7) A summary of the fiscal impact;

(8) A detailed section-by-section analysis of the measure's provisions;

(9) Any additional information that the committee decides to include; and

(10) A summary of the committee's mark-up of the measure, including:

(A) Dissenting, separate, and individual views of committee members, if members demanded the opportunity to state their views;

(B) A record of the results of a voice vote or, if a roll-call vote, the votes to adopt the legislation and the motion to adopt the report; and

(C) Any recorded votes on amendments to the measure or other motions.

(e) Attached to each report, in the following order, shall be:

(1) The measure, as introduced, along with the Mayor's transmittal letter, if applicable (but not necessarily any other attachments to the introduction), and the Secretary's memorandum of referral;

(2) Any written statements or materials that the committee decides to attach;

(3) The fiscal impact statement prepared by the Chief Financial Officer or the Budget Director;

(4) A legal sufficiency determination by the General Counsel;

(5) If reporting a bill repealing or amending existing law, a comparative print showing, by italic, underscore, strikethrough, or other typographical device, the changes proposed; and

(6) A committee print that states the number of the measure; in the top left-hand corner of the measure the name of the committee, the date of the committee markup, and the words "committee print".

(f) Each report prepared by the Committee of the Whole on a Council appointment to another body and each report prepared by another committee on a confirmation shall include a current resume of the nominee.

(g) Except for emergency declaration, ceremonial, confirmation, and sense of the Council resolutions, no bill, resolution, or amendment to a bill or resolution may be enacted or approved by the Council without a Council fiscal-impact statement that is reviewed and approved by the Council Budget Director or the Chief Financial Officer in the measure, committee report, or amendment presented to the Council, at the time of its consideration.

(h) No measure may be approved by a committee without a written legal sufficiency determination prepared by the General Counsel and attached to the committee report..

(i)(1) A committee chairperson shall file a reported bill or resolution with the Secretary within 20 business days of committee action on the bill or resolution unless the committee votes to reconsider the bill or resolution.

(2) If a committee chairperson has failed to file a reported measure within the period of time specified in paragraph (1) of this subsection, the committee, by a majority vote of the members of the committee, may vote to have the measure as reported filed immediately with the Secretary, to be agendized at the next scheduled Committee of the Whole meeting.

(j) The Budget Director shall circulate quarterly reports in accordance with section 283(b)(3) no later than 15 days at the end of each quarter, of the bills adopted by the Council which reference that the bills are subject to inclusion in the financial plan and budget or subject to appropriations.

(k) The Secretary shall determine whether the report complies with this section.

804. ADDENDUM TO COMMITTEE REPORTS.

On final passage of a bill, a majority of the Councilmembers or a committee chairman may request that a committee submit an addendum to a committee report that explains the Council reasoning for any amendments where amendments, including amendments in the nature of a substitute, have been passed by the full Council. A committee shall vote on an addendum to a committee report before it may be filed with the Secretary.

805. IDENTIFICATION OF COUNCIL DOCUMENTS.

(a) Legislative documents shall be identified by a name that describes the type of document and a two part document number.

(b) Legislative documents shall be identified by the following names:

(1) A bill, whether permanent, temporary, or emergency, shall be known as a "Bill";

(2) A resolution, before its adoption, shall be known as a "Proposed Resolution";

(3) An enacted bill signed by the Mayor, a bill vetoed by the Mayor and approved by members of the Council, or an approved initiative certified by the Board of Elections shall be known as a "District of Columbia Act";

(4) An adopted resolution shall be known as a "Resolution";

(5) A ceremonial resolution, whether proposed or adopted, shall be known as a "Ceremonial Resolution";

(6) An act that has taken effect following a Congressional-review period shall be known as a "District of Columbia Law";

(7) A proposed reorganization plan shall be known as a "Reorganization Plan";

(8) A request for a reprogramming shall be known as a "Reprogramming Request";

(9) A proposed state plan shall be known as a "Proposed State Plan";

(10) A request for a grant application approval shall be known as a "Grant Application Request"; and

(11) A request for a non-offsetting budget modification shall be known as a "Non-offsetting Budget Modification Request".

(c) The Secretary shall assign two-part numbers to Council documents identified in subsection (b) of this section in the order of introduction, filing, adoption, or approval. The first part of the number consists of the current Council Period, and the second part consists of a consecutive serial number beginning with the number "1" in each Council Period.

(d) A report on a measure or a topic shall be titled as a "Report on _____" (with the name to be filled in as appropriate under subsection (b) of this section). Titled reports shall be further identified by (1) a number corresponding to the number, if any, assigned to a measure; or (2) if the report is not on a measure, a sequential number preceded by the year filed.

806. LEGISLATIVE FILES.

The Secretary shall maintain an official file on each bill and proposed resolution, which shall include the original of the following:

(1) The introduced version of the bill or proposed resolution;

(2) Any recordings, transcripts, or items submitted for the record of hearings on the legislation;

(3) The committee report on the legislation;

(4) Files transmitted from the committee regarding committee consideration of the bill or resolution;

- (5) Any amendments to the bill or proposed resolution presented in legislative meetings;
- (6) The engrossed and enrolled versions of the legislation;
- (7) Records of the publication and notice given of Council consideration of the legislation; and
- (8) Records of official transmittal of the legislation to the Mayor, to Congress, or other agencies or entities as required by law or the legislation.

807. OTHER OFFICIAL RECORDS.

The Secretary shall maintain other official Council records, including, but not limited to the following:

- (1) Transcripts and recordings of all legislative meetings;
- (2) Tape recordings and minutes of all committee meetings;
- (3) Tape recordings and documents submitted for the record of all legislative hearings;
- (4) Tape recordings and documents submitted for the record of investigative hearings, recordings and transcripts of depositions and other testimony taken in connection with investigations, and reports of investigations; and
- (5) Any other document or record required by law or these Rules to be filed with the Council or with the Secretary.

808. RECORDS OF LEGISLATIVE MEETINGS.

A recording of each legislative meeting shall be produced and maintained by the Secretary. A written transcript or a transcription of each legislative meeting shall be made available upon request. The Council may establish a fee to cover the cost of production of any recording or transcript.

809. COMMITTEE RECORDS.

Whenever there is a change in the chairperson of a committee, the incumbent committee chairperson shall ensure that official committee files and records are maintained and transmitted to the incoming committee chairperson.

B. FREEDOM OF INFORMATION AND SERVICE OF PROCESS.

811. FOIA PROCEDURES.

(a) For purposes of the Freedom of Information Act, D.C. Official Code § 2-531 *et seq.*, the Secretary, or the Secretary's designee, shall be the Council's FOIA Officer.

(b) To ensure accurate and timely compliance with the law, whenever a request is received under the Freedom of Information Act, D.C. Official Code § 2-531 *et seq.*, it shall be forwarded to the Secretary within one business day of receipt. The FOIA Officer shall endeavor to provide documents under FOIA to requesters as soon as possible, and within the 15-day requirement established by D.C. Official Code § 2-532.

(c) Within one business day after receiving a FOIA request, the FOIA Officer shall inform the Councilmember or Council office that is the subject of the request. The FOIA Officer shall instruct the subject to put a preservation hold on, to search for, and to provide copies for any documents, emails, or other records responsive to the request.

(d)(1) Upon receipt of a written request for access to a record, the FOIA Officer shall make a good-faith effort to determine if the record requested is a public record and whether the Council possesses the identified record.

(2) If a requester specifically identifies an email that is a public record that is not in the possession of the Council, and where the requester

has made a reasonable showing that the record is in the possession of a Council employee, including the Chairman and each Councilmember, the FOIA Officer shall request that the employee search for and produce the record believed to be in the employee's possession. An employee receiving a request under this paragraph shall make reasonable efforts to search for and produce the record to the FOIA Officer within the time and in the form prescribed by the FOIA Officer.

(e) Before releasing any documents, emails or materials, the FOIA Officer shall give the subject 48 hours to review the documents, emails, and materials, and to assert any legally cognizable privileges or statutory exemptions from disclosure for a specific document, email, or material.

(f) The General Counsel shall make the final determination on whether particular records are privileged or otherwise subject to disclosure.

(g) By no later than March 1, 2013, a Council employee, including the Chairman and each Councilmember, shall use the employee's government-provided email account to transact public business, including official action of any kind, unless the employee takes steps to ensure that any emails transmitted or received on an account other than the account provided by the government are otherwise incorporated into the Council's records.

812. SERVICE OF PROCESS.

(a) For the purpose of receiving legal correspondence (including summonses, complaints, and subpoenas), the Secretary and the General Counsel may accept service of process for the Council or any Member.

(b) To ensure timely responses to legal pleadings, and to timely assert the Council's legislative privilege for actions taken within the scope of a Member's legislative duties, legal correspondence shall be transmitted to the Office of the General Counsel within one business day of receipt.

(c) A Member may not accept service of process of a legal document on behalf of the Council or for another Member.

(d) The General Counsel shall provide legal representation on behalf of, or make a request of the Office of Attorney General for legal representation for, every Member and Council staff person for actions taken within the scope of their legislative duties.

ARTICLE IX—AUDITOR.

901. SELECTION.

The Chairman shall nominate the Auditor and the Council shall act by resolution on the nomination.

902. TERM AND COMPENSATION.

The Auditor shall serve for a term of 6 years and shall be paid at a rate of compensation as may be established from time to time by the Council.

903. VACANCY.

A vacancy in the Office of the Auditor shall be filled in the manner prescribed for full-term appointments to that office and any person appointed to fill the vacancy shall serve until the end of the predecessor's term.

904. STAFF.

The Auditor shall appoint, remove, and set the relative remuneration (pursuant to the budget of the Office of the Auditor) of the Auditor's subordinate staff.

905. REPORTS AVAILABLE TO THE PUBLIC.

The Council shall make audit reports submitted to the Council by the Auditor, and any other material it deems pertinent to the report, available for public inspection.

ARTICLE X—CONSTRUCTION, SUSPENSION, AND AMENDMENT OF RULES.**1001. PARLIAMENTARY AUTHORITY.**

Matters not covered by these Rules will be governed by Mason's Manual of Legislative Procedure. It is the duty of the Chairman to interpret the Rules. Matters not covered by Mason's Manual of Legislative Procedure shall be determined by the Chairman subject to the right of a member to appeal the Chairman's ruling.

1002. GENDER RULE OF CONSTRUCTION.

Unless the context indicates otherwise, words importing one gender include the other gender.

1003. SUSPENSION OF RULES.

(a) Except for rules regarding notice, quorum, or amendment of these Rules and any requirement of the Charter or other law, any Rule governing procedures of the Council may be suspended during the consideration of a specified matter by motion to suspend the Rules approved by 2/3rds of the members present and voting.

(b) A motion to suspend the rules is not debatable and may not be reconsidered.

1004. AMENDMENT OF RULES.

(a) These Rules may be amended by a vote of a majority of the Council.

(b) An amendment must be proposed in writing, signed by the proposer, circulated and filed, and posted in prominent places in the John A. Wilson Building at least 15 days before consideration of the amendment.

(c) Seven Councilmembers may vote to waive or shorten the 15-day notice period.

(d) The current version of these Rules should be featured prominently on the Council website, including any amendments adopted since the rules were first adopted at the organizational meeting held pursuant to section 301.

1005. EFFECTIVE PERIOD.

These Rules shall be effective until superseded by Rules of Organization and Procedure adopted in a succeeding Council Period as provided in section 301.

APPENDIX A.

TO: _____

(Address)

PURSUANT TO D.C. Official Code §1-204.13, YOU ARE COMMANDED TO APPEAR before the (Council/Committee on) _____, of the Council of the District of Columbia, at ____ (a.m./p.m.) on the day of _____, 20__, to testify before the Council/Committee concerning:

_____ and bring with you
: _____.

ISSUED BY: _____ ATTEST: _____
Chairman/Member of the Secretary to the Council
Council of the District of Columbia (Seal of the District)

IMPORTANT: If you fail to appear at the time and place stated or to bring with you the documents or items requested, the Council may refer the matter to the Superior Court of the District of Columbia for an order compelling your attendance or the production of the documents or items requested. Failure to obey such an order may be punished as contempt of Court. DO NOT FAIL TO APPEAR OR PRODUCE THE REQUESTED ITEMS AT THE REQUIRED TIME.

RETURN:

I, _____ certify that I served a copy of this subpoena on the named party at _____ (address), on the _____ day of _____, 20__, at _____, (a.m./p.m.) by the following means:

PROCESS SERVER: _____
(Address) Washington, D.C.

DISTRICT OF COLUMBIA: SS
SUBSCRIBED AND AFFIRMED TO ME BEFORE THIS __ DAY OF _____, 20__

NOTARY PUBLIC, D.C.

MY COMMISSION EXPIRES:

You may obtain a copy of the Rules of Organization and Procedure for the Council of the District of Columbia and the Resolution authorizing this investigation from the Council's Legislative Services Division, John A. Wilson Building, Room 10, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

ENROLLED ORIGINAL

A RESOLUTION

20-2

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 2, 2013

To appoint the Chairperson Pro Tempore and chairpersons and members of each standing committee of the Council of the District of Columbia during Council Period 20.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Council Period 20 Appointment of Chairperson Pro Tempore, Committee Chairpersons, and Committee Membership Resolution of 2013”.

Sec. 2. Pursuant to section 212 of the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 20, effective January 2, 2013 (Res. 20-1; ___ DCR ___) ("Rules"), the Council appoints Kenyan McDuffie as Chairperson Pro Tempore.

Sec. 3. Pursuant to section 221 of the Rules, the Council appoints the following committee chairpersons and members:

(1) The chairperson of the Committee on Business, Consumer, and Regulatory Affairs, established by section 232 of the Rules, shall be Vincent Orange, Sr., and its members shall be Yvette Alexander, Mary Cheh, Jim Graham, and David Grosso.

(2) The chairperson of the Committee on Economic Development, established by section 233 of the Rules, shall be Muriel Bowser, and its members shall be Anita Bonds, Jack Evans, Kenyan McDuffie, and Vincent Orange, Sr.

(3) The chairperson of the Committee on Education, established by section 234 of the Rules, shall be David Catania, and its members shall be Yvette Alexander, Marion Barry, David Grosso, and Tommy Wells.

(4) The chairperson of the Committee on Finance and Revenue, established by section 235 of the Rules, shall be Jack Evans, and its members shall be Marion Barry, Muriel Bowser, David Catania, and David Grosso.

(5) The chairperson of the Committee on Government Operations, established by section 236 of the Rules, shall be Kenyan McDuffie, and its members shall be Muriel Bowser, David Catania, Mary Cheh, and Vincent Orange, Sr.

(6) The chairperson of the Committee on Health, established by section 237 of the Rules, shall be Yvette Alexander, and its members shall be Anita Bonds, David Catania, David Grosso, and Vincent Orange, Sr.

ENROLLED ORIGINAL

(7) The chairperson of the Committee on Human Services, established by section 238 of the Rules, shall be Jim Graham, and its members shall be Marion Barry, Anita Bonds, Kenyan McDuffie, and Tommy Wells.

(8) The chairperson of the Committee on Judiciary and Public Safety, established by section 239 of the Rules, shall be Tommy Wells, and its members shall be Anita Bonds, Muriel Bowser, Mary Cheh, and Jack Evans.

(9) The chairperson of the Committee on Transportation and the Environment, established by section 240 of the Rules, shall be Mary Cheh, and its members shall be Jim Graham, David Grosso, Kenyan McDuffie, and Tommy Wells.

(10) The chairperson of the Committee on Workforce and Community Affairs, established by section 241 of the Rules, shall be Marion Barry, and its members shall be Yvette Alexander, Jim Graham, Kenyan McDuffie, and Tommy Wells.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-3

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 2, 2013

To reappoint Mr. V. David Zvenyach as General Counsel to the Council of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “General Counsel to the Council of the District of Columbia V. David Zvenyach Reappointment Resolution of 2013”.

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

Mr. V. David Zvenyach
707 10th Street, N.E.
Washington, D.C. 20002
(Ward 6)

as General Counsel to the Council of the District of Columbia, beginning January 2, 2013.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-4

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 2, 2013

To reappoint Ms. Jennifer Budoff as the Budget Director to the Council of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Budget Director to the Council of the District of Columbia Jennifer Budoff Reappointment Resolution of 2013”.

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

Ms. Jennifer Budoff
4410 49th Street, N.W.
Washington, D.C. 20016
(Ward 3)

as Budget Director to the Council of the District of Columbia, beginning January 2, 2013.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-5

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 2, 2013

To reappoint Ms. Nyasha Smith as the Secretary to the Council of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Secretary to the Council of the District of Columbia Nyasha Smith Reappointment Resolution of 2013”.

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

Ms. Nyasha Smith
636 Keefer Place, N.W.
Washington, D.C. 20010
(Ward 1)

as Secretary to the Council of the District of Columbia, beginning January 2, 2013.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-6

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 2, 2013

To reappoint Ms. Muriel Bowser, Councilmember of the District of Columbia, as a member of the Board of Directors of the Washington Metropolitan Area Transit Authority.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Directors of the Washington Metropolitan Area Transit Authority Muriel Bowser Reappointment Resolution of 2013”.

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

Ms. Muriel Bowser
515 Oglethorpe Street, N.E.
Washington, D.C. 20011
(Ward 4)

Councilmember of the District of Columbia, as a member of the Board of Directors of the Washington Metropolitan Area Transit Authority, in accordance with section 5(a) of the Washington Metropolitan Area Transit Authority Compact, approved November 6, 1966 (80 Stat. 1324; D.C. Official Code § 9-1107.01).

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee, the Mayor, and the Washington Metropolitan Area Transit Authority

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

ENROLLED ORIGINAL

A RESOLUTION

20-7

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2013

To confirm the appointment of Mr. Joslyn N. Williams to the Metropolitan Washington Airports Authority Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Metropolitan Washington Airports Authority Board of Directors Joslyn N. Williams Confirmation Resolution of 2013".

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

Mr. Joslyn N. Williams
1311 Delaware Avenue, S.W., #632
Washington, D.C. 20024
(Ward 6)

as a member of the Metropolitan Washington Airports Authority Board of Directors, established by section 5 of the District of Columbia Regional Airports Authority Act of 1985, effective December 3, 1985 (D.C. Law 6-67; D.C. Official Code § 9-904), replacing H.R. Crawford, whose term expired on January 5, 2013, for a 6-year term to end January 5, 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

20-8

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2013

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend the District of Columbia Implied Consent Act to clarify and organize provisions related to the chemical testing of breath, blood, and urine with regard to operation of vehicles and watercraft in the District, to clarify and strengthen provisions governing preliminary breath testing, implied consent to chemical testing, and refusal to submit specimens for chemical testing, to limit the persons permitted to withdraw blood for the purposes of chemical testing to medical professionals, to provide immunity from civil liability for medical professionals, law enforcement officers, and persons who assist them when they are engaged in the lawful withdrawal of blood, and to clarify the information related to chemical testing that is to be made available to a defendant; to amend the District of Columbia Traffic Act, 1925 to update definitions, to revise outdated language, to increase fines to make them proportional with the associated incarceration period, to create a new offense of leaving after colliding, and to create a new offense for an object falling or flying from a vehicle; to amend the Anti-Drunk Driving Act of 1982 to organize all impaired driving offenses and operating watercraft while impaired offenses together, to update and clarify definitions and provisions related to impaired driving, to create a new offense for operating a commercial vehicle while intoxicated or impaired, to clarify the provisions that require the imposition of mandatory-minimum sentences for alcohol or drug impairment offenses; to increase the mandatory-minimum sentences for people convicted of an impaired driving offense who have more than a stated level of alcohol concentration or who have prior impaired driving convictions; to amend the offense of operating a vehicle while impaired to allow the District to offer a plea option not only for people who operate a vehicle while impaired by the consumption of alcohol but also for people who are impaired by a drug or a combination of a drug and alcohol; to provide for a penalty for persons convicted of operating a vehicle while impaired when they have prior convictions for alcohol or drug impaired driving offenses; to provide that the alcohol concentration used nationally to revoke a commercial drivers license be used as the level for a per se impaired driving offense for drivers of commercial vehicles and vehicles for hire, and establishing a mandatory-minimum of 5 days incarceration for persons convicted of operating or being in physical control of those vehicles while impaired; to create a mandatory-minimum penalty for a person who is convicted of an

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impaired driving offense who at the time of the offense had a minor in the vehicle; to amend the Department of Forensic Sciences Establishment Act of 2011 to clarify and strengthen the District's breath test program; to amend the Establishment of the Office of the Chief Medical Examiner Act of 2000 to clarify the responsibility for blood and urine testing and to clarify and strengthen the District's breath test program; to amend section 14-307 of the District of Columbia Official Code to permit the release of medical information when a patient is charged with an impaired driving offense and where the patient caused the death of or injury to a human being; and to amend Chapter 10 of Title 25 of the District of Columbia Official Code to move boating while intoxicated to Title 50 and to make conforming amendments.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Declaration Resolution of 2013".

Sec. 2. (a) The Comprehensive Impaired Driving and Alcohol Testing Program Amendment Act of 2012, signed by the Mayor on October 24, 2012 (D.C. Act 19-489), was unanimously approved by the Council.

(b) Bill 19-777 is a necessary overhaul of the District's impaired driving laws and a needed revision to the District's alcohol breath-testing program.

(c) Some of the key changes made by Bill 19-777 include:

(1) A reorganization and clarification to the provisions related to the chemical testing of breath, blood, and urine with regard to operation of vehicles and watercraft in the District;

(2) Amendments to the District of Columbia Traffic Act, 1925 to increase fines to make them proportional with the associated incarceration period, revising the offense of leaving after colliding, and creating a new offense for an object falling or flying from a vehicle;

(3) A reorganization of the District's impaired driving laws to make them clear and understandable, creating a new offense for operating a commercial vehicle while intoxicated or impaired, clarifying the provisions that require the imposition of mandatory-minimum sentences for alcohol or drug impairment offenses, increasing the mandatory-minimum sentences for people convicted of an impaired driving offense who have more than a stated level of alcohol concentration or who have prior impaired driving convictions, and increasing the mandatory-minimum sentences for impaired driving offenses and include enhancements for a person who is convicted of an impaired driving offense who at the time of the offense had a minor in the vehicle; and

(4) Clarifying and strengthening the District's breath-test program and clarifying the responsibility for blood and urine testing.

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(e) The District's breath-test program has been out-of-service since February 2010, but a concerted effort by several public safety agencies has created a world-class breath-testing program that re-launched this month.

(f) Emergency legislation, Bill 19-873, was adopted prior to Council recess and expired on October 28, 2012, at which point Bill 19-777 was still undergoing a 60-day Congressional review. To prevent a gap in the law, a Congressional review emergency, Bill 19-981, was adopted by the Council on October 26, 2012, but is set to expire on January 24, 2013. The permanent version, Bill 19-777 is still under Congressional review. Thus, another 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 Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-9

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2013

To declare the existence of an emergency, due to Congressional review, with respect to the need to create a Parking Meter Fund so that the District Department of Transportation can pay the additional cost of the Parking Meter Maintenance contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “District Department of Transportation Parking Meter Fund Establishment Congressional Review Emergency Declaration Resolution of 2013”.

Sec. 2. The District Department of Transportation (“DDOT”) needs to increase the amount of the District’s parking meter maintenance contract to pay for the maintenance of more functional and accessible parking meters. Since 2006, DDOT has made significant improvements to the accessibility of parking meters throughout the District, including the installation of meters that can accept multiple forms of payment; however, maintaining parking meters to continue being accessible by residents has become more complicated and more expensive. Without funds for the increased parking meter maintenance contract, which would be deposited in the Parking Meter Fund created by this proposed legislation, there would be an unnecessary delay in the ability of residents to use the new and accessible meters. For example, part of the Parking Meter Fund will be used to pay for an increase in credit and debit card processing fees. Without the ability to process debit and credit cards, meters would be less useful, leading to unnecessary confusion and frustration for residents. To fund the parking meter maintenance contract for fiscal year 2013 without threatening a loss of service to the District, the Parking Meter Fund needs to be established quickly. Furthermore, this Congressional review emergency legislation is necessary to ensure that there is no gap between when the emergency and temporary versions of this legislation become effective.

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 District Department of Transportation Parking Meter Fund Establishment Congressional Review Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-10

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2013

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend the Department of Transportation Establishment Act of 2002 to authorize the District Department of Transportation (“DDOT”) to administer the Federal Transit Administration 5310 grant program to provide nonprofit organizations with vehicles to transport elderly and residents with disabilities within the District, to allow participating organizations to deposit funds into the District Department of Transportation Enterprise Fund for Transportation Initiatives to be eligible to participate in the program, and to allow DDOT to use the funds deposited into the District Department of Transportation Enterprise Fund for Transportation Initiatives by the participating nonprofit organizations toward the purchase of the vehicles.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “District Department of Transportation Accessible Vehicles Fund Congressional Review Emergency Declaration Resolution of 2013”.

Sec. 2. The District Department of Transportation (“DDOT”) needs authority to enter into agreements with nonprofit organizations and District government agencies to provide van and bus access to elderly residents and residents with disabilities through a program known as “the 5310 Program.” The 5310 Program will not cost the District any money, as 80% of the funds for the vehicles will come from the Federal Transit Administration, and the remaining 20% will come from local nonprofit organizations and District government agencies that will operate the vehicles. This program has been delayed because DDOT lacks authority to accept the 20% portion of the cost of the vehicles from the nonprofit organizations and has no authority to enter into a contract with the nonprofit organizations. Because of this obstacle, DDOT has been unable to engage eligible nonprofit organizations that have the funds to participate in the program. As a result, the Federal Transit Administration is threatening to eliminate funding for this program. To avoid loss of funds and to provide improved access for elderly residents and residents with disabilities without delay, this emergency legislation is necessary. Furthermore, this Congressional review emergency legislation is necessary to prevent a gap between when the emergency, temporary, and permanent versions of this legislation become effective.

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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 District Department of Transportation Accessible Vehicles Fund Congressional Review Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-11

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2013

To declare the existence of an emergency, due to Congressional review, with respect to the need to permit parent-run, school-based enrichment programs approved to operate in District public schools during the 2012-2013 year to continue operating for the remainder of the school year without being charged rent payable to the District, and to require the Department of General Services to develop a procedure for the use of school spaces by parent-run, not-for-profit enrichment programs to take effect with the start of the 2013-2014 school year.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "School-Based Enrichment Programs Congressional Review Emergency Declaration Resolution of 2013".

Sec. 2. (a) Parent groups at many District public schools have been organizing enrichment programs at their schools before and after the school day for many years. An enrichment program often includes Spanish or Chinese language classes, art instruction, or extra help with reading. Typically, the program is approved by the school's principal and parent teacher association ("PTA"), provided on a not-for-profit basis, and run by parent volunteers.

(b) At many schools, enrichment programs have been operating without paying rent to the District for using classrooms and common spaces. Recently, however, the Department of General Services ("DGS") has begun billing enrichment programs upwards of \$1,000 per month in rent for these spaces. Because the school year is already underway, this charge is creating a significant hardship on schools and their families, particularly on low-income families. The enrichment programs and PTAs have not budgeted for this large monthly expense, which would ultimately have to be borne by the parents who are seeking extra learning and classroom time for their children.

(c) The rental fee discussed in subsection (b) of this section was not listed in the Master Fee Schedule, as required by the Fiscal Year 2013 Budget Submission Requirements Resolution of 2011, effective December 6, 2011 (Res. 19-449; 58 DCR 11027), thus depriving the public and the Council of formal notice of this fee.

(d) Moreover, the legality of whether the District can or must charge rent to enrichment programs is unclear. In support of charging fees to enrichment programs, DGS has cited "Directive 612.1b," a document apparently issued by D.C. Public Schools many years ago that once required

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enrichment programs to pay \$100 per classroom per month. Yet, the document header itself suggests that this administrative order was rescinded on July 11, 1985. The general counsels at DGS and D.C. Public Schools have yet to opine as to whether this document is still legally effective. And enrichment programs may already be exempt from paying rent to the District by section 3503.4 of Title 5 of the District of Columbia Municipal Regulations (5 DCMR § 3503.4), which permits “school-related organizations” to use school facilities during normal hours at no cost.

(e) Given that the 2012-2013 school year is already underway, that PTA budgets and charges for these programs are already set for this year, that many schools have been operating these programs for years without being charged, that notice of this fee has not provided to the public, and that the legality of charging parent groups is in question, it is unfair to require approved enrichment programs to pay thousands of dollars in rent for operating in schools.

(f) This emergency legislation is necessary to permit approved school-based enrichment programs to continue operating at District public schools without having to pay rent to the District through the remainder of the 2012-2013 school year, and to require DGS to develop a procedure for the use of school spaces by parent-run, not-for-profit enrichment programs to take effect with the start of the 2013-2014 school year. Without this legislation, these programs could be forced to close or to substantially increase the charges paid by parents.

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 School-Based Enrichment Programs Congressional Review Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-13

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2013

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend section 47-355.05 of the District of Columbia Official Code to require the Chief Financial Officer to submit to the Council and the Mayor audits and reports conducted by its Office of Integrity and Oversight within 15 days of completion, a list of incomplete or ongoing audits and reports that have been or are being conducted by its Office of Integrity and Oversight on a quarterly basis, and an audit plan for its Office of Integrity and Oversight on a yearly basis.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Office of the Chief Financial Officer Audit Report Transparency Congressional Review Emergency Declaration Resolution of 2013”.

Sec. 2. (a) There existed an immediate need to amend section 47-355.05 of the District of Columbia Official Code to clarify that the Chief Financial Officer has a duty to the Council, the Mayor, and to District taxpayers to maintain a level of transparency within the Office of the Chief Financial Officer and its operations and programs.

(b) In November, 2012, the Council enacted emergency and temporary legislation to require the Office of the Chief Financial Officer to inform the Council and the Mayor of the progress of all audits and reports conducted by the Office of Integrity and Oversight and to post the final versions of all audits and reports online.

(c) The emergency legislation will expire on January 31, 2013. The temporary legislation, which was signed by the Mayor on November 16, 2012, will not become law before the emergency legislation expires.

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

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Office of the Chief Financial Officer Audit Report Transparency Congressional Review Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-14

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2013

To declare the existence of an emergency, due to Congressional review, with respect to the need to approve the borrowing of funds by the District through the issuance and sale of general obligation bonds.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 2013-2018 Congressional Review Emergency Declaration Resolution of 2013".

Sec. 2. (a) In late 2012, the Council enacted emergency and temporary legislation to ensure that the District can borrow in a timely manner and take advantage of favorable market conditions to provide funding for, or to reimburse the District for funds already expended on, fiscal year 2013 capital projects approved and undertaken pursuant to the District's Fiscal Year 2013 Budget and Financial Plan.

(b) The emergency legislation will expire on January 23, 2013, before either the temporary or permanent legislation is in effect.

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

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 2013-2018 Congressional Review Emergency Authorization Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-15

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2013

To declare the existence of an emergency, due to Congressional review, with respect to the need to clarify the applicability date for the implementation of the Processing Sales Tax Clarification Act of 2010.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Processing Sales Tax Clarifying Congressional Review Emergency Declaration Resolution of 2013".

Sec. 2. (a) The Processing Sales Tax Clarification Act of 2010, effective March 12, 2011 (D.C. Law 18-707; 58 DCR 3) ("2010 act"), was enacted to clarify the application of the sales tax exemption for utilities used for refrigeration in a restaurant or hotel restaurant.

(b) There was an unfunded fiscal impact based on restaurants no longer having to demonstrate predominant use in order to qualify for the sales tax exemption. Inadvertently, the 2010 act did not include a provision making the act subject to its fiscal effect being included in an approved budget and financial plan.

(c) In late 2012, the Council enacted emergency and temporary legislation to include an applicability provision to account for the unfunded fiscal impact.

(d) The emergency legislation will expire on January 24, 2013, before the temporary legislation is law. It is important that this technical amendment continues to amend the 2010 act until the temporary is 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 Processing Sales Tax Clarifying Congressional Review Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-16

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2013

To approve, in part, and disapprove, in part, proposed rules to implement the District of Columbia’s progressive Temporary Assistance for Needy Families Sanction Policy to provide a graduated reduction of the TANF grant to customers who despite District of Columbia Department of Human Services outreach and engagement efforts fail to demonstrate compliance with their TANF Individualized Responsibility Plan.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Temporary Assistance for Needy Families Sanction Policy Rules Approval and Disapproval Resolution of 2013”.

Sec. 2. Pursuant to section 205(c) of the District of Columbia’s Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-202.05(c)), the Mayor transmitted to the Council the proposed rulemaking adopted by the Director of the Department of Human Services to implement Temporary Assistance for Needy Families sanctions in accordance with subtitle C of title V of the Fiscal Year 2011 Supplemental Budget Support Act of 2010, effective April 8, 2011 (D.C. Law 18-370; D.C. Official Code § 4-202.05(c)). Except as provided in section 3, the Council approves the proposed rules.

Sec. 3. The Council disapproves the following provisions of the rules:

- (1) Section 5812.2(b) is disapproved. The Council recommends that the provision read as proposed by the Mayor but without the word “meaningful”.
- (2) Section 5812.2(c) is disapproved. The Council recommends that the provision read as proposed by the Mayor but without the phrase “in a meaningful way”.
- (3) Section 5812.3 is disapproved. The Council recommends that the provision read as proposed by the Mayor but without the phrase “in a meaningful way”.
- (4) Section 5812.5 is disapproved. The Council recommends that the provision read as proposed by the Mayor but without the phrase “in a meaningful way”.
- (5) Section 5812.6(3)(B), (C), and (D) is disapproved. The Council recommends that the provisions read as proposed by the Mayor but without the phrase “hard copy”.

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(6) Section 5812.8(d) is disapproved. The Council recommends that only 3 levels of sanctions be established and that the customer be allowed to re-negotiate their IRP at any time during or following the sanction period.

(7) Section 5812.12 is disapproved. The Council recommends that the provision read as follows: “The Level One, Level Two, or Level Three sanctions shall be lifted when the Customer complies with the requirements of § 5812.1 for at least four (4) consecutive weeks.”.

(8) Section 5812.13 is disapproved.

(9) Section 5812.14 is disapproved.

Sec. 4. The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor, the Director of the Department of Human Services, and the Administrator of the Office of Documents and Administrative Issuances.

Sec. 5. Fiscal impact statement.

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

Sec. 6. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-17

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2013

To declare the existence of an emergency with respect to the issuance of a registration to operate a medical marijuana cultivation center.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Medical Marijuana Cultivation Center Emergency Declaration Resolution of 2013”.

Sec. 2. (a) It is necessary to place a moratorium on the issuance of a registration to operate a medical marijuana cultivation center within a retail priority area.

(b) This emergency legislation addresses the immediate concerns of residents and community members who could be adversely affected by the operation of a cultivation center that falls within a retail priority area near Benning Road and Minnesota Avenue in Ward 7, and other possible centers near other development projects throughout the District.

(c) Temporary legislation passed last Council Period will expire at the end of this month.

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 Medical Marijuana Cultivation Center Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-18

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2013

To declare the existence of an emergency with respect to the need to declare the sense of the Council that President Obama should display the phrase “Taxation Without Representation” on the license plates of the Presidential limousine.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Sense of the Council on Displaying the Phrase ‘Taxation Without Representation’ on the Presidential Limousine’s License Plates Emergency Declaration Resolution of 2013”.

Sec. 2. (a) On January 21, 2013, President Barack Obama will be inaugurated for his second term. Following his inauguration, President Obama will lead a parade down Pennsylvania Avenue with his motorcade. This parade will be watched by millions of Americans and people around the world on television and on the Internet.

(b) In 2000, the District, under the leadership of then-Council Chairman Linda Cropp, added the phrase “Taxation Without Representation” to District license plates. President Bill Clinton displayed license plates bearing this phrase on his limousine. President George W. Bush omitted this phrase from the license plates of his limousine. President Obama has continued that practice.

(c) Displaying license plates bearing the phrase “Taxation Without Representation” raises awareness about the District’s lack of representation in Congress and supports the District’s efforts to achieve statehood.

(d) There is an immediate need for the Presidential limousine to display license plates bearing the phrase “Taxation Without Representation” so that they can be seen by the millions of Americans and people around the world who will be watching the parade.

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 Sense of the Council on Displaying the Phrase ‘Taxation Without Representation’ on the Presidential Limousine’s License Plates Emergency Resolution of 2013 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-19

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2013

To declare, on an emergency basis, the sense of the Council that President Obama should display the phrase “Taxation Without Representation” on the license plates of the Presidential limousine.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Sense of the Council on Displaying the Phrase ‘Taxation Without Representation’ on the Presidential Limousine’s License Plates Emergency Resolution of 2013”.

Sec. 2. The Council finds that:

(1) District residents pay approximately \$4 billion in federal taxes each year, yet have no voting representation in Congress.

(2) In 2000, the District, under the leadership of then-Council Chairman Linda Cropp, added the phrase “Taxation Without Representation” to official, standard District of Columbia motor vehicle license plates.

(3) President Bill Clinton displayed these official license plates, including the phrase “Taxation Without Representation” on his limousine.

(4) President George W. Bush replaced these official license plates with an alternate design that omits the phrase “Taxation Without Representation.” President Barack Obama has continued that practice, and his limousine’s license plates omit this phrase.

(5) Just a few weeks ago, DC Vote created a petition on the White House’s website asking President Obama to display the phrase “Taxation Without Representation” on his Presidential limousine’s license plates. Already more than 22,000 people have signed the petition.

(6) Over 600,000 people live in the District. The District’s population is larger than that of Wyoming and Vermont, which have full representation in Congress.

(7) District residents pay the highest per capita federal income taxes in the country, fight in America’s wars, and serve on its juries, yet they have no voting representation in Congress.

(8) The District has 120 vibrant neighborhoods, each with its own rich, distinct cultural heritage.

(9) The District is the only capital of a democratic country in the world that has no voting representation in its national legislature.

(10) Polls show that the majority of Americans are not aware that District residents lack voting representation in Congress.

ENROLLED ORIGINAL

(11) Displaying the phrase, “Taxation Without Representation,” is a singularly effective way of informing our fellow citizens of how fundamentally unfair and undemocratic it is that District residents do not have a representative in Congress who can vote.

Sec. 3. It is the sense of the Council that President Obama should display official District license plates bearing the phrase “Taxation Without Representation” on the Presidential limousine.

Sec. 4. Transmittal.

The Secretary shall transmit a copy of this resolution, upon its adoption, to the President of the United States.

Sec. 5. Effective date.

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

BILLS

B20-52 Rent Control Voluntary Agreement Procedure Amendment Act of 2013

Intro. 01-08-13 by Councilmembers Graham and Cheh and referred to the Committee on Economic Development with comments from the Committee on Business, Consumer and Regulatory Affairs and the Committee on Judiciary and Public Safety

B20-62 Large Retailer Accountability Act of 2013

Intro. 01-08-13 by Chairman Mendelson and referred to the Committee on Business, Consumer and Regulatory Affairs

B20-69 Dimitar Peshev Plaza Act of 2013

Intro. 01-15-13 by Councilmember Evans and referred to the Committee of the Whole

B20-70 Historic Music Cultural Institutions Expansion Tax Abatement Act of 2013

Intro. 01-15-13 by Councilmember Evans and referred to the Committee on Finance and Revenue

PROPOSED RESOLUTIONS

- PR20-48 District of Columbia Commission on Human Rights Dr. John David Robinson
Confirmation Resolution of 2013
- Intro. 01-10-13 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Workforce and Community Affairs
-
- PR20-49 District of Columbia Commission on Human Rights Edwin Witt Powell
Confirmation Resolution of 2013
- Intro. 01-10-13 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Workforce and Community Affairs
-
- PR20-50 District of Columbia Commission on Human Rights Rahim Jenkins Confirmation
Resolution of 2013
- Intro. 01-10-13 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Workforce and Community Affairs
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- PR20-51 District of Columbia Commission on Human Rights Alexandra Andrea Beninda
Confirmation Resolution of 2013
- Intro. 01-10-13 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Workforce and Community Affairs
-
- PR20-52 Commission on Re-Entry and Returning Citizen Affairs Courtney A. Stewart
Confirmation Resolution of 2013
- Intro. 01-10-13 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Judiciary and Public Safety
-
- PR20-53 Commission on Re-Entry and Returning Citizen Affairs Marco E. Price-Bey
Confirmation Resolution of 2013
- Intro. 01-10-13 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Judiciary and Public Safety
-
- PR20-54 Commission on Re-Entry and Returning Citizen Affairs Debra G. Rowe
Confirmation Resolution of 2013
- Intro. 01-10-13 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Judiciary and Public Safety
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**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE AND COMMITTEE ON
EDUCATION
NOTICE OF JOINT PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004**

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
COUNCILMEMBER DAVID A. CATANIA
CHAIRMAN, COMMITTEE ON EDUCATION
ANNOUNCE A JOINT PUBLIC HEARING**

on

Bill 20-072, The Attendance Accountability Amendment Act of 2013

on

**Tuesday, February 12, 2012 at 11:00 a.m.
Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson and Councilmember David A. Catania, Chairman of the Committee on Education, announce the scheduling of a joint Public Hearing by the Committee of the Whole and the Committee on Education on Bill 20-072, the Attendance Accountability Amendment Act of 2013. The public hearing will take place at 10:00 a.m. in room 412 of the John A. Wilson Building.

The purpose of the hearing is to provide the public and government witnesses an opportunity to testify on the bill which would amend the District's compulsory school attendance laws. The bill would require all students up to age 17 be referred to the Child and Family Services Agency after the student's 10th unexcused absence; allow parents or guardians to raise an affirmative defense when a minor is older than 13 years old and the parent cannot compel the minor to attend school; standardize the number of days a child is considered truant under the compulsory education law and District of Columbia Municipal Regulations by changing the offense from 2 unexcused absences within a school month to 10 unexcused absences within a school year; require that the Office of the State Superintendent of Education (OSSE) and the Office of the Attorney General of the District of Columbia (OAG) are notified within 3 school days that a student has accumulated 10 unexcused absences within one school year; require that the OAG issue a letter to the parent or guardian of a minor that he or she is in violation of District laws regarding compulsory school attendance, truancy, and educational neglect within 3 days of receiving notice from the school administrator; require OSSE to send a letter to the parent or guardian and the Healthy Families/Safe Communities Collaborative regarding a minor's 10 unexcused absences and the services available through the collaborative within 3 days of receiving notice from the school administrator; require that the OAG initiate proceedings against a parent or guardian of a minor for educational neglect when a minor has accumulated 20 or more unexcused absences in a school year; and enhance penalties against the parent or guardian for violations of the act by requiring community service, parenting classes, and/or a fine.

Those who wish to testify are asked to telephone Ms. Erika Wadlington, Deputy Committee Director for the Committee on Education, (202) 724-8124, or via email at

EWadlington@dccouncil.us and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business on Friday February 8, 2013.

Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on February 8, 2013 the testimony will be distributed to Councilmembers before the hearing. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 119 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Tuesday, February 26, 2013.

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

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

on

PR 20-27, Historic Preservation Review Board Charles E. Wilson Confirmation Resolution of 2012

on

**Friday, February 22, 2013
12:00 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces the scheduling of a public hearing of the Committee of the Whole on PR 20-27, the "Historic Preservation Review Board Charles E. Wilson Confirmation Resolution of 2012." The public hearing will be held Friday, February 22, 2013, at 12:00 p.m. in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The stated purpose of PR 20-27 is to confirm the appointment of Charles E. Wilson as a public member of the Historic Preservation Review Board. The purpose of this hearing is to receive testimony from government and public witnesses as to the fitness of this nominee for the Historic Preservation Review Board. PR 20-27 was introduced by Mayor Gray on November 30, 2012 and originally designated as PR 19-1144.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Jessica Jacobs, Legislative Counsel, at jjacobs@dcccouncil.us and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Wednesday, February 20, 2012. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on February 20, 2012, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 9:00 a.m. on Monday, March 4, 2013.

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

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

on

The District of Columbia Health Benefit Exchange Authority

**Thursday, January 31, 2013
10:00 a.m., Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health, announces a public oversight roundtable on the implementation of the District of Columbia Health Benefit Exchange. The roundtable will be held at 10:00 a.m. on Thursday, January 31, 2013 in Room 412 of the John A. Wilson Building.

The purpose of this public oversight roundtable is to provide the public with an opportunity to comment on the District's Health Benefit Exchange Authority and its efforts to implement the Affordable Care Act, including the exchange's information technology framework, its public outreach efforts, the status of current stakeholder working groups, and market participation.

Those who wish to testify should contact Melanie Williamson, Legislative Counsel, at (202) 741-2112 or via e-mail at mwilliamson@dccouncil.us and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Tuesday, January 29, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Tuesday, January 29, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted either to Ms. Williamson, or to Ms. Nyasha Smith, Secretary to the Council, Room 5 of the Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004. The record will close at 5:00 p.m. on February 14, 2013.

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

**COUNCILMEMBER MURIEL BOWSER, CHAIRPERSON
COMMITTEE ON ECONOMIC DEVELOPMENT
ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON**

THE NEW COMMUNITIES INITIATIVE

FEBRUARY 12, 2013

10:00 AM

ROOM 120

JOHN A. WILSON BUILDING

1350 PENNSYLVANIA AVENUE, N.W.

On February 12, 2013, Councilmember Muriel Bowser, Chairperson of the Committee on Economic Development, will hold a public oversight roundtable on the New Communities Initiative. The New Communities Initiative (NCI) is a comprehensive public-private partnership designed to improve the quality of life for families and individuals living in four neighborhoods in Washington, DC: Northwest One (Ward 6), Barry Farm (Ward 8), Lincoln Heights/Richardson Dwellings (Ward 7), and Park Morton (Ward 1). Designated New Communities exhibit high rates of poverty and unemployment, as well as blight and deterioration of the housing stock.

The NCI is funded through the securitization of a dedicated portion of the Housing Production Trust Fund (HPTF). This funding acts as a financing tool and is managed by the District of Columbia Office of the Deputy Mayor for Planning and Economic Development (DMPED). The incentive is designed to catalyze the renewal of both the physical and social conditions of designated neighborhoods in Washington, DC. The NCI operates under four guiding principles:

- **One for One Replacement** of existing units to ensure that there is no net loss of the existing deeply subsidized units in the neighborhood.
- **The Opportunity to Return/Stay** to ensure that current families will be able to remain in their neighborhood through the redevelopment process.
- **Mixed-Income Housing** to ensure the long-term viability of the neighborhood by providing a range of housing options for all incomes.
- **Build First**, which calls for new housing on publicly-controlled lands to be built prior to the demolition of existing distressed housing to minimize displacement.

During the Roundtable, the Committee will focus on the achievement of these principles with respect to each of the four NCI neighborhoods.

The public oversight roundtable will begin at 10:00 AM in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

Individuals and representatives of organizations wishing to testify should contact Kate Kountzman Gluckman, Legislative Counsel to the Committee on Economic Development, at (202) 724-8025, or kkountzman@dccouncil.us and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business Monday, February 11, 2013. Persons presenting testimony may be limited to 3 minutes in order to permit each witness an opportunity to be heard.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Economic Development, Council of the District of Columbia, Suite 110 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

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

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 ROUNDTABLE ON:

**PR 20-57, the "Lowell School, Inc. Revenue Bonds Project Approval Resolution of 2013";
PR 20-58, "The Field School, Inc. Revenue Bonds Project Approval Resolution of 2013".**

Thursday, February 7, 2013

11:00 a.m.

**Room 412 - 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 roundtable to be held on Thursday, February 7, 2013 at 11:00 a.m., in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 20-57, the "Lowell School, Inc. Revenue Bonds Project Approval Resolution of 2013", would authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$15 million of District of Columbia revenue bonds in one or more series, and to authorize and provide for the loan of the proceeds of such bonds to assist the Lowell School, in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act. The project includes the refinancing of existing debt, and the construction, renovation, or removal of property on the school's campus located at 1640 Kalmia Road, NW in Ward 4.

PR 20-58, "The Field School, Inc. Revenue Bonds Project Approval Resolution of 2013", would authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$32 million of District of Columbia revenue bonds in one or more series, and to authorize and provide for the loan of the proceeds of such bonds to assist the Field School, in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act. The project includes the refinancing of existing debt, and the acquisition, renovation, expansion, construction and equipping of secondary school facilities located at 2209, Foxhall Road, NW; 2301 Foxhall Road, NW; and adjacent parcels on 44th Street, NW (Lots 856, 878, and 879 in Square 1341) in Ward 3.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sarina Loy, Committee Aide at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 11:00 a.m. on Wednesday, February 6, 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
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on B 20-072, the "Attendance Accountability Amendment Act of 2013".

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on PR 20-55, the "Sense of the Council Regarding *Citizens United* and Fair Elections Resolution of 2013," to allow for the proposed resolution to be considered at an additional legislative meeting on February 5, 2013.

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

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

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

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

Reprog. 20-8: Request to reprogram \$2,025,554.67 in capital funds budget authority and allotment within the D.C. Public Library (DCPL) was filed in the Office of the Secretary on January 17, 2013. This reprogramming is needed to increase the available funds for the closeout of the following projects: LB337C Mt. Pleasant Neighborhood Library, WAH38C Bellevue/Washington Highland Library, and FRG37C Francis Gregory Library.

RECEIVED: 14 day review began January 18, 2013

Reprog. 20-9: Request to reprogram \$1,700,000 of Local funds budget authority from the Repayment of Interest on Short-Term Borrowings (RISTB) to the Metropolitan Police Department (MPD) was filed in the Office of the Secretary on January 17, 2013. This reprogramming is needed to support the cost of hiring 50 additional police officers in FY 2013.

RECEIVED: 14 day review began January 18, 2013

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JANUARY 30, 2013, 2013
2000 14TH STREET, N.W., SUITE 400S,
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson
Members:

Nick Alberti, Donald Brooks, Herman Jones, Mike Silverstein

- Summary Suspension Status Hearing** **9:30 AM**
Case # 12-251-00380; Mahogany, LLC, t/a The Tap & Parlour/Bohemian
 Caverns, 2001 11th Street NW, License #74895, Retailer CT, ANC 1B
Update from Licensee on Compliance with Board Order
- Show Cause Hearing (Status)** **9:30 AM**
Case # 12-251-00133, # 12-251-00122 and # 12-251-00132; Inner Circle 1420,
 LLC t/a Lotus, 1420 K Street NW, License #75162, Retailer CN, ANC 2F
**Failed to Comply with Board Order, Failed to Post ABC Window Lettering
 in a Conspicuous Place, Failed to Post Current Legal Drinking Age Notice**
- Show Cause Hearing (Status)** **9:30 AM**
Case # 12-CMP-00228;Solomon Enterprises, LLC, t/a Climax Restaurant &
 Hookah Bar, 900 Florida Ave NW, License #88290, Retailer CT, ANC 1B
**Substantial Change in Operation (No Summer Garder or Sidewalk Café
 Endorsement)**
- Show Cause Hearing (Status)** **9:30 AM**
Case # 12-CMP-00307; Twin T's LLC, t/a DC Shenanigans (formerly
 McNasty's), 2450 18th Street NW, License #88119, Retailer CT, ANC 1C
**Violation of Voluntary Agreement(Open Door During Business Hours
 While Entertainment Was Playing)**
- Show Cause Hearing (Status)** **9:30 AM**
Case # 11-CMP-00488; Khan's BBQ, Inc., t/a Khan's, 1125 H Street NE
 License #84082, Retailer CR, ANC 6A
**Violation of Voluntary Agreement (Use of Sandwich Board and Failure to
 Post Required Signs)**

Board's Calendar

Page -2- January 30, 2013

Show Cause Hearing (Status) 9:30 AM

Case # 12-CMP-00248; HHC TRS Melrose, LLC, t/a Melrose Hotel
2430 Pennsylvania Ave NW, License #75008, Retailer CH, ANC 2A

**Failed to Conspicuously Post Licenses, Failed to Post Pregnancy Sign,
Failed to Post Current Legal Drinking Age Notice**

Fact Finding Hearing 9:30 AM

Pub Crawl; Date of Event: February 9, 2013, Applicants: Michael Bramson &
Alex Lopez, on behalf of Project DC Events, Event Name: Cupid's Bar Crawl
Neighborhood: 1845 14th Street NW

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

Show Cause Hearing 10:00 AM

Case # 12-CMP-00105; Vertigo, Inc., t/a Sultra Lounge/Viet-Thai
2406 18th Street NW, License #82430, Retailer CR, ANC 1C

**Substantial Change without Board Approval, Failed to Follow the Terms of
License**

Show Cause Hearing 11:00 AM

Case # 11-251-00059; 1900 M Restaurant Associates, Inc., t/a Rumors
Restaurant, 1900 M Street NW, License #71717, Retailer CN, ANC 2B

**Allowed the Establishment to be Used for an Unlawful or Disorderly
Purpose, Failed to Comply With Security Plan**

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA

1:00 PM

Show Cause Hearing 1:30 PM

Case # 12-CMP-00235; 19th & K, Inc., t/a Ozio Martini & Cigar Lounge
1813 M Street NW, License #23167, Retailer CN, ANC 2B

Violation of Voluntary Agreement, Substantial Change (Sidewalk Café)

Show Cause Hearing 2:30 PM

Case # 12-CMP-00497; Arlington Beverage Corp., t/a Sheffield Wine and
Liquors, 5025 Connecticut Ave NW, License #60563, Retailer A, ANC 3F

Sold Fewer Than Six Miniature Bottles of Spirits

Fact Finding Hearing 3:30 PM

To Be Determined (formerly-Club Rendezvous); License #90529, Retailer CN

License in Safekeeping

Fact Finding Hearing 4:00 PM

David Sakai, t/a International House of Pong; 1010 Wisconsin Ave NW
License #84905, Retailer CR, ANC 2E

New Application

RE-ADVERTISE*ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION****NOTICE OF PUBLIC HEARING**

Posting Date: January 25, 2013
Petition Date: March 11, 2013
Roll Call Hearing Date: March 25, 2013
Protest Hearing Date: May 15, 2013

License No.: ABRA - 090865
Licensee: BUZZ, LLC
Trade Name: To Be Determined
License Class: "C" Tavern
Address: 3911 Georgia Avenue, NW
Contact: Elizabeth Makris 404-276-0037

WARD 4 ANC 4C SMD 4C08

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for May 15, 2013 at 1pm.

NATURE OF OPERATION

A restaurant that serves Mediterranean and American Cuisine. Entertainment to include dancing, cover charge, live bands and ensembles. Total number of seats is 191. Summer Garden seating for front balconies is 26. Rear Roof Terrace seating for 45. Sidewalk Café seating for 10.

HOURS OF OPERATION/SALES/SERVICE/CONSUMPTION FOR INSIDE PREMISES/SUMMER GARDEN/SIDEWALK CAFÉ AND ENTERTAINMENT

Sunday through Thursday 8 am- 2 am, Friday & Saturday 8 am - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: January 25, 2013
Petition Date: March 11, 2013
Hearing Date: March 25, 2013
Protest Hearing Date: May 15, 2013

License No.: ABRA-091244
Licensee: District Pub Group, L.L.C.
Trade Name: Fainting Goat
License Class: Retailer's Class "C" Tavern
Address: 1330 U Street, N.W.
Contact: Michael D. Fonseca, 202-625-7700

WARD 1 ANC 1B SMD 1B12

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 4:00pm on May 15, 2013.

NATURE OF OPERATION

New tavern serving appetizers, burgers, sandwiches, salads, and main courses. Featuring DJ and background music. Occupancy load is 199.

HOURS OF OPERATION

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

HOURS OF SALES/SERVICE/CONSUMPTION

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

HOURS OF ENTERTAINMENT

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: January 25, 2013
Petition Date: March 11, 2013
Hearing Date: March 25, 2013
Protest Hearing Date: May 15, 2013

License No.: ABRA-091251
Licensee: FT Mare DC, LLC
Trade Name: Fiola Mare
License Class: Retailer's Class "C" Restaurant
Address: 3050 K Street, N.W.
Contact: Stephen J. O'Brien, 202-625-7700

WARD 2 ANC 2E SMD 2E05

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 4:00pm on May 15, 2013.

NATURE OF OPERATION

New restaurant serving gourmet Italian seafood. Live entertainment and dancing for brunch and special events only. Occupancy load is 315. Sidewalk Café with 76 seats. Summer Garden with 150 seats.

HOURS OF OPERATION

Sunday through Saturday 8 am – 2 am

HOURS OF SALES/SERVICE/CONSUMPTION

Sunday through Saturday 8 am – 2 am

HOURS OF OPERATION, SALES/SERVICE/CONSUMPTION OF SIDEWALK /SUMMER GARDEN

Sunday through Saturday 8 am – 2 am

HOURS OF ENTERTAINMENT

Sunday through Saturday 6 pm – 2 am

***CORRECTION**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: January 18, 2013
Petition Date: March 4, 2013
Roll Call Hearing Date: March 18, 2013
Protest Hearing Date: May 8, 2013

License No.: ABRA-090997
Licensee: RR4, LLC
Trade Name: RedRocks
License Class: Retailer’s Class “C” Restaurant
Address: 1348 H Street, NE
Contact: Cheryl Webb, Owner 202-277-7461

WARD 6

ANC 6A

SMD 6A06

*Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 4:30pm on May 8, 2013.

NATURE OF OPERATION

New Full Service Restaurant and Bar serving Neapolitan Pizza and a DJ on the 2nd Floor. Seating Capacity is 281, total occupancy load is 370. Summer Garden with 76 seats.

PROPOSED HOURS OF OPERATION FOR PREMISE:

Sunday through Wednesday 11:00am – 12:00am, Thursday 11:00am – 2:00am, Friday and Saturday 11:00am – 3:00am.

PROPOSED HOURS OF SALES/SERVICE/CONSUMPTION FOR PREMISE:

Sunday through Wednesday 11:00am – 11:45pm, Thursday 11:00am – 1:45am, Friday and Saturday 11:00am – 2:45am.

PROPOSED HOURS OF OPERATION FOR SUMMER GARDEN:

Sunday through Thursday 11:00am – 12:00am, Friday and Saturday 11:00am – 3:00am.

PROPOSED HOURS OF SALES/SERVICE/CONSUMPTION FOR SUMMER GARDEN:

Sunday through Thursday 11:00am – 11:45pm, Friday and Saturday 11:00am – 2:45am.

PROPOSED HOURS OF ENTERTAINMENT:

Thursday through Saturday 6:00pm – 1:00am

***CORRECTION**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: January 18, 2013
Petition Date: March 4, 2013
Roll Call Hearing Date: March 18, 2013
Protest Hearing Date: May 8, 2013

License No.: ABRA-091197
Licensee: TaKorean at Union Market, LLC
Trade Name: TaKorean
License Class: Retailer’s Class “C” Tavern
Address: 1309 5th Street, NE
Contact: Paul Pascal, 202-544-2200

WARD 5 *ANC 5D *SMD 5D01

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Roll Call Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 4:30 pm on May 8, 2013.

NATURE OF OPERATION

New quick service restaurant in the new Union Market complex that will serve a variety of Asian- inspired taco combinations and menu items. Occupancy load is 99, with no seats. Joint use of Common area with Union Market merchants consisting of 85 indoor seats and a Summer Garden with 80 seats.

PROPOSED HOURS OF OPERATION

Sunday through Thursday: 7am – 2am, Friday and Saturday: 7am – 3am

PROPOSED HOURS OF SALES/SERVICE/CONSUMPTION OF ALCOHOLIC BEVERAGES

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

PROPOSED SUMMER GARDEN HOURS OF OPERATION

Sunday through Thursday: 7am – 2am, Friday and Saturday: 7am – 3am

PROPOSED SUMMER GARDEN HOURS OF SALES/SERVICE/CONSUMPTION OF ALCOHOLIC BEVERAGES

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

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, APRIL 2, 2013
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

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

9:30 A.M. MORNING HEARING SESSION

A.M.

WARD SIX

18526 **Application of Brian and Christy Davis**, pursuant to 11 DCMR §
ANC-6A 3104.1, for a special exception for a two-story rear addition to a one-
family row dwelling under section 223, not meeting the lot occupancy
requirements (section 403), and nonconforming structure requirements
(subsection 2001.3) in the R-4 District at premises 1329 F Street, N.E.
(Square 1029, Lot 169).

WARD TWO

18523 **Application of Peter H. Bell**, pursuant to 11 DCMR § 3103.2, for a
ANC-2B variance from the floor area ratio requirements under section 402, a
variance from the lot occupancy requirements under section 403, a
variance from the court requirements under section 406, and a variance
from the nonconforming structure requirements under subsection 2001.3,
to allow roof additions to an existing one-family row dwelling in the
DC/R-5-B District at premises 1726 18th Street, N.W. (Square 133, Lot
133).

WARD SIX

18527 **Application of Jill and Blaise Marion**, pursuant to 11 DCMR §§ 3104.1
ANC-6A and 3103.2, for a special exception under subsection 2516.1, a variance
from the nonconforming structure provisions under subsection 2001.3, a
variance from the rear yard requirements under section 404, and a variance
from the off-street parking requirements under subsection 2101.1, to
permit two principal buildings on a single subdivided lot in the R-4
District at premises 1116 K Street, N.E. (Square 980-N, Lot 7).

BZA PUBLIC HEARING NOTICE

APRIL 2, 2013

PAGE NO. 2

WARD ONE

18524 **Application of N Street Village Inc.**, pursuant to 11 DCMR § 3104.1, for
ANC-1B a special exception to allow a community residence facility (25 residents)
 under section 358, in the R-5-B District at premises 1300 Florida Avenue,
 N.W. (Square 234, Lot 822).

WARD FOUR

18528 **Application of Cynthia Davis**, pursuant to 11 DCMR § 3104.1, for a
ANC-4D special exception for a child development center (12 children and 2 staff)
 under section 205, in the R-3 District at premises 4831 9th Street, N.W.
 (Square 3010, Lot 84).

WARD THREE

18525 **Appeal of 2750 32nd Street Trust**, pursuant to 11 DCMR §§ 3100 and
ANC-3C 3101, from a decision by the Department of Consumer and Regulatory
 Affairs to issue a notice of violation and notice to abate dated December
 24, 2012, for the location of electrical equipment in the R-1-A District at
 premises 2750 32nd Street, N.W. (Square 2119, 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 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,

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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, NICOLE C. SORG, 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.**

DIRECTOR, BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**NOTICE OF FINAL RULEMAKING**

The Board of Ethics and Government Accountability (Board), pursuant to the authority set forth in section 209 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*) (2012 Supp.), hereby gives notice of final rulemaking action to add new Chapters 51 and 52 (Board of Ethics and Government Accountability and Political and Ethical Conduct of the Board) of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR). The rulemaking will establish the organization of the Board, meeting procedures, notice requirements, and requirements for political and ethical conduct of the Board and its employees.

The emergency and proposed rulemaking was adopted by the Board on September 25, 2012, and became effective immediately, published in the *D.C. Register* on September 28, 2012 at 59 DCR 011194. No written comments were received and no changes have been made to the text of the proposed rules. The Board adopted the rulemaking as final on January 10, 2013. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

Title 3, ELECTIONS AND ETHICS, of the DCMR is amended by adding new Chapters 51 and 52 to read as follows:

**CHAPTER 51 BOARD OF ETHICS AND GOVERNMENT
ACCOUNTABILITY**

5100 ESTABLISHMENT AND AUTHORITY OF THE BOARD

- 5100.1 The Board of Ethics and Government Accountability (Board) is established pursuant to the authority and purposes set forth in the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011(Act), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*) (2012 Supp.).
- 5100.2 The Board is vested with authority to administer and enforce the provisions of the Government Ethics Act of 2011, Title II of the Act.
- 5100.3 The Board is composed of three (3) members, no more than two (2) of whom shall be members of the same political party, who are appointed by the Mayor and confirmed by the Council of the District of Columbia.
- 5100.4 The Mayor shall designate the Chairperson of the Board.

5100.5 The Board shall act by affirmative action of a majority of members present.

5100.6 In the event of a tie vote by the Board on a proposed action, including any proposed enforcement action, the proposed action will not take effect unless the tie vote can be resolved pursuant to the procedures of §§ 5506.6 or 5506.7.

5101 DIRECTOR OF GOVERNMENT ETHICS

5101.1 There is established the position of Director of Government Ethics pursuant to section 206 of the Act.

5101.2 The Board shall select, employ, and fix the compensation of the Director of Government Ethics (Director) and such staff as the Board considers necessary to carry out the powers and duties assigned to the Director pursuant to subtitle B of Title II of the Act.

5101.3 The Director shall serve at the pleasure of the Board.

5102 BOARD MEETINGS

5102.1 Except as provided otherwise by the Act, a quorum of the Board shall consist of no less than two (2) members of the Board and shall be necessary to conduct official Board business.

5102.2 At the beginning of each calendar year, a preliminary schedule of regular meetings for the year, which the Board has discretion to change, shall be published in the D.C. Register.

5102.3 Regularly scheduled Board meetings shall be held on the first Thursday of each month, or at least once each month, at a time to be determined by the Board. Additional meetings may be called as needed by the Board.

5102.4 Notice of all regular and additional meetings of the Board shall be published on the Board's web site at least forty-eight (48) hours, or two (2) business days, in advance, whichever is greater, except in the case of emergency.

5102.5 The Board may exercise its discretion and reschedule a regular meeting or call special meetings when necessary with reasonable notice to the public.

5102.6 The Board encourages comments on any issue under the jurisdiction of the Board that is considered at its regular meetings. The Board shall permit the submission of written comments either in advance or within a time set after the regular meeting. The Board may also provide the public with a reasonable opportunity to appear before the Board and offer such comments. No public comment will be accepted when the Board is considering enforcement actions or is conducting an adversarial hearing.

- 5102.7 To ensure the orderly conduct of public Board meetings, public comments may be limited with respect to the number of speakers permitted and the amount of time allotted to each speaker; however, the Board shall not discriminate against any speaker on the basis of his or her position on a particular matter.
- 5102.8 Any member of the public who intends to comment regarding any agenda item or any issue under the jurisdiction of the Board is encouraged to notify the Board in advance of his or her intent to do so, providing his or her name and the topic on which he or she wishes to speak. Such notification may be provided by e-mail to the Board's email address, by telephone, or by mail or in person at the Board's office. No person shall be prevented from speaking at a Board meeting simply because he or she has not provided advance notice of his or her intent to do so.
- 5102.9 Members of the public who wish to submit items for consideration by the Board shall do so in writing one (1) week in advance and the Board may in its discretion include the submitted items on the agenda if it determines that the items' subject matter is within the Board's jurisdiction and there is sufficient time to address the item at the meeting. Any item that was properly submitted to the Board but was not included on the agenda shall be included on the agenda of the next regularly scheduled meeting. Failure to submit an item in advance as required may, within the Board's discretion, result in the matter being continued until the next regularly scheduled meeting.
- 5102.10 The Chairperson shall conduct the meetings of the Board. In the absence of the Chairperson, the senior member of the Board shall conduct the meeting.
- 5102.11 Each meeting shall begin with the adoption of the agenda, followed by the adoption of any outstanding minutes of previously conducted Board meetings.
- 5102.12 The Director of Government Ethics shall present a report of the activities of that position at each regularly scheduled meeting.
- 5102.13 Each Board member may properly make any and all motions.
- 5102.14 All meetings of the Board shall be open to the public and conducted in compliance with the Open Meetings Act (Open Meetings Act), effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-571 *et seq.*) (2011 Repl.), unless governed by section 405(b) and 406 of the Open Meetings Act (permissible closed meetings).
- 5102.15 The proposed agenda for each Board meeting shall be posted and made available for public inspection in the Board's office and on its website at least twenty-four (24) hours prior to a meeting.
- 5102.16 Copies of the agenda shall be available to the public at the meeting.

5102.17 Nothing in this section shall preclude the Board from amending the agenda at the meeting.

5102.18 Meetings may be adjourned from time to time and resumed at the Board's discretion so long as the time of resumption is announced to the public. Where the meeting is adjourned and resumed in less than forty-eight (48) hours or two (2) business days, the Board will provide notice of the date and time of its resumption on its website and by posting notice in the Board's office. Where a meeting is adjourned to a time longer than forty-eight (48) hours or two (2) business days, the Board shall provide notice of the new day and time as required by the Open Meetings Act.

5102.19 Any individual who is deemed by the Board Chairman to be disruptive to the meeting may be removed therefrom.

5103 CLOSED MEETINGS

5103.1 The Board may conduct closed meetings for the purposes described in section 405(b) of the Open Meetings Act, including the following:

- (a) Personnel matters, including the recruitment, appointment, employment, assignment, promotion, discipline, compensation, removal, or resignation of employees, or other individuals over whom it has jurisdiction;
- (b) Employee disciplinary actions;
- (c) Legal counsel briefings on litigation strategy;
- (d) Quasi-judicial deliberations;
- (e) Matters which would result in the disclosure of information specifically exempted from disclosure by statute;
- (f) Matters which would result in the disclosure of trade secrets and commercial or financial information;
- (g) Matters which would involve a clear and unwarranted invasion of privacy, an accusation of a crime, or formal censure; and
- (h) Matters which would result in the disclosure of investigatory records compiled for law enforcement purposes.

5104 ORDERS OF THE BOARD

5104.1 The Board shall issue all final orders in writing, signed manually or electronically by each member of the Board participating in the final order.

5104.2 Any Board member participating in a final order may issue a concurring or dissenting opinion to the final order, and such opinion shall be attached to the Board’s final order.

5105 MINUTES OF MEETINGS AND OTHER BOARD RECORDS

5105.1 Pursuant to the Open Meetings Act, D.C. Official Code § 2-578, all meetings of the Board, whether open or closed, shall be recorded by electronic means; provided that if a recording is not feasible, detailed minutes of the meeting shall be kept.

5105.2 Copies of meeting records shall be made available for public inspection according to the following schedule; provided, that a record, or a portion of a record, may be withheld under the standard established for closed meetings pursuant to D.C. Official Code § 2-575(b):

- (a) A copy of the minutes of a meeting shall be made available for public inspection as soon as practicable, but no later than three (3) business days after the meeting.
- (b) A copy of the full record, including any recording or transcript, shall be made available for public inspection as soon as practicable, but no later than seven (7) business days after the meeting.

5105.3 Disclosure of all Board records, including meeting minutes or transcripts, shall be governed by the District of Columbia Freedom of Information Act, D.C. Official Code § 2-531 et seq. The Board shall, by Office Order, issue a schedule of fees, not to exceed the actual cost of searching for, reviewing, and making copies of records, consistent with the provisions of D.C. Official Code § 2-532(b-1) through (b-3).

CHAPTER 52 POLITICAL AND ETHICAL CONDUCT OF THE BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

5200 PURPOSE AND SCOPE

5200.1 The purpose of this chapter is to establish standards of conduct for members and employees of the Board of Ethics and Government Accountability (Board) for their official activities in order to maintain public confidence in the integrity of those persons responsible for the administration of the ethics laws and the Code of Conduct, as that term is defined in section 101(7) of the Act.

5200.2 The provisions of this chapter shall solely govern the political and ethical conduct of the members and employees of the Board and are not intended to be exclusive of rules governing the ethical conduct of all District of Columbia Government employees.

5201 POLITICAL ACTIVITY OF MEMBERS OF THE BOARD

5201.1 Except as provided in this section, nothing in this chapter shall be construed as prohibiting the members or employees of the Board from doing any of the following:

- (a) Exercising the right to vote at any election conducted in the District of Columbia or elsewhere;
- (b) Signing any nominating, initiative, referendum, or recall petition; or
- (c) Attending candidate forums.

5201.2 No member of the Board shall do any of the following:

- (a) Act as a leader or hold any office in a District political organization;
- (b) Make speeches for a District political organization or candidate, or publicly endorse or oppose a District of Columbia candidate for public office;
- (c) Solicit funds for, pay an assessment to, or make a contribution to a District political organization or candidate, or attend or purchase a ticket for a dinner or other event sponsored by a District of Columbia political organization or candidate; or
- (d) Be a lobbyist.

5202 ETHICAL CONDUCT

5202.1 A member or employee of the Board shall not directly or indirectly give any person who is not a member or employee of the Board access to official information obtained through or in connection with his or her employment which has not been released to the general public or which is not a matter of public record.

5202.2 A member or employee of the Board shall not solicit or accept, either directly or through the intercession of others, any fee, gift, gratuity, favor, loan, entertainment, or other thing of monetary value from any person, organization or entity which has done or is doing any of the following:

- (a) Has obtained, or is seeking to obtain, contractual or other business or financial relationships with the Board;
- (b) Conducts operations or activities that are regulated or examined by the Board; or
- (c) Has interests that may be favorably affected by the action or inaction of the member employee in the performance of his or her official duties.

5202.3 The restrictions set forth in § 5202.2 shall not apply to any of the following:

- (a) Bona fide personal relationships, such as those that exist between an employee or member and his or her parents, children, or spouse;
- (b) The acceptance of loans from financial institutions on customary terms to finance the acquisition of a car, home, appliance, or other personal items; or
- (c) The acceptance of unsolicited advertising or promotional materials such as pens, pencils, note pads, calendars, and like items of nominal intrinsic value.

5202.4 A member or employee of the Board shall not use his or her status as a member to directly or indirectly attempt to influence any decision of the District government relating to any action that is not within the Board's purview.

5202.5 A member or employee of the Board shall not directly or indirectly use or allow the use of government property of any kind, including office machines, motor vehicles, materials, supplies, or funds, for other than officially approved activities.

5202.6 Without prior approval of the Board, a member or employee of the Board shall not accept any reimbursement for expenses or receive any other honorarium or fee for any service, speech, or other activity which is rendered as a result of his or her official duties with the Board, whether or not such activities were performed during official working hours.

5202.7 Board members and employees shall not engage in any employment or outside activity which is incompatible with the full and proper discharge of their government responsibilities.

5202.8 No Board member or employee shall do indirectly (by, through, or with other persons) those acts or actions which the Board member or employee are prohibited from doing directly under the restrictions set forth in this chapter.

- 5202.9 No Board member may serve if, during the member's tenure on the Board, he or she is convicted of having committed a felony in the District of Columbia, or if the crime is committed elsewhere, convicted of an offense that would have been a felony if it had been committed in the District of Columbia.
- 5202.10 An employee shall promptly report to his or her immediate supervisor any attempt to direct or otherwise unlawfully influence the discharge of that employee's official duties.
- 5202.11 A member of the Board or employee of the Board must refrain from acting on or discussing, formally or informally, a matter before the Board if the matter relates to, or may personally or financially benefit, that Board member or employee, their immediate family, or a business with which they are associated.
- 5202.12 A member of the Board or employee of the Board must refrain from acting on or discussing, formally or informally, a matter before the Board if his or her impartiality might reasonably be questioned, including but not limited to circumstances where the Board member or employee:
- (a) Personally and substantially participated in the matter;
 - (b) Is a material witness concerning the matter;
 - (c) Has material, personal knowledge about the matter;
 - (d) Has a personal bias or prejudice concerning a party or party's lawyer or representative; or
 - (e) Has made a public statement, other than in a Board proceeding or opinion, that commits or appears to commit the Board member or employee to reach a particular result or rule in a particular way in the matter.
- 5202.13 If a member of the Board must withdraw from a matter before the Board, that member shall make a statement at a public meeting of the Board identifying the reason or reasons for the withdrawal. If the matter relates to a preliminary investigation, the name of the individual who is the subject of the investigation shall not be disclosed without the individual's consent.
- 5202.14 If an employee of the Board must withdraw from a matter before the Board, that employee shall notify the Director of Government Ethics, in writing, of the reason or reasons for the withdrawal.
- 5202.15 If the Director of Government Ethics must withdraw from a matter before the Board, the Director shall notify the Chairman of the Board, in writing, of the reason or reasons for the withdrawal.

DIRECTOR, BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**NOTICE OF FINAL RULEMAKING**

The Board of Ethics and Government Accountability (Board), pursuant to the authority set forth in section 209 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*) (2012 Supp.), hereby gives notice of final rulemaking action to add new Chapters 53, 54, and 55 (Investigations, Hearings and Appeals, Advisory Opinions, and Board of Ethics and Government Accountability: Hearing Procedures) of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR). The rulemaking establishes, for the Board and the Director of Government Ethics, procedures for investigations, hearings, and appeals as well as for the issuance of advisory opinions.

The emergency and proposed rulemaking was adopted by the Board on September 25, 2012, and became effective immediately, published in the *D.C. Register* on September 28, 2012 at 59 DCR 011203. No written comments were received and no changes have been made to the text of the proposed rules. The Board adopted the rulemaking as final on January 10, 2013. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

Title 3, ELECTIONS AND ETHICS, of the DCMR is amended by adding new Chapters 53, 54, and 55 to read as follows:

**CHAPTER 53 BOARD OF ETHICS AND GOVERNMENT
ACCOUNTABILITY: INVESTIGATIONS**

5300 GENERAL PROVISIONS

- 5300.1 The provisions of this chapter shall establish the procedures for the conduct of all investigations by the Director of Government Ethics (Director) and the Board of Ethics and Government Accountability (Board) pursuant to the authority set forth in the Government Ethics Act of 2011 (Act), Title II of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*) (2012 Supp.).
- 5300.2 Investigations shall be conducted:
- (a) Fairly and professionally;
 - (b) So as to protect the rights and reputations of public employees and officials; and
 - (c) In accordance with due process.

5300.3 Investigations shall be identified as one (1) of the following:

- (a) Preliminary Investigation; or
- (b) Formal Investigation.

5301 PRELIMINARY INVESTIGATIONS

5301.1 The Director shall conduct a preliminary investigation of a possible violation of the Code of Conduct or of the Act brought to the attention of the Director by any source including but not limited to the following:

- (a) The media;
- (b) A tip received through the hotline; or
- (c) Documents filed with the Ethics Board.

5301.2 If during or after the preliminary investigation, the Director of Government Ethics has reason to believe that a violation of the Code of Conduct or of the Act may have occurred, the Director shall present evidence of the violation to the Board.

5301.3 Upon presentation of evidence, the Ethics Board may authorize a formal investigation and the issuance of subpoenas if it finds reason to believe a violation has occurred.

5301.4 A preliminary investigation may be dismissed at any time by the Director or Board if insufficient evidence exists to support a reasonable belief that a violation has occurred.

5301.5 The identity of an individual who is the subject of the preliminary investigation shall not be disclosed without the individual's consent unless or until the Board finds reason to believe that the individual has committed a violation and that disclosure would not harm the investigation.

5301.6 In conducting a preliminary investigation, the Director shall have the authority to gather evidence using any of the powers and procedures described in § 5303.

5302 FORMAL INVESTIGATIONS

5302.1 A formal investigation shall be initiated upon:

- (a) Receipt of a written complaint transmitted to the Board;

- (b) A finding by the Office of the Inspector General or District of Columbia Auditor that suggests a violation of the Code of Conduct, including but not limited to findings of waste, fraud, or abuse of government resources; or
- (c) A finding by a court of competent jurisdiction of liability in a civil proceeding, indictment, or information in a criminal proceeding with respect to acts or offenses that may constitute violations of the Code of Conduct or of the Act.

5302.2 A written complaint shall include:

- (a) The full name and address of the complainant and the respondent;
- (b) A clear and concise statement of facts that are alleged to constitute a violation of the Code of Conduct or of the Act;
- (c) The complainant's signature;
- (d) A verification of the complaint under oath; and
- (e) Supporting documentation, if any.

5302.3 No complaint may be made later than five (5) years after the discovery of the alleged violation.

5302.4 An individual making a complaint shall be afforded all available protections from adverse employment action or retaliation in accordance with the Comprehensive Merit Personnel Act and Title II of the Whistleblower Reinforcement Act of 1998, effective October 7, 1998 (D.C. Law 12-160; D.C. Official Code § 2-223.01 *et seq.*) (2011 Repl.).

5302.5 Within fourteen (14) days of the initiation of a formal investigation, the Director shall cause evidence concerning the complaint to be presented to the Board. If the Board decides that there is reasonable belief that a violation has occurred, the Board may authorize the issuance of subpoenas.

5302.6 The Superior Court of the District of Columbia may, upon petition by the Board through the Director, in case of refusal to obey a subpoena or order of the Ethics Board issued under § 5302.5, issue an order requiring compliance; and any failure to obey the order of the court may be treated by the court as contempt.

5302.7 The identity of an individual who is the subject of a written complaint transmitted to the Board, other than pursuant to § 5302.1(b) and (c), shall not be disclosed without the individual's consent unless or until the Board finds reason to believe that the individual has committed a violation and the Board finds that disclosure would not harm the investigation.

5302.8 Notwithstanding § 5302.7, the Board may, in its discretion, publicly disclose the existence of any investigation.

5303 DIRECTOR OF GOVERNMENT ETHICS AUTHORITY TO OBTAIN INFORMATION

5303.1 The Director of Government Ethics (Director) shall have the authority to obtain documents, written reports, and answers relating to the enforcement of the Government Ethics Act of 2011 (Act), Title II of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*) (2012 Supp.).

5303.2 The Director's authority includes the power to:

- (a) Require any person to submit, within a reasonable period and under oath or otherwise as the Director may determine, documents, written reports, and answers to questions that the Director of Government Ethics may propound relating to the administration and enforcement of the Act;
- (b) Administer oaths;
- (c) Require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of the Ethics Board's duties; provided, that a subpoena issued under this paragraph shall be issued by the Director of Government Ethics only upon approval of a majority of the Ethics Board and served either personally or by certified or registered mail on the individual named in the subpoena, or by other means agreed to by the witness named in the subpoena;
- (d) Order testimony to be taken by deposition in a proceeding or investigation before any person who is designated by the Director and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under the Act;
- (e) Pay witnesses the same fees and mileage as are paid in like circumstances in the Superior Court of the District of Columbia; and
- (f) Retain, on a temporary basis, consultants, including attorneys or others, on a paid or pro bono basis.

5303.3 If an employee or official of the District government has been properly served a request for information or documents, or notice of deposition and any applicable witness fee, and that employee or official fails to respond to such a request or appear or participate in a deposition, then the Director or the Board may notify the supervisor or superior of that employee or official and recommend that

appropriate personnel action be commenced for such failure. Nothing in this section shall affect the ability of the Board to seek enforcement of a subpoena before the Superior Court of the District of Columbia.

**CHAPTER 54 BOARD OF ETHICS AND GOVERNMENT
ACCOUNTABILITY: ADVERSARIAL HEARINGS,
APPEALS, AND ADVISORY OPINIONS**

5400 GENERAL PROVISIONS

5400.1 The provisions of this chapter shall establish general procedures for the conduct of all adversarial hearings and appeals, and the issuance of advisory opinions by the Director of Government Ethics (Director) and the Board of Ethics and Government Accountability (Board) pursuant to the authority set forth in the Government Ethics Act of 2011 (Act), Title II of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*) (2012 Supp.).

5401 ADVERSARIAL HEARING

5401.1 After determining that there is reason to believe a violation has occurred based upon the presentation of evidence by the Director pursuant to § 5301.2 or § 5302.5, the Board shall conduct an open and adversarial hearing at which the Director of Government Ethics shall present evidence of the violation. The Director may delegate the presentation of evidence to the General Counsel or other lawyer employed by the Board.

5401.2 A hearing need not be conducted if a matter is dismissed pursuant to § 5403.

5401.3 If the Director fails to present a matter, or advises the Board that insufficient evidence exists to present a matter or that an additional period of time is needed to investigate a matter further, the Board may nonetheless order the Director to present the matter as provided in § 5401.1.

5401.4 Any hearing under this section shall be on the record and shall be held in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*) (2011 Repl.).

5401.5 Any witness has a right to refuse to answer a question that might tend to incriminate the witness by claiming his or her Fifth Amendment privilege against self-incrimination.

5401.6 Any person who has been assessed fees pursuant to § 5403.2 may file a request for an adversarial hearing with the Board.

5402 DISPOSITION

- 5402.1 Following the presentation of evidence to the Board by the Director in an adversary hearing, the Board may:
- (a) Levy a civil penalty in accordance with the Act;
 - (b) Refer the matter to the United States Attorney for the District of Columbia for enforcement or prosecution;
 - (c) Refer the matter to the Attorney General for the District of Columbia for enforcement or prosecution; or
 - (d) Dismiss the action.
- 5402.2 The Board may not refer information concerning an alleged violation of the Code of Conduct or of the Act to the United States Attorney for the District of Columbia or the Attorney General for the District of Columbia without the presentation of evidence by the Director as provided in § 5401.1
- 5402.3 In addition to an action taken pursuant to § 5402.1, the Board may take any other remedial action pursuant to authority granted it by the Act.

5403 DISMISSAL OF MERITLESS CLAIM, COMPLAINT, OR REQUEST FOR INVESTIGATION

- 5403.1 The Board may dismiss, at any stage of the proceedings, any claim, complaint, request for investigation, investigation, or portion of an investigation that the Ethics Board finds to be without merit.
- 5403.2 The Ethics Board may require a person who made or caused to be made a claim, complaint, or request for investigation in bad faith and without merit to pay reasonable fees for time spent reviewing or investigating the claim, complaint, or request for investigation including reasonable attorney's fees for the individual wrongfully named in the claim, complaint, or request for investigation.

5404 APPEALS

- 5404.1 Appeals of any final order issued or fine levied by the Board in accordance with the Act or regulations promulgated pursuant to the Act shall be made to the Superior Court of the District of Columbia within twenty (20) days of the date the Board or Director's final order or fine is served upon a person subject to the final order or fine.

5405 ADVISORY OPINIONS

- 5405.1 Upon application made by an employee or public official subject to the Code of Conduct, the Board or the Director shall, within a reasonable period of time, provide an advisory opinion as to whether a specific transaction or activity inquired of would constitute a violation of a provision of the Code of Conduct over which the Board has primary jurisdiction.
- 5405.2 An advisory opinion shall be published in the District of Columbia Register within thirty (30) days of its issuance; provided, that the identity of a person requesting an advisory opinion shall not be disclosed in the District of Columbia Register without the person’s prior consent in writing. Where consent is not obtained, the name of the requester shall be removed prior to publication.
- 5405.3 If issued by the Director or an individual Board member, an advisory opinion may be appealed for consideration by the full Board. There shall be no enforcement of a violation of the Code of Conduct taken against an employee or public official who relied in good faith upon an advisory opinion requested by that employee or public official and substantially complied with the advice or recommendation given in the advisory opinion; provided, that the employee or public official, in seeking the advisory opinion, made full and accurate disclosure of all relevant circumstances and information.
- 5405.4 A request for an advisory opinion shall be in writing, signed by the requestor, and filed with the Director. The Director may accept email requests for advisory opinions.
- 5405.5 A request for an advisory opinion shall contain the following:
 - (a) The full name, residence address, and telephone number of the requestor; and
 - (b) A clear and concise statement of the facts relating to the specific transaction or activity which is the subject of the inquiry.
- 5405.6 Nothing in this Chapter shall prevent the Director from providing informal advice or guidance to an employee or public official by referring that employee or official to a published advisory opinion or established guidance contained in the District’s Ethics Manual or other reference source. Such informal advice or guidance need not be published in the District of Columbia Register and does not provide the employee with protections described in § 5405.3.

**CHAPTER 55 BOARD OF ETHICS AND GOVERNMENT
ACCOUNTABILITY: HEARING PROCEDURES**

5500 GENERAL PROVISIONS

- 5500.1 The provisions of this chapter shall govern the procedures of the Board of Ethics and Government Accountability when conducting adversarial hearings and other meetings pursuant to the authority set forth in the Government Ethics Act of 2011 (Act), Title II of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 et seq.) (2012 Supp.).
- 5500.2 In any conflict within this chapter between general and specific provisions, the specific provisions shall govern.
- 5500.3 In any conflict between this chapter and the D.C. Administrative Procedure Act, D.C. Official Code §§ 2-501 *et seq.* (2011 Repl.), the D.C. Administrative Procedure Act shall govern.
- 5500.4 The Director of Government Ethics (Director) shall issue, and from time to time revise, complaint forms and instructions to ensure presentation of adequate information required for the understanding and processing of complaints. All such materials shall be available on the Board's website.
- 5500.5 The Board may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

5501 COMPUTATION OF TIME

- 5501.1 In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included.
- 5501.2 The last day of the computed period shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday.
- 5501.3 When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation unless an applicable statute expressly provides otherwise.
- 5501.4 For the purposes of this chapter, "legal holiday" includes the following:
- (a) New Year's Day;
 - (b) Martin Luther King's Birthday;
 - (c) President's Day;

- (d) District of Columbia Emancipation Day;
- (e) Memorial Day;
- (f) Independence Day (4th of July);
- (g) Labor Day;
- (h) Columbus Day;
- (i) Veterans Day;
- (j) Thanksgiving Day;
- (k) Christmas Day; and
- (l) Any other day designated a legal holiday by the President of the United States or the District of Columbia government.

5501.5 When an act is required or allowed to be done at or within a specified time, the Board may at any time in its discretion and for cause shown, do either of the following:

- (a) With or without motion or notice, order the period enlarged, if a request for enlargement of time is made before the expiration of the period originally prescribed or as extended by a previous order; or
- (b) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect.

5502 NOTICE OF HEARINGS

5502.1 The parties shall be given sufficient opportunity to prepare for the hearing.

5502.2 The Board shall send a notice of hearing to the party or parties involved which shall:

- (a) Provide the time, date, and location of the hearing;
- (b) Reference applicable statutes, rules, or regulations;
- (c) State the purpose of the hearing;
- (d) Advise the party or parties that they may be represented by counsel or other representative of their choosing; and

- (e) Advise the party or parties that they may bring witnesses.

5503 APPEARANCES AND REPRESENTATION

- 5503.1 In a proceeding before the Board, any person or party may appear on his or her own behalf.
- 5503.2 Any person or party may be represented by any other person duly authorized in writing to do so.
- 5503.3 The authorization shall be on a form prescribed by the Board and shall state either that the individual is an attorney duly licensed to practice law in the District, or if not an attorney, that the authorization includes the power of the agent or representative to bind the person in the matter before the Board.
- 5503.4 If any person or party waives the right to be present at a hearing or fails to appear at a hearing, the Board may proceed ex parte, unless the Board extends the time of the hearing or unless the person's appearance is required by statute.

5504 SERVICE OF PAPERS

- 5504.1 Any paper required to be served upon a party shall be served upon him or her or upon the representative designated by him or her, or on any person otherwise designated by law to receive service of papers.
- 5504.2 When a party has appeared through an attorney or representative, service shall be made upon the attorney or representative of record.
- 5504.3 Service may be made by personal delivery, by mail, by email, or as otherwise authorized by law.
- 5504.4 Service upon a party shall be completed as follows:
 - (a) By personal delivery, on handing the paper to the person to be served, or leaving it at his or her office with his or her administrative assistant or time clerk or other person in charge or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if the office is closed or the person to be served has no office, by leaving it at his or her usual place of residence with some person of suitable age and discretion then residing in that place;
 - (b) By email, by sending the paper electronically to his or her District Government email address or to the email address of his or her attorney or representative as listed on the written appearance submitted pursuant to § 5503.

- (c) By mail, on deposit in the United States mail, properly stamped and addressed; or
- (d) Upon being served in the specific manner prescribed by an order of the Board made in any proceeding.

5504.5 Where there are numerous parties to a proceeding, by written order the Board may make special provisions regarding the service of papers.

5504.6 Proof of service, stating the name and address of the person on whom served and the manner and date of service, shall be shown for each document served.

5504.7 Proof of service may be made by any of the following means:

- (a) Written acknowledgment of the party served or his or her attorney of record;
- (b) The certificate of the attorney of record if he or she has made the service; or
- (c) The certificate of the person making the service.

5504.8 For the purposes of this chapter, the phrase "filing with the Board," means the actual delivery to, and physical receipt by, the Board of pleadings and other papers.

5504.9 All documents filed with the Board relating to a hearing or formal investigation shall bear a caption which identifies the subject of the investigation, the Board's case or reference number, and the title of the pleading or document.

5504.10 All documents filed with the Board shall be printed on letter-sized paper using a font no smaller than 12 point.

5505 RECORD OF MEETINGS AND HEARINGS

5505.1 All meetings whether open or closed shall be recorded by electronic means; provided, that if a recording is not feasible, detailed minutes of the meeting shall be kept.

5505.2 For all open meetings or hearings, copies of records shall be made available for public inspection according to the following schedule;

- (a) For a meeting, a copy of the minutes of a meeting shall be made available for public inspection as soon as practicable, but no later than 3 business days after the meeting.

- (b) For an adversarial hearing, a copy of the full record, including any recording or transcript, shall be made available for public inspection as soon as practicable, but no later than 7 business days after the meeting.
- (c) At the discretion of the Board, electronic recordings of the hearing may be posted on the Board's website.

- 5505.3 The minutes of Board meetings shall include the vote of each member of any ruling of the Board.
- 5505.4 Copies of the official transcript shall be available to parties and to the public upon payment to the Board of the charges fixed for the copies.
- 5505.5 Changes in the official transcript may be made only when they involve errors affecting substance and upon the filing of a motion by a party to correct a transcript with the Board.
- 5505.6 Copies of the motion to correct a transcript shall be served simultaneously on all opposing parties or legal representatives.
- 5505.7 Objections to the motion to correct a transcript shall be filed with the Board within five (5) days and served upon the parties.
- 5505.8 The transcript may be changed by the Board at a public meeting to reflect any corrections.

5506 MEETINGS AND HEARINGS

- 5506.1 Hearings shall be scheduled as needed for the purpose of receiving evidence and testimony on specific matters.
- 5506.2 Meetings and hearings shall be held at the time and place the Board or the Chairperson designates.
- 5506.3 A member absent at the decision meeting on any matter may cast an absentee vote only if the member attended all other of the meetings or hearings on a matter before Board.
- 5506.4 A member attending the decision meeting and having read the transcript and reviewed the complete record may vote even though that member may not have attended any or all of the prior meetings or hearings on a matter before the Board.

5507 EVIDENCE

- 5507.1 Evidence shall be taken in conformity with D.C. Official Code § 2-509(b) (2011 Repl.).

- 5507.2 The Board may permit rebuttal evidence.
- 5507.3 Any party objecting to the admissibility of evidence shall state the grounds of the objection(s) relied upon.
- 5507.4 A party may place on the record a statement summarizing any evidence excluded by the Board.
- 5507.5 If excluded evidence consists of documentary evidence, a copy of the evidence shall be marked for identification and shall constitute the offer of proof.
- 5507.6 The Board, in its discretion, may receive into evidence certified copies of documents in place of the originals.
- 5507.7 If a party is offering materials contained in a book or larger document, that party shall plainly designate the relevant portions. The remaining material contained in that book or document shall be excluded.
- 5507.8 No document or other writing shall be accepted for the record after the close of the hearing, except with the consent of the Board after due notice to the opposing parties and only when the receipt of the document will not unfairly affect the interest of a party.
- 5507.9 During an adversarial hearing under § 5517, witnesses may be examined or cross-examined by the Board, the Director, respondent, or any party so designated by the Board pursuant to this chapter.
- 5507.10 During a meeting to consider a rulemaking conducted under § 5520, witnesses may be examined only by the Board.
- 5507.11 The Board may admit hearsay evidence during an adversarial hearing if it determines it will be relevant and material to the resolution of any factual issue in dispute in the matter before the Board.

5508 COMMENCEMENT OF ADVERSARIAL HEARING

- 5508.1 An adversarial hearing before the Board shall be commenced by the filing of a written notice of violation in the name of the Board, which shall be signed by the Chairperson.
- 5508.2 The employee(s) or official(s) that is (are) the subject of the notice of violation shall be referred to as the Respondent(s) in the notice of violation.
- 5508.3 The Board may consolidate notice of violations if they relate to the same actions or events or raise common questions of law or fact.

5509 GENERAL RULES OF PLEADING

5509.1 A notice of violation shall contain the following:

- (a) A short and plain statement of the grounds upon which the Board's jurisdiction depends;
- (b) The full names, residence addresses, position, title, agency, and telephone numbers of the respondent;
- (c) A clear and concise statement of facts which are alleged to constitute a violation of the law;
- (d) A description of the respondent's right to a hearing and all procedural rights available to the respondent at the hearing;
- (e) A description of the applicable law and regulations that govern the disposition of the notice of violation should the respondent choose not to file a response or fail to appear at a scheduled hearing; and
- (f) The deadline for filing a response.

5509.2 A respondent shall file with the Board, and serve a copy upon the Director and any other respondents identified in the notice of violation, a response that states in short and plain terms his or her defenses to each violation alleged and shall admit or deny the averments upon which the notice of violation relies. A respondent shall serve his or her response within fifteen (15) days after the service of the notice of violation upon him or her.

5509.3 If a respondent is without knowledge or information sufficient to form a belief as to the truth of an averment, he or she shall so state. This statement shall have the effect of a denial.

5509.4 When a respondent intends in good faith to deny only a part of an allegation, he or she shall specify so much of the allegation as is true and shall deny only the remainder.

5509.5 A respondent may, unless he or she intends in good faith to controvert all the allegations of a pleading, deny as specific denials of designated allegations or paragraphs, or the respondent may generally deny all the allegations except the designated allegations or paragraphs as the respondent expressly admits.

5509.6 When a respondent intends to controvert all the allegations of the preceding pleading, including allegations of the grounds upon which the Board's jurisdiction depends, the respondent party may do so by general denial. If a respondent

chooses not to file a response, the Board shall treat such action as a general denial.

5509.7 A respondent shall raise any of the following defenses at the time he or she files a response:

- (a) Lack of jurisdiction over the subject matter;
- (b) Lack of jurisdiction over the person;
- (c) Insufficiency of process; or
- (d) Insufficiency of service of process.

5509.8 The Director shall file any opposition to a § 5509.7 defense raised by a respondent within ten (10) days after service of a response on the Board.

5509.9 No technical forms of pleadings or motions shall be required.

5509.10 The Board or respondent may set forth two (2) or more statements of a charge, challenge, or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses.

5510 SIGNING OF PLEADINGS

5510.1 Each pleading of a party represented by an attorney shall be signed by at least one (1) attorney of record in his or her individual name, and the attorney's address, email address, and telephone number shall be stated.

5510.2 A party who is not represented by an attorney shall sign each pleading and state his or her address, email address, and telephone number.

5510.3 Except when otherwise specifically provided by law, pleadings need not be verified or accompanied by affidavit.

5510.4 The signature of an attorney shall constitute a certificate by that attorney that he or she has read the pleading; that to the best of his or her knowledge, information, and belief there are grounds to support it; and that it is not interposed for delay.

5511 PRE-HEARING CONFERENCES AND DISCOVERY

5511.1 Prior to any scheduled adversarial hearing, the Board may require that the respondent or his or her attorney or representative appear for a pre-hearing conference with the Director to consider the following:

- (a) Simplification of the issues;

- (b) The necessity or desirability of amendments to the pleadings;
- (c) The possibility of obtaining the admission of facts and documents which will avoid unnecessary proof;
- (d) Limitation of the number of witnesses; and
- (e) Other matters which may aid in the disposition of the notice of violation.

5511.2 The Board may require the Director and the respondent(s) to submit a pre-hearing statement to the Board which recites the action taken at the conference, the amendments allowed to the pleadings by agreement of the parties, and the agreements made by the parties as to any of the matters considered which limit the issues for hearing to those issues not disposed of by admissions or agreements of counsel or parties.

5511.3 Upon the request of the respondent, the Director must disclose to the respondent and make available for inspection, copying, or photographing any relevant written or recorded statements made by the respondent and any books, papers, documents, photographs, tangible objects, or other evidence which is in the possession of the Director and which:

- (a) The Director intends to introduce at the hearing; or
- (b) Are material to the preparation of the respondent’s defense.

5511.4 Upon the request of the Director, the respondent must disclose to the Director and make available for inspection, copying or photographing any evidence that the respondent intends to introduce at the hearing.

5511.5 The Director and the respondent shall exchange a list of expected witnesses that may be called at the hearing.

5511.6 The disclosures required by §§ 5511.3, 5511.4, and 5511.5 shall be completed no later than ten (10) days in advance of the adversarial hearing.

5511.7 In its discretion, the Board may exclude the introduction of evidence or the testimony of witnesses that a party failed to disclose as required by §§ 5511.3, 5511.4, and 5511.5.

5511.8 The Board may issue a pre-hearing order concerning the timing and manner of discovery and any pretrial motions or orders.

5512 STIPULATIONS

- 5512.1 Apart from stipulations reached during or as a result of the pre-hearing conference, the parties may stipulate in writing at any stage in the proceeding or orally during the hearing any relevant fact or the contents or authenticity of any document.
- 5512.2 Post-conference stipulations may be received as evidence.
- 5512.3 Parties may also stipulate the procedure to be followed in the proceeding and such stipulation may, on motion of all parties, be approved by the Board and govern the conduct of the proceeding.

5513 CONTINUANCES

- 5513.1 A hearing scheduled to be conducted before the Board shall not be delayed by a continuance unless a motion for the continuance is made not less than five (5) days before the scheduled hearing date.
- 5513.2 A continuance shall not be granted unless the motion for continuance, in the Board's opinion, sets forth good and sufficient cause for the continuance.
- 5513.3 Conflicting engagements of counsel, absence of counsel, or the employment of new counsel shall not be regarded as sufficient cause for continuance unless set forth in a motion filed promptly after notice of the hearing has been given.

5514 NONAPPEARANCE OF PARTIES AND DEFAULTS

- 5514.1 The Board may wait a reasonable length of time for a party to appear before beginning a proceeding. After a reasonable time, however, if a party who has received notice has not appeared, the Chairperson may proceed as follows:
- (a) The Chairperson may proceed with the hearing, obtain the testimony of those persons present, and, on the basis of the testimony and the record, the Board may issue a decision in the case; or
 - (b) The Chairman, for good and sufficient cause, may postpone the hearing without taking testimony.

5515 RESERVED

5516 INTERPRETERS

- 5516.1 The Board shall ascertain before the hearing whether an interpreter will be required and make appropriate arrangements.
- 5516.2 An oath or affirmation shall be administered to the interpreter orally or in writing.

5517 SPECIFIC RULES OF HEARING PROCEDURE

- 5517.1 All parties shall have the right to produce evidence and witnesses on their behalf and to rebut or explain testimony or evidence against them.
- 5517.2 All parties have the right to cross-examine other parties and witnesses and to offer argument or explanation in support of their positions or contentions.
- 5517.3 A party may cross-examine any other party or person, except that the Board, through the Chairman, may rule a question out of order when it is irrelevant, immaterial, or unduly repetitious.
- 5517.4 Witnesses shall be examined and cross-examined orally under oath or affirmation.
- 5517.5 The order of procedure for presenting evidence at the hearing shall be as follows:
- (a) Call to order and opening statements by the Chairperson and members of the Board;
 - (b) Introductory statement by Director or staff;
 - (c) Consideration of pending motions and procedural matters;
 - (d) The Director's case;
 - (e) The respondent's case; and
 - (g) Any rebuttal offered by the Director.
- 5517.6 If there is more than one respondent, the respondents shall stipulate their order of presentation. If the respondents are unable to agree, the Chairperson shall set the order.
- 5517.7 In an adversarial hearing no decision or order of the Board shall be made except upon the exclusive record of the proceedings before the Board.

5518 BURDEN OF PROOF

- 5518.1 In all cases involving a notice of violation, the Director has the burden of persuading the Board that a violation has occurred by substantial evidence.
- 5518.2 The Director has the burden of producing evidence of a prima facie case that a respondent has committed a violation. Whenever a respondent asserts an affirmative defense to a notice of violation, the respondent will bear the burden of producing sufficient evidence to establish the affirmative defense.

5519 POST-HEARING PROCEDURES: GENERAL

- 5519.1 The record shall be closed at the end of the public hearing, except that the record may be kept open for a stated period for the receipt of specific exhibits, information, or legal briefs, as directed by the Board.
- 5519.2 Prior to filing the final decision, the Board may, on its own motion, reopen the record and require further hearing or briefing on designated issues before the Board.
- 5519.3 Notice of a further hearing along with a designation of issues shall be forwarded to any party who participated in the earlier proceedings, or his or her legal representative. Notice shall be given at least fourteen (14) days prior to the date set for further hearing.

5520 PROPOSED FINDINGS

- 5520.1 The Board may request parties to submit proposed findings of fact and conclusions of law for the consideration of the Board within the time as the Chairperson may direct.
- 5520.2 Copies of proposed findings and conclusions shall be served by each party upon all other parties.

5521 FINAL DECISION

- 5521.1 Within a reasonable time after the conclusion of the hearing, the Board shall render its decision setting forth findings of fact and conclusions of law and giving the reasons for the decision.
- 5521.2 There shall be a written decision setting forth findings of fact and conclusions of law and giving the reasons for the decision.
- 5521.3 The conclusions or opinion in the decision shall be governed by and based upon all the evidence adduced at the hearing.
- 5521.4 A decision shall be supported by substantial evidence on the record. Pursuant to the substantial evidence rule, courts shall uphold an administrative determination of fact if on the entire record the determination is rationally supportable and could have been arrived at reasonably.
- 5521.5 The decision shall include a description of any action(s) the Board takes pursuant to § 5402 (Disposition).
- 5521.6 The decision shall include an instruction that the respondent shall refer to § 5404 to determine the respondent's right to appeal.

5521.7 The decision shall be served promptly on all parties or their attorneys or representatives. In its discretion, the Board may announce its decision at a public hearing.

5522 RECONSIDERATION

5522.1 A motion for reconsideration, rehearing, or re-argument of a final decision in a contested case proceeding pursuant to § 5517 shall be filed by a party within ten (10) days of the order having become final. The motion shall be served upon all other parties. The Board shall not receive or consider any motion for reconsideration, rehearing, or re-argument of a final decision in a contested case proceeding that is filed prior to the order having become final.

5522.2 A motion for reconsideration, rehearing, or re-argument shall state specifically the respects in which the final decision is claimed to be erroneous, the grounds of the motion, and the relief sought.

5522.3 Within seven (7) days after a motion has been filed and served, any other party may file a response in opposition to or in support of the motion.

5522.4 Neither the filing nor the granting of the motion shall stay a decision unless the Board orders otherwise.

5522.5 A motion for reconsideration, rehearing, or re-argument shall not be a prerequisite to judicial review.

5523 SUBPOENAS AND DEPOSITIONS

5523.1 The Board may require by subpoena the attendance and testimony of witnesses and the production of documentary evidence.

5523.2 Each subpoena issued by the Board shall include the following:

- (a) The name of the respondent;
- (b) The title of the action;
- (c) A specification of the time allowed for compliance with the subpoena;
- (d) A command to the person to whom it is directed to attend and give testimony at a time and place specified in the subpoena; or
- (e) A command to the person to whom it is directed to produce and permit inspection and copying of the books, papers, documents, or tangible things designated in the subpoena.

- 5523.3 Any party may, by a written motion, request the Board to subpoena particular persons or evidence.
- 5523.4 A request for subpoena shall state the relevancy, materiality, and scope of the testimony or documentary evidence sought, including, as to documentary evidence, the identification of all documents desired and the facts to be proven by them in sufficient detail to indicate materiality and relevancy.
- 5523.5 Any person to whom a subpoena is directed may, prior to the time specified in the subpoena for compliance, request the Board to quash or modify the subpoena.
- 5523.6 Any application to quash a subpoena shall be accompanied by a brief statement of the reasons supporting the motion to quash.
- 5523.7 The Board may quash or modify the subpoena upon a showing of good cause.
- 5523.8 Upon written notice the Board may order testimony to be taken by deposition, before any person who is designated by the Board to administer oaths.

5524 SERVICE OF SUBPOENA OR NOTICE OF DEPOSITION

- 5524.1 A subpoena or notice of deposition may be served by any person who is not a party and is not less than eighteen (18) years of age. Service of a subpoena or notice upon a person named therein shall be made by delivering a copy of the subpoena to the person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States or the District of Columbia or an officer or agency thereof, fees and mileage need not be tendered.
- 5524.2 Witnesses are entitled to a witness fee of forty dollars (\$40) per day and the cost of public transportation to the proceeding or a mileage fee calculated at seventeen cents (17¢) per mile.
- 5524.3 Service of a subpoena or notice and fees to an individual may be made by any of the following means:
- (a) Handing the subpoena or notice to the person;
 - (b) Leaving the subpoena or notice at the person's District Government office with the person in charge of the office;
 - (c) Leaving the subpoena or notice at the person's dwelling place or usual place of abode with some person of suitable age and discretion then residing in that dwelling place or abode; or

- (d) Mailing the subpoena or notice by registered or certified mail to the person at the person's last known address.

5524.4 When the person to be served is not an individual, a copy of the subpoena or notice of the deposition and fees shall be delivered by one (1) of the following ways:

- (a) Handing the subpoena or notice to a registered agent for service;
- (b) Handing the subpoena or notice to any officer, director, or agent in charge of any office of that person; or
- (c) Mailing the subpoena or notice by registered or certified mail to the representative at his or her last known address.

5524.5 The individual serving a subpoena shall file with the Board a return of service setting forth the facts establishing proper service.

5524.6 The Board may, upon the failure by any person to obey a subpoena served upon that person, apply to the D.C. Superior Court for an order requiring the person to appear before the Board to give testimony, produce evidence, or both. If a person fails to obey the order without an adequate excuse, the Board may apply for an order that the person be held by the court for contempt.

5525 RULEMAKING HEARINGS

5525.1 At its discretion, the Board may from time to time schedule public hearings to obtain comment on a proposed rulemaking. The rules of procedure set forth in this section shall apply to rulemaking hearings.

5525.2 Any person may appear at a rulemaking hearing and may present, within the time limits determined by the Board, evidence, testimony, or argument that is relevant and not unduly repetitious.

5525.3 No person shall have the standing of a party in a rulemaking hearing.

5525.4 In those instances in which a petition for rulemaking has been filed with the Board by a member of the public pursuant to the District of Columbia Administrative Procedure Act, and where the Board in its discretion schedules a public hearing, the order of procedure at the hearing shall be as follows:

- (a) Call to order and opening statement by the Chairperson and Board members;

- (b) Introductory statement by the Director, General Counsel, or other staff designated by the Board;
- (c) Consideration of pending motions and procedural matters;
- (d) Petitioner's case;
- (e) Persons in support of the petition; and
- (f) Persons in opposition to the petition.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance, pursuant to the authority set forth in An Act to enable the District of Columbia to receive Federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code §1-307.02 (2006 Repl. & 2012 Supp.), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code §7-771.05(6)(2008 Repl.)), hereby gives notice of the adoption of an amendment to Section 927 of Title 29 of the District of Columbia Municipal Regulations (DCMR) entitled, "Change of Base Year for Hospital for Sick Children".

The Hospital for Sick Children (HSC) is reimbursed based upon a per diem rate rather than a per discharge basis. This reimbursement methodology is based upon the reasonable cost of providing care in accordance with the Medicare principles of reimbursement. This rulemaking will change the base year by which HSC will be reimbursed for inpatient hospital services. A base year and its corresponding operating costs are used for determining prospective Medicaid reimbursement rates. The HSC's 1998 base year will be replaced by the 2009 base year, effective July 1, 2012.

The corresponding amendment to the District of Columbia State Plan for Medical Assistance was approved by the Council of the District of Columbia on July 5, 2012 and approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) effective July 1, 2012.

A notice of proposed rulemaking was published in the *DC Register* on June 22, 2012 (59 DCR 007511). No comments were received and no substantive changes have been made. A change was made to codify the rules in Section 927 instead of Section 971. The Director adopted these rules on January 14, 2013. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 9 of Title 29 District of Columbia Municipal Regulations is amended to read as follows:

927 CHANGE OF BASE YEAR FOR HOSPITAL FOR SICK CHILDREN

927.1 For services rendered on or after July 1, 2012, the Hospital for Sick Children's Medicaid payment for inpatient hospital services is based upon the hospital's audited allowable cost per diem for the base year period defined as the hospital's fiscal year ending December 31, 2009.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF PROPOSED RULEMAKING**

The State Superintendent of Education, pursuant to the authority set forth in Section 3(b) of the District of Columbia State Education Office Establishment Act of 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602 (b)(11)(2011 Supp.)); pursuant to Section 504 of the Early Intervention Program Establishment Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code § 7-863.04 (2008 Repl.)); Part C of the Individuals with Disabilities Education Act, approved December 3, 2004 (P.L. 108-446, 118 Stat. 2648; 20 U.S.C. §§ 1400 - 1482 *et seq.*); and Mayor's Order 2009-167, dated September 28, 2009, hereby gives notice of the intent (i) to create a new Chapter 31, entitled "Early Intervention Program for Infants and Toddlers with Disabilities," within Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the District of Columbia Municipal Regulations (DCMR); (ii) to repeal in their entirety Sections 3027 (Standards for Payment of Early Intervention Services for Families of Children with Developmental Delay) and 3028 (Fees for Early Intervention Services) of Chapter 30 (Central Referral Bureau; Health Care Fees), Subtitle B (Public Health and Medicine), Title 22 (Health) of the DCMR; and (iii) to repeal Chapter 18 (Hearing Procedures for the Early Intervention Services Program) of Title 29 (Public Welfare) of the DCMR, in not less than sixty (60) days from the date of publication of this notice in the *D.C. Register*.

The purpose of this new Chapter 31 within Subtitle A of Title 5 DCMR is to establish standards for the District of Columbia Early Intervention Program for infants and toddlers with disabilities. Federal law requires states to ensure that appropriate early intervention services are made available to infants and toddlers from birth through age two (2).

The proposed rule: (i) establishes a District of Columbia state-level definition of developmental delay for determining eligibility for early intervention services; (ii) sets a timeframe for implementation of the state option to extend early intervention services to children from three (3) until the beginning of the first (1st) school year for which the child is eligible to attend a pre-k program; (iii) adopts a policy allowing parents to opt out of the disclosure of information about their child to the Office of the State Superintendent of Education as the state educational agency (SEA) and the local educational agency (i.e., the District of Columbia Public Schools), and (iv) memorializes current practice adopting the Individuals with Disabilities Education Act (IDEA) Part B due process hearing practice and procedures and a forty-five (45) day timeline for resolution of due process complaints.

The proposed rule adheres to the federal regulations on evaluations and assessment of a child but clarifies the procedures applicable to evaluations as distinct from assessments. The proposed rule establishes uniform rates for early intervention services and offers services to all eligible children in the District of Columbia without taking into account a family's income. The proposed rule would, upon adoption, repeal rules which are out-of-date and are superseded by these rules.

A prior version of this proposed rule was published in the *D.C. Register* on June 8, 2012, at 59 DCR 6649, initiating a sixty (60) day public comment period and providing notice of two public meetings. This version of the proposed rule incorporates revisions based on valuable comments received at the public meetings and during the written comment period. This rule is being

circulated for an additional sixty (60) day period, including an opportunity to submit written comments and attend two (2) public hearings scheduled for February 26, 2013, 5:30 p.m. to 7:00 p.m., and February 28, 2013, 10:00 a.m. to 11:30 a.m., each in the Grand Hall of the Office of the State Superintendent of Education, 3rd Floor, 810 1st Street, N.E., Washington, D.C. 20002.

Subtitle A (Office of the State Superintendent of Education) of Title A (Education) of the District of Columbia Municipal Regulations (DCMR) is amended by adding a new Chapter 31 (Early Intervention Program for Infants and Toddlers with Disabilities):

CHAPTER 31 EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES

3100 Availability of Early Intervention Services

3100.1 Appropriate early intervention services as defined in 34 C.F.R. § 303.13, that are based on scientifically based research to the extent practicable, shall be available to all infants and toddlers with disabilities and their families who are residents of the District of Columbia, including without limitation:

- (a) Infants and toddlers with disabilities who are homeless children and their families; and
- (b) Infants and toddlers with disabilities who are wards of the District of Columbia.

3101 Components of the Early Intervention Program

3101.1 In addition to ensuring the availability of appropriate early intervention services, the District of Columbia early intervention program shall have the following components:

- (a) A definition of developmental delay;
- (b) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the District of Columbia that meets the requirements of 34 C.F.R. § 303.321;
- (c) For infants or toddlers with a disability who are eligible for early intervention services, a family-directed identification of the needs of the family of the infant or toddler to assist appropriately in the development of the infant or toddler. The family-directed identification must meet the requirements of 34 C.F.R. § 303.321;
- (d) An Individualized Family Service Plan (IFSP), as defined in 34 C.F.R. § 303.20, is developed and implemented as required by 34 C.F.R. §§

303.340 - 303.345, and that includes service coordination services, as defined in 34 C.F.R. § 303.34;

- (e) A comprehensive child find system that meets the requirements of 34 C.F.R. §§ 303.302 and 303.303;
- (f) A public awareness program in accordance with 34 C.F.R. § 303.116;
- (g) A central directory in accordance with 34 C.F.R. § 303.117;
- (h) A comprehensive system of personnel development in accordance with 34 C.F.R. § 303.118;
- (i) Personnel standards in accordance with 34 C.F.R. § 303.119;
- (j) A single line of responsibility in the Lead Agency with responsibilities as set forth in 34 C.F.R. § 303.120;
- (k) A policy pertaining to the contracting or making of other arrangements with public or private individuals or agency service providers to provide early intervention services in the District of Columbia in accordance with 34 C.F.R. § 303.121;
- (l) Procedures for securing the timely reimbursement of funds used under part C of the Individuals with Disabilities Education Act (IDEA), approved December 3, 2004 (20 U.S.C. §§ 1400 – 1482, *et seq.*) in accordance with 34 C.F.R. § 303.122;
- (m) Procedural Safeguards that meet the requirements of 34 C.F.R. part 303, subpart E;
- (n) A system for compiling and reporting timely and accurate data in accordance with 34 C.F.R. § 303.124;
- (o) A State Interagency Coordinating Council that meets the requirements of 34 C.F.R. Part 303, subpart G;
- (p) Policies and procedures to ensure that early intervention services are provided in natural environments in accordance with 34 C.F.R. § 303.126; and,
- (q) Services available to children ages three (3) and older, in accordance with 34 C.F.R. § 303.211.

- 3102.1 The Lead Agency shall ensure that, subject to obtaining parental consent in accordance with 34 C.F.R. § 303.420(a)(2), each child under the age of three (3) who is referred for evaluation or early intervention services under Part C of IDEA and suspected of having a disability, receives a timely, comprehensive, multidisciplinary evaluation of the child in accordance with 34 C.F.R. § 303.321.
- 3102.2 In accordance with 34 C.F.R. § 303.321(a)(2)(i), evaluation means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under Part C of IDEA, consistent with the definition of infant or toddler with a disability in 34 C.F.R. § 303.21 and § 3108. An initial evaluation refers to the child's evaluation to determine his or her initial eligibility under Part C of IDEA.
- 3102.3 In accordance with 34 C.F.R. § 303.321(b), no single procedure shall be used as the sole criterion for determining an infant or toddler's eligibility for services under Part C of IDEA.
- 3102.4 In accordance with 34 C.F.R. § 303.321(b), the evaluation for an infant or toddler must include the following procedures:
- (a) Administering an evaluation instrument;
 - (b) Taking the infant or toddler's history (including interviewing the parent(s));
 - (c) Identifying the infant or toddler's level of functioning in each of the following developmental areas:
 - (1) Cognitive development;
 - (2) Physical development, including vision and hearing;
 - (3) Communication development;
 - (4) Social or emotional development; and
 - (5) Adaptive development.
 - (d) Gathering information from other sources such as family members, other care-givers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and
 - (e) Reviewing medical, educational, or other records.
- 3102.5 An infant or toddler's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) in accordance with 34 C.F.R. § 303.321 if those records indicate that the child's level of functioning in one (1) or more of the developmental areas identified in 34 C.F.R. § 303.21(a) (1) constitutes a developmental delay or that the child otherwise meets the criteria for

an infant or toddler with a disability under 34 C.F.R. § 303.21 and § 3108. If the child's Part C eligibility is established under this section, the Lead Agency or Early Intervention Service provider (EIS provider) must conduct assessments of the child and family in accordance with 34 C.F.R. § 303.321 and § 3103.

3102.6 If, based on the evaluation conducted under 34 C.F.R. § 303.321, the Lead Agency determines that a child is not eligible under Part C of IDEA, the Lead Agency must provide the parent with prior written notice required in 34 C.F.R. § 303.421 and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under 34 C.F.R. § 303.430 and § 3111, such as requesting a due process hearing or mediation or filing a state complaint.

3103 Assessment of the Child and Family

3103.1 In accordance with 34 C.F.R. § 303.321(a)(2)(ii) and (iii), assessment means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility under Part C of IDEA and includes the assessment of the child, consistent with 34 C.F.R. § 303.321(c)(1) and the assessment of the child's family, consistent with 34 C.F.R. § 303.321(c)(2). Initial assessment refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting.

3103.2 If an infant or toddler is determined eligible for early intervention services in accordance with 34 C.F.R. § 303.321, a multidisciplinary assessment of the unique strengths and needs of that infant or toddler and the identification of services appropriate to meet those needs must be conducted by qualified personnel. This assessment may occur simultaneously with the evaluation, provided that the requirements of this section are met. The assessment of the child must include the following:

- (a) A review of the results of the evaluation conducted under § 3102;
- (b) Personal observations of the child; and
- (c) The identification of the child's needs in each of the developmental areas in 34 C.F.R. § 303.21 and subsection 3108.1(b).

3103.3 If an infant or toddler is determined eligible in accordance with 34 C.F.R. § 303.321, a family-directed assessment must be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability. This assessment may occur simultaneously with the evaluation, provided that the requirements of this section are met. The family-directed assessment must:

- (a) Be voluntary on the part of each family member participating in the assessment;
- (b) Be based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment; and
- (c) Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

3104 Use of Native Language for Evaluations and Assessments

3104.1 All evaluations and assessments of a child shall be conducted in the language normally used by the child if determined developmentally appropriate for the child by the qualified personnel conducting the child's evaluation. If it is not developmentally appropriate to use the language normally used by the child, the evaluations and assessments shall be conducted in the family's native language unless it is clearly not feasible to do so. All family assessments must be conducted in the native language of the family member being assessed unless it is clearly not feasible to do so.

3105 Informed Clinical Opinion

3105.1 Qualified personnel must use informed clinical opinion when conducting an evaluation and assessment of the child. In addition, informed clinical opinion may be used as an independent basis for establishing a child's eligibility under Part C of IDEA if other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility under 34 C.F.R. § 303.321(b) and subsection 3102.4.

3106 Culturally Appropriate and Non-discriminatory Evaluations and Assessments

3106.1 All evaluations and assessments of the child and family shall be strength based, conducted by qualified personnel in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.

3107 Post-Referral Timeline

3107.1 Except as provided in 34 C.F.R. § 303.310(b) and subsection 3107.2, the initial evaluation and the initial assessments of the child and family under 34 C.F.R. § 303.321 and §§ 3102 and 3103 and the initial IFSP meeting under 34 C.F.R. § 303.342 must all be completed within forty-five (45) days from the date the Lead Agency receives the referral of the child.

- 3107.2 Subject to 34 C.F.R. § 303.310(c) and subsection 3107.3, the 45-day timeline described in 34 C.F.R. § 303.310(a) and subsection 3107.1 shall be extended to adjust for any period of time when:
- (a) The child or parent is unavailable to complete the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or
 - (b) The parent has not provided consent for the initial evaluation or the initial assessment of the child, despite documented, repeated attempts by the Lead Agency or EIS provider to obtain parental consent.
- 3107.3 The Lead Agency ensures that in the event the circumstances described in 34 C.F.R. §§ 303.310(b)(1) or (b)(2) and subsection 3107.2 exist, the Lead Agency or the EIS provider must:
- (a) Document in the child's early intervention records the exceptional family circumstances or repeated attempts by the Lead Agency or the EIS provider to obtain parental consent;
 - (b) Complete the initial evaluation, the initial assessments (of the child and family), and the initial IFSP meeting as soon as possible after the documented exceptional family circumstances described 34 C.F.R. § 303.310(b)(1) no longer exist or parental consent is obtained for the initial evaluation and the initial assessment of the child; and
 - (c) Develop and implement an interim IFSP, to the extent appropriate and consistent with 34 C.F.R. § 303.345.
- 3107.4 The initial family assessment must be conducted within the forty-five (45) day timeline in 34 C.F.R. § 303.310(a) and subsection 3107.1 if the parent concurs and even if other family members are unavailable.

3108 Child Eligibility for Services

- 3108.1 A child must be a resident of the District of Columbia in order to receive Part C early intervention services from the District of Columbia.
- 3108.2 A child is a resident of the District of Columbia if the child:
- (a) Is a ward of the District of Columbia;
 - (b) Lives with a natural parent, step parent, or adoptive parent who is a District of Columbia resident and has custody or control of a child, including joint custody; or,

- (c) Lives with a guardian, custodian, or other primary caregiver who is a resident of the District of Columbia.

3108.3

Pursuant to Part C IDEA regulations at 34 C.F.R. §§ 303.21 and 303.111, a child is eligible for District of Columbia Part C early intervention services if the child is between the age of birth and his/her third (3rd) birthday and any of the following apply:

- (a) The child demonstrates a delay of fifty (50%) percent, using appropriate diagnostic instruments and procedures, in one (1) of the following developmental areas:
 - (1) Physical development, including vision or hearing;
 - (2) Cognitive development;
 - (3) Communication development;
 - (4) Social or emotional development; or
 - (5) Adaptive development.
- (b) The child is diagnosed as having a physical or mental condition that has a high probability of resulting in developmental delay, including conditions such as chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.
- (c) In addition to the above criteria, effective July 1, 2013, the child demonstrates a delay of twenty-five (25%) percent, using appropriate diagnostic instruments and procedures, in two (2) or more of the following developmental areas:
 - (1) Physical development, including vision or hearing;
 - (2) Cognitive development;
 - (3) Communication development;
 - (4) Social or emotional development;
 - (5) Adaptive development

3109 Notification of Potential Eligibility Opt-Out Policy

- 3109.1 Consistent with 34 C.F.R. § 303.401, the Lead Agency shall notify the appropriate local education agency within the District of Columbia and the state education agency within the District of Columbia of personally identifying information for each child potentially eligible for Part B of the IDEA consistent with 34 C.F.R. § 303.401, 303.209(b), no later than the child's thirty-third (33rd) month, unless a parent has signed and submitted a written request to opt out of notifying the local education agency. The Lead Agency or Lead Agency representative must explain to parents that the information that will be released will include the following:
- (a) Child's name;
 - (b) Child's date of birth; and
 - (c) Parent contact information (including parents' names, addresses, and telephone numbers).
- 3109.2 Prior to sending notification to the local educational agency and the state education agency, the Lead Agency or Lead Agency representative will inform parents of rights afforded by IDEA Part C, including the right to eligibility determination for Part B services and the right to opt-out of having personally identifiable information shared with the local educational agency and the state educational agency. If a parent chooses to opt out, the written request must be signed and submitted to the Lead Agency no later than ten (10) days prior to the child reaching the age of two (2) years and three (3) months. If the child enters the program after the age of two (2) years and three (3) months, the parent may opt out within ten (10) days after the date that the parent provides written consent for services.
- 3109.3 The opt-out form shall become part of the child's early intervention record. A parent may revoke his or her choice to opt out at any time by providing written notification to the Lead Agency. The Lead Agency or Lead Agency representative will work with the family to make a referral to the appropriate local educational agency within ten (10) days of receiving notification of revocation.

3110 State Option to Make Services under Part C of IDEA Available to Children Ages Three (3) and Older

- 3110.1 Beginning on July 1, 2014, and in accordance with 34 C.F.R. § 303.211, a parent of a child with a disability who is eligible for preschool services under section 619 of Part B of IDEA and who previously received early intervention services under Part C of IDEA may choose the continuation of early intervention services under Part C for his or her child after the child turns three (3) subject to subsection 3110.2 below.

3110.2 The option to continue early intervention services under Part C of IDEA applies to children with disabilities from age three (3) until the beginning of the school year following the child's fourth (4th) birthday. In no case may services under this section be provided beyond the age at which the child actually enters, or is eligible under District of Columbia law to enter, kindergarten or elementary school in the District of Columbia.

3111 Procedural Safeguards

3111.1 The Lead Agency adopts the provisions on confidentiality in 34 C.F.R. §§ 303.401 through 303.417, parent consent and notice in 34 C.F.R. §§ 303.420 and 303.421, surrogate parents in 34 C.F.R. § 303.422, and dispute resolution procedures in 34 C.F.R. § 303.430.

3111.2 With respect to due process hearing procedures under 34 C.F.R. § 303.430(d), the Lead Agency adopts the Part B due process hearing procedures under section 615 of IDEA and §§ 303.440 - 303.449 with a forty-five (45) day timeline for resolving due process complaints, as provided in 34 C.F.R. § 303.440(c).

3112 Methods to Ensure the Provision of, and Financial Responsibility for, Part C Services

3112.1 The Lead Agency shall utilize interagency agreements between each state public agency and the Lead Agency in order to ensure:

- (a) The provision of, and establishing financial responsibility for, early intervention services provided under the IDEA and this chapter; and
- (b) Such services are consistent with the requirement in section 635 of the IDEA and the State's application under section 637 of the IDEA, including the provision of such services during the pendency of any dispute between state agencies.

3112.2 The Lead Agency shall utilize public insurance, such as Medicaid's Title XIX and the Early Periodic Screening Diagnosis and Treatment (EPSDT) program (42 U.S.C. § 1396), to the maximum extent possible.

3112.3 The D.C. Department of Health Care Finance shall ensure timely reimbursement for services provided in accordance with Part C services including but not limited to, service coordination, evaluation and assessment, and IFSP services.

3112.4 The Lead Agency and the D.C. Department of Health Care Finance shall identify policies and procedures for allocating financial responsibility for Early Intervention Services through an inter-agency agreement.

3112.5 Pursuant to 34 C.F.R. § 303.520(a), the Lead Agency shall obtain written parental consent to access public benefits or insurance to pay for Part C services.

3112.6 Pursuant to 34 C.F.R. §303.510(c), nothing in subsection 3113.2 shall permit a District of Columbia agency to reduce medical or other assistance available to children and families in the District of Columbia or to alter eligibility under Title V of the Social Security Act, 42 U.S.C. §§ 701, *et seq.* (SSA) or Title XIX of the SSA, 42 U.S.C. § 1396, including section 1903(a) of the SSA regarding medical assistance for services furnished to an infant or toddler with a disability when those services are included in the child’s IFSP adopted pursuant to part C of the IDEA.

3113 Early Intervention (EI) Services Rates

3113.1 The Lead Agency shall establish and publish on an annual basis, or more frequently if necessary, maximum rates to be paid for early intervention services consistent with this chapter.

3113.2 The following schedule shall be used to determine rate of payment for services in the Early Intervention Service Ssystem.

Services	Procedure Codes	Rate
Assistive Technology Services	DME Procedure Codes	Varies depending on code
Assessments for Service Planning	T1023 R1 (RC1)	\$37.50/15 min
	T1023 R2 (RC2)	\$28.50/ 15 min
Audiology	G0153 GP (group)	\$25.13/15 min
	G0153 R1 (individual RC1)	\$37.50/15 min
	G0153 R2 (individual RC2)	\$28.50/15 min
Developmental Therapy	T1027 R2 (individual RC2)	\$27.50/15 min
Developmental Therapy– Applied Behavioral Analysis Method	T1027 R1 (individual RC1)	\$31.25/15 min
	T1027 R2 (individual RC2)	\$27.50/15 min
	T1027 GP (group)	\$18.43/15 min
Group Therapy (two (2) or more children)	T1027 GP (group)	\$18.43/15 min
Nursing Services	G0154 U1 (individual)	\$37.50/15 min
	G0154 GP (group)	\$25.13/15 min
Nutrition Services	97802 R2 (initial)	\$30.41/15 min
	97803 R2 (subsequent)	\$26.49/15 min
	97804 R2 (group)	\$13.32/15 min
Occupational Therapy	G0152 U1 (individual)	\$37.50/15 min
	G0152 GP (group)	\$25.13/15 min
Social Work Services	90806	\$70.94/50 min
	90846	\$71.06/50 min
Psychological Services	90802	\$146.76/dx interview

	90804	\$54.06/30 min
	90806	\$70.94/50 min
	90808	\$103.32/80 min
	90810	\$55.23/30 min
	96111	\$108.22
Physical Therapy	G0151 U1 (individual RC1)	\$37.50/15 min
	G0151 U1 (individual RC2)	\$28.50/15 min
	G0151 GP (group)	\$25.13/15 min
Speech-Language Pathology	G0153 U1 (individual RC1)	\$37.50/15 min
	G0153 U1 (individual RC2)	\$28.50/15 min
	G0153 GP (group)	\$25.13/15 min
Team Treatment Activities (more than one professional providing services during same session for an individual child/family)	T1024 R1 (individual RC1)	\$37.50/15 min
Vision Services/Orientation & Mobility	V2799 R2 (individual R2)	\$37.50/15 min

*Reimbursement Category 1 (RC 1) providers are physical therapists, occupational therapists, speech-language pathologists, nurses (registered nurses or nurse practitioners), psychologists, board certified behavior analysts (BCBAs), audiologists, certified assistive technology specialists, and certified auditory verbal therapists or educators.

*Reimbursement Category 2 (RC 2) providers are physical therapy assistants, occupational therapy assistants, speech language pathology assistants, certified therapeutic recreational specialists, counselors, special educators, dietitians, family therapists, orientation and mobility specialists, social workers certified nurse aides, licensed practical nurses, ABA paraprofessionals, and board certified assistant behavior analysts (BCaBAs).

**Per professional.

3113.3 The Lead Agency may, in its sole discretion, adjust a rate specified in this chapter, based upon identification and documentation of unique or highly specialized need of a child that cannot be addressed and funded at the rates annually established by the Lead Agency.

3114 Availability of Resources

3114.1 In accordance with 34 C.F.R. § 303.207, the Lead Agency shall provide services to children in all geographic areas within the District of Columbia and require that all provider contracts include a provision that EIS providers must serve children from all geographic areas within the District of Columbia.

3115 Policy for Contracting or Otherwise Arranging for Services

3115.1 All service providers seeking payment for Part C services from the Lead Agency shall have a contract with the Lead Agency specifying terms and conditions at rates consistent with this chapter.

3115.2 The Lead Agency shall establish contracts with service providers who meet the personnel standards established pursuant to 34 C.F.R. § 303.119. The contracts must be consistent with the provisions of Part C of the IDEA including the contents of the application for federal funds required by 34 C.F.R. §§ 303.201 - 303.227.

3115.3 All contracts with the Lead Agency shall include a requirement that all early intervention services meet standards set by the Lead Agency and must be consistent with 34 C.F.R. Part 303 and the Education Department General Administrative Regulations in 34 C.F.R. Part 80.

3199 Definitions

3199.1 All terms used in this chapter shall be the same and conform to the definitions of such terms in the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1431, *et seq.* and all regulations set forth in 34 C.F.R. §§ 303.1 – 303.733. Several of these definitions are included herein for convenience.

Early intervention service provider or EIS provider - an entity (whether public, private, or nonprofit) or an individual that provides early intervention services under part C of the IDEA, whether or not the entity or individual receives Federal funds under part C of the IDEA, and may include, where appropriate, the Lead Agency and a public agency responsible for providing early intervention services to infants and toddlers with disabilities in the State under part C of the IDEA.

An EIS provider is responsible for: (1) Participating in the multidisciplinary individualized family service plan (IFSP) team's ongoing assessment of an infant or toddler with a disability and a family-directed assessment of the resources, priorities, and concerns of the infant's or toddler's family, as related to the needs of the infant or toddler, in the development of integrated goals and outcomes for the IFSP; (2) Providing early intervention services in accordance with the IFSP of the infant or toddler with a disability; and (3) Consulting with and training parents and others regarding the provision of the early intervention services described in the IFSP of the infant or toddler with a disability.

Individual Family Service Plan (IFSP) – a written plan for providing early intervention services to an infant or toddler with a disability, as defined in this chapter, and the infant's or toddler's family that:

- (a) Is based on an evaluation and assessment of the child and family, consistent with the requirements of 34 C.F.R. § 303.321;
- (b) Consistent with the requirements of 34 C.F.R. § 303.344, includes information about the child's present levels of development, information about the family, results or outcomes to be achieved, the early intervention services necessary to meet the needs of the child and family and, to the extent appropriate, the identification of other services that the child or family needs or is receiving through other sources;
- (c) Is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained, consistent with 34 C.F.R. § 303.420; and
- (d) Is developed in accordance with the IFSP procedures in 34 C.F.R. §§ 303.342, 303.343, and 303.345.

Infant or Toddler with a disability - an individual under three (3) years of age who needs early intervention services because the individual:

- (a) Is experiencing a developmental delay, as measured by appropriate diagnostic instruments and procedures, in one (1) or more of the following areas:
 - (1) Cognitive development;
 - (2) Physical development, including vision and hearing;
 - (3) Communication development;
 - (4) Social or emotional development;
 - (5) Adaptive development;
- (b) Has a diagnosed physical or mental condition that:
 - (1) Has a high probability of resulting in developmental delay; and
 - (2) Includes conditions such as chromosomal abnormalities; genetic or congenital disorders; sensory impairments; in-born errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment

disorders; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome: or

- (c) A child of a parent elects the extended IFSP option pursuant to this chapter.

Lead Agency - the Office of the State Superintendent of Education (OSSE), as the District of Columbia agency responsible for implementing a comprehensive system of early intervention services for infants and toddlers with disabilities and their families in conformance with District of Columbia law and federal law to ensure that all children with disabilities, ages birth through three (3) years of age have early intervention services available to them.

Parent - a biological or adoptive parent of a child, a guardian (but not the District of Columbia if the child is a ward of the District of Columbia), a person acting in the place of a parent (such as a grandparent or step-parent with whom the child lives, or a person who is legally responsible for the child's welfare), or a surrogate parent who has been appointed in accordance with 34 C.F.R. § 303.422 or section 639(a)(5) of IDEA. A foster parent may act as a parent if:

- (a) The natural parent's authority to make educational decisions on the child's behalf has been extinguished under applicable law; and
- (b) The foster parent has an ongoing, long-term parental relationship with the child, is willing to make educational decisions for the child as required under the IDEA and has no interest that conflicts with the interests of the child.

Section 3027 (Standards for Payment of Early Intervention Services for Families of Children with Developmental Delay) of Chapter 30 (Central Referral Bureau; Health Care Fees) of Subtitle B (Public Health and Medicine) of Title 22 (Health) of the DCMR is repealed in its entirety.

Section 3028 (Fees for Early Intervention Services) of Chapter 30 (Central Referral Bureau; Health Care Fees) of Subtitle B (Public Health and Medicine) of Title 22 (Health) of the DCMR is repealed in its entirety.

Chapter 18 (Hearing Procedures for the Early Intervention Services Program) of Title 29 (Public Welfare) of the DCMR is repealed in its entirety.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than sixty (60) days after the date of publication of this notice in the *D.C. Register* via email addressed to: ossecomments.proposedregulations@dc.gov; or by mail or hand delivery to the Office of the State Superintendent of Education, Attn: Jamai Deuberry re: "Early Intervention Services," 810 First Street, NE 9th Floor, Washington, DC 20002. [(202) 727-6436]. Additional copies of this rule are available from the above address and on the Office of the State Superintendent of Education website at www.osse.dc.gov.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Interim Director of the Department of Health, pursuant to the authority set forth in sections 302 (14) and 503(b) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1203.02 (14) and 3-1205.03(b)) (“Act”), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of his intent to adopt the following amendments to Chapter 82 (Physical Therapist Assistants) of Title 17 (Business, Occupations, and Professions) of the District of Columbia Municipal Regulations.

The purpose of these amendments is to clarify the requirements for applicants educated in foreign countries to prove their educational training is “substantially equivalent” to applicants who graduated from a professional physical therapy assistant education program accredited by an agency recognized for that purpose by the United States Department of Education, or which is approved by the Board of Physical Therapy, in accordance with section 504(j) of the Act (D.C. Official Code § 3-1205.04(j)(2)); and to limit the number of Continuing Education Units (CEUs) that may be accepted in any renewal period, or for reinstatement or reactivation of a license, for approved online courses, home study courses, video courses, telecourses, videoconferences, and teleconference activities, to fifteen (15) credit hours.

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

Chapter 82, PHYSICAL THERAPIST ASSISTANTS, of Title 17, BUSINESS, OCCUPATIONS, AND PROFESSIONS, is amended as follows:

A new Section 8203, APPLICANTS EDUCATED OUTSIDE OF THE UNITED STATES, is added to read as follows:

8203 APPLICANTS EDUCATED OUTSIDE OF THE UNITED STATES

- 8203.1 The Board may grant a license to practice as a physical therapist assistant to an applicant who has been educated outside of the United States if the applicant :
- (a) Provides proof from the Physical Therapist Assistant Educational Equivalency Review (PTA-EER) that the applicant’s education is substantially equivalent to the requirements of physical therapist assistants educated in an education program accredited in the United States;
 - (b) Passes the Board-approved English proficiency examination, if the applicant’s native language is not English; and
 - (c) Complies with the examination requirements of section 8204.

- 8203.2 A determination that the applicant’s education is “substantially equivalent” shall include the following findings:
- (a) The applicant graduated from a physical therapist assistant education program that prepares the applicant to engage without restriction in the practice of physical therapist assistance;
 - (b) Written proof that the applicant’s school is recognized by its own ministry of education or equivalent governmental authority; and
 - (c) Completion of a credentials evaluation as directed by a credentialing board or equivalent body that determines the candidate has met uniform criteria for educational requirements as further established by rule.

Section 8206, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

A new subsection 8206.5 is added to read as follows:

8206 CONTINUING EDUCATION REQUIREMENTS

8206.5 Beginning with the licensure period ending January 31, 2015, not more than one-half (1/2) of the total required number of Continuing Education Units (CEUs) may be accepted in any renewal period, or for reinstatement or reactivation of a license, for approved online courses, home study courses, video courses, telecourses, videoconferences, and teleconference activities.

The current subsections 8206.5-8206.12 are renumbered as 8206.6-8206.13.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Kenneth Campbell, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Administrative Assistant, at Angli.Black@dc.gov, (202) 442-5977.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2007 Repl.), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of proposed rulemaking action to adopt the following new Chapters 94 (Dialysis Technicians), 95 (Medication Aides), and 96 (Certified Nurse Assistants and Patient Care Technicians), to Title 17 (Business, Occupations and Professions) of the District of Columbia Municipal Regulations (DCMR).

These regulations are required pursuant to the Practice of Nursing Amendment Act of 2009, effective July 7, 2009 (D.C. Law 18-18; D.C. Official Code § 3-1201.01 *et seq.*). The purpose of these regulations is establish registration processes and training programs for dialysis technicians, medication aides, certified nurse assistants, and patient care technicians in the District of Columbia.

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

Title 17 (Business, Occupations and Professions) of the DCMR is amended as follows:

Chapter 94 (Dialysis Technicians) is added to read as follows:

CHAPTER 94 DIALYSIS TECHNICIANS

- 9400 GENERAL PROVISIONS
- 9401 REGISTRATION
- 9402 TERM OF REGISTRATION
- 9403 CRIMINAL BACKGROUND CHECK
- 9404 APPLICATION FOR REGISTRATION
- 9405 RESERVED
- 9406 REGISTRATION BY ENDORSEMENT
- 9407 RENEWAL OF REGISTRATION
- 9408 INACTIVE STATUS; REACTIVATION OF REGISTRATION
- 9409 REINSTATEMENT OF EXPIRED REGISTRATION
- 9410 RESERVED
- 9411 PERFORMANCE REVIEWS; CONTINUING EDUCATION OR IN-SERVICE
- 9412 RESERVED
- 9413 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS TO DIALYSIS TECHNICIANS
- 9414 RESERVED

- 9415 DIALYSIS TECHNICIAN TASKS
- 9416 RESERVED
- 9417 DISCIPLINE
- 9418 RESERVED
- 9419 RESERVED
- 9420 STANDARDS FOR DIALYSIS TECHNICIAN TRAINING PROGRAMS
- 9421 SUPERVISED PRACTICE OF DIALYSIS TECHNICIAN TRAINEES
- 9422 RESERVED
- 9423 RESERVED
- 9424 DIALYSIS TECHNICIAN PROGRAM APPROVAL PROCEDURES
- 9425 PERIODIC REVIEW OF APPROVED PROGRAMS
- 9426 RESERVED
- 9427 DIALYSIS TECHNICIAN TRAINING PROGRAM
- 9428 MINIMUM QUALIFICATIONS FOR DIALYSIS TECHNICIAN TRAINEES
- 9429 RESERVED
- 9430 CLOSING OF EDUCATION AND TRAINING PROGRAMS
- 9431 RECORDS RETENTION
- 9432 RESOURCES, FACILITIES, AND SERVICES
- 9499 DEFINITIONS

9400 GENERAL PROVISIONS

- 9400.1 This chapter applies to applicants for, and holders of, a registration to practice as a dialysis technician (DT).
- 9400.2 Chapter 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title shall supplement this chapter.

9401 REGISTRATION

- 9401.1 No person shall practice as a DT in the District of Columbia longer than eighteen (18) months without first being registered by the Board of Nursing (Board).
- 9401.2 A DT shall be certified pursuant to § 9404.1(d) and registered by the Board within eighteen (18) months of his or her hire date. If a DT who is not certified changes employment from one dialysis facility to another, the time he or she was employed in the first facility shall count towards the eighteen (18) month period for certification unless he or she had a gap in employment as a DT of more than eighteen (18) months.

9402 TERM OF REGISTRATION

- 9402.1 Subject to § 9401.1, a registration issued pursuant to this chapter shall expire at 11:59 a.m. of October 30 of each even-numbered year.

9402.2 The Director may modify the renewal system pursuant to § 4006.3 of chapter 40 of this title and may modify the date on which a registration expires.

9403 CRIMINAL BACKGROUND CHECK

9403.1 A person applying for registration as a DT shall undergo a criminal background check (CBC) prior to issuance of the registration.

9403.2 After issuance of an initial registration, the applicant shall undergo an additional background check every four (4) years or at another time interval as determined by the Department of Health.

9403.3 The applicant shall pay a fee for the CBC.

9403.4 The Board shall receive and review the results of a CBC of a person if, within the seven (7) years preceding the CBC, the person has been convicted in the District of Columbia, or in any state or territory of the United States where the person has worked or resided, of any of the following offenses or their equivalent:

- (a) Murder, attempted murder, or manslaughter;
- (b) Arson;
- (c) Assault, battery, assault and battery, assault with a dangerous weapon, mayhem or threats to do bodily harm;
- (d) Burglary;
- (e) Robbery;
- (f) Kidnapping;
- (g) Theft, fraud, forgery, extortion or blackmail;
- (h) Illegal use or possession of a firearm;
- (i) Trespass or injury to property;
- (j) Rape, sexual assault, sexual battery, or sexual abuse;
- (k) Child abuse or cruelty to children;
- (l) Adult abuse, neglect or exploitation; or

- (m) Unlawful distribution or possession with intent to distribute, of a controlled substance.

9404 APPLICATION FOR REGISTRATION

9404.1 Persons applying for registration as a DT shall:

- (a) Be at least eighteen (18) years of age;
- (b) Have graduated from high school or have a graduate equivalency diploma (GED);
- (c) Submit an application and application fee;
- (d) Submit evidence of current certification by one of the following:
 - (1) The Certified Clinical Hemodialysis Technician (CCHT) Examination offered by the Nephrology Nursing Certification Commission (NNCC);
 - (2) The Board of Nephrology Examiners for Nursing and Technology (BONENT) examination;
 - (3) The National Nephrology Certification Organization (NNCO) examination; or
 - (4) Other certification program recognized by the Centers for Medicare and Medicaid Services and the Board of Nursing.

9405 RESERVED

9406 REGISTRATION BY ENDORSEMENT

9406.1 An applicant for endorsement as a DT shall provide proof of the following:

- (a) That he or she is certified as a DT by a certifying body recognized by the Board; and
- (b) That the certification is, registration or licensure from another jurisdiction is unencumbered, if applicable.

9407 RENEWAL OF REGISTRATION

9407.1 An applicant for renewal shall have:

- (a) Completed at least twenty four (24) hours of continuing education in the area of dialysis or areas relevant to practice during the certification period;
- (b) Practiced for a minimum of one hundred (100) hours during the prior twenty-four (24) months as a DT under the supervision of a licensed nurse;
- (c) Held a current certification as DT; and
- (d) Completed a CBC as required.

9408 INACTIVE STATUS; REACTIVATION OF REGISTRATION

- 9408.1 A DT with an active certification may request to be placed on inactive status.
- 9408.2 While on inactive status, the individual shall not be subject to the renewal fee and shall not practice as a DT in the District of Columbia.
- 9408.3 To reactivate within five (5) years of an inactive status the individual shall submit evidence of having completed twenty-four (24) hours of continuing education or in-service training within the last twenty-four (24) months.

9409 REINSTATEMENT OF EXPIRED REGISTRATION

- 9409.1 If a DT fails to renew his or her registration, the Board shall reinstate the registration if the applicant:
 - (a) Applies to the Board for reinstatement of the registration within five (5) years after the registration expires;
 - (b) Provides evidence of current certification; and
 - (c) Provides evidence of having completed twelve (12) continuing education hours within the year prior to submission of an application
- 9409.2 If a DT does not hold a certification, registration or license in another jurisdiction and fails to apply for reinstatement within five (5) years after it expires, the applicant shall meet the requirements pursuant to § 9404.

9410 RESERVED

9411 PERFORMANCE REVIEWS; CONTINUING EDUCATION OR IN-SERVICE

- 9411.1 An employer shall complete a performance review of every DT at least once every twelve (12) months.
- 9411.2 The employer shall provide regular in-service education or continuing education based on the outcome of the performance review. The in-service education or continuing education shall:
 - (a) Be sufficient to ensure the continuing competence of the DT, but not less than twelve (12) hours per year; and
 - (b) Address areas of weakness as determined in the DT’s performance review and may address the special needs of clients as determined by the employer’s staff.
- 9411.3 In-service programs or continuing education provided for the dialysis technician shall be:
 - (a) Current in subject matter;
 - (b) Developed and taught by qualified individuals; and
 - (c) Relevant to the role of the DT.
- 9411.4 A minimum of two (2) hours of in-service or continuing education per year shall be required and shall include any Board mandated topics.

9412 RESERVED

9413 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS TO DIALYSIS TECHNICIANS

- 9413.1 A licensed nurse may delegate nursing care tasks to a DT.
- 9413.2 A DT shall not practice independently but shall work under the supervision of a licensed nurse.
- 9413.3 Dialysis tasks that may be delegated to a technician shall depend upon:
 - (a) The knowledge and skills of the DT;
 - (b) Verification of the clinical competence of the DT by the employing agency;
 - (c) The stability of the client’s condition that involves predictability, absence of risk of complication, and rate of change;

- (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices and channels of communication that lend support to the type of dialysis tasks, functions, or activities being delegated to a DT;
 - (2) The complexity and frequency of care needed by a given client population;
 - (3) The proximity of clients to staff;
 - (4) The number and qualifications of staff; and
 - (5) The accessibility of the licensed nurse or other licensed health professionals.

9413.4 Dialysis that inherently involves on-going assessment, interpretation or decision making that cannot be logically separated from the procedure(s) shall not be delegated to DT.

9414 RESERVED

9415 DIALYSIS TECHNICIAN TASKS

9415.1 Under the supervision of a licensed nurse, nurse practitioner, or physician, a DT may provide the following services:

- (a) Preparing and cannulation of peripheral access sites (arterial-venous fistulas and arterial-venous grafts);
- (b) Initiating, deliver or discontinue dialysis care;
- (c) Measuring and record temperature, pulse, respiration, and blood pressure when initiating, delivering, or discontinuing dialysis client care;
- (d) Administering the following medications only:
 - (1) Anticoagulants either to prime the pump, initiate treatment, or for administration throughout the treatment, in an amount prescribed by a licensed provider;
 - (2) Normal saline via the dialysis machine to correct dialysis induced hypotension based on the facility’s medical protocol, provided that amounts beyond that established in the facility’s medical protocol

shall not be administered without the direction from a registered nurse, nurse practitioner, physician, or physician assistant; and

(3) Intradermal anesthetics in an amount prescribed by a physician, physician’s assistant, or nurse practitioner.

(e) Assisting the registered nurse in data collection;

(f) Obtaining a blood specimen via a dialysis line or a peripheral access site;

(g) Responding to complications that arise in conjunction with dialysis care;

(h) Performing other acts, as delegated by the registered nurse, for which the DT is qualified;

(i) Initiating and discontinuing treatment via arterio-venous access; and

(j) Caring for a central venous catheter.

9415.2 The scope of practice of a DT shall not include:

(a) Dialysis care for a client whose condition is determined by the registered nurse to be critical, fluctuating, or unpredictable; and

(b) The administration of blood and blood products.

9415.3 A DT shall not take orders for dialysis treatment and shall not alter dialysis orders as prescribed by a nurse practitioner or physician.

9415.4 DTs, where appropriate, shall provide care based upon standing treatment protocols.

9416 RESERVED

9417 DISCIPLINE

9417.1 The Board may revoke, suspend, or deny the registration of any DT who is convicted during a period of registration, of any of the crimes listed in §9417.2 or any act specified in D.C. Official Code § 3-1205.14 (2012 Supp.).

9417.2 In addition to any other disciplinary action it may take, the Board may impose a civil penalty of not more than five thousand dollars (\$5,000) per violation or file a letter of concern if the Board believes there is insufficient evidence to support direct action against the DT.

- 9417.3 Grounds for denial, suspension, revocation or other discipline of a DT include, but are not limited to evidence of: including but not limited to:
- (a) Substance abuse or other chemical dependency;
 - (b) Client abandonment;
 - (c) Fraud or deceit, which may include but is not limited to:
 - (1) Filing false credentials;
 - (2) Falsely representing facts on an application for initial certification, reinstatement or renewal; or
 - (3) Giving or receiving assistance in taking the competency evaluation.
 - (d) Client neglect, abuse or misappropriation of funds;
 - (e) Boundary violations;
 - (f) Unsafe client care;
 - (g) Performing acts beyond the DT's range of functions or beyond those tasks delegated;
 - (h) Misappropriation or misuse of property;
 - (i) Criminal conviction;
 - (j) Failure to conform to acceptable standards of practice as a dialysis technician;
 - (k) Putting clients at risk of harm; or
 - (l) Violating the privacy or failing to maintain the confidentiality of client information.
- 9417.3 The Board shall maintain records of disciplinary actions.
- 9417.4 DTs who are unable to perform their duties due to drug or alcohol dependency or mental illness may utilize the services offered under the Nurse's Rehabilitation Program pursuant to D.C. Official Code §3-1251.01, et seq., (2012 Supp.).
- 9418 RESERVED**

9419 RESERVED**9420 STANDARDS FOR DIALYSIS TRAINING PROGRAMS**

9420.1 No institution shall provide DT training in the District of Columbia unless its training program has been approved by the Board.

9420.2 The following types of institutions may apply for approval to provide DT training:

- (a) Private degree-granting educational institutions that operate or are incorporated in the District of Columbia and are licensed by the Education Licensure Commission pursuant to the Educational Institution Licensure Act of 1976; (D.C. Law 1-104; D.C. Official Code § 38-1301, *et seq.* (2001 Ed. and 2012 Supp.));
- (b) Private non-degree-granting post secondary schools that operate in the District of Columbia and are licensed by the Education Licensure Commission;
- (c) District public universities or colleges; and
- (d) Health care facilities that are licensed and operate in the District of Columbia and that have received no adverse actions against them during the preceding two (2) years.

9420.3 The Board shall consider any one (1) of the following as an adverse action which would preclude a health care facility from providing DT training:

- (a) The termination, restriction, or revocation of a facility's participation in the Medicaid or Medicare program;
- (b) The fact that there is a restricted or provisional license for a facility, other than a new facility; or
- (c) The fact that a facility has a provider agreement of less than one (1) year.

9420.4 All DT training programs shall have adequate faculty, preceptors, and clinical facilities to provide supervised clinical experience with early, realistic exposure to job requirements. The clinical experience shall include the full range of skills needed in the workplace.

9421 SUPERVISED PRACTICE OF DIALYSIS TRAINEES

9421.1 A trainee or DT applicant may practice as a dialysis technician only in accordance with the Act and this chapter.

- 9421.2 A trainee who is fulfilling educational requirements under this chapter shall be authorized to engage in supervised practice as a DT trainee without a District of Columbia registration.
- 9421.3 A DT who has completed a training program may function as a DT trainee for the eighteen (18) month period prior to sitting for a certification examination, consistent with federal requirements and following the examination until the scores are received.
- 9421.4 All supervised practice of a trainee shall take place under immediate or direct supervision of a licensed nurse.
- 9421.5 A person who has been denied registration, disciplined, convicted of an offense that bears directly upon his or her fitness to be registered, or who has a disciplinary or criminal action pending in the District of Columbia or other jurisdiction shall not practice pursuant to this section unless first authorized to practice by the Board in writing.
- 9421.6 A trainee shall identify himself or herself as such before practicing as a DT. A trainee shall wear a picture identification badge with lettering clearly visible to the client bearing the name of the trainee and the position title.
- 9421.7 A trainee shall not receive compensation of any nature, directly or indirectly, from a client, or his or her family member.
- 9421.8 The supervising nurse shall be responsible for all practice by a trainee during the period of supervision and may be subject to disciplinary action for violations of the Act or this chapter by the trainee.

9422 RESERVED

9423 RESERVED

9424 DIALYSIS TECHNICIAN PROGRAM APPROVAL PROCEDURES

9424.1 Each institution applying for approval to provide DT training shall do the following:

- (a) Submit to the Board a statement of intent to establish a dialysis technician training program;
- (b) Submit to the Board an application for approval which provides information regarding the following:
 - (1) A statement of purpose;
 - (2) A statement of need for the training program in the District of

Columbia;

- (3) A description of the proposed program's potential effect on existing DT training programs in the area;
 - (4) The organizational structure of the institution showing the relationship of the proposed training program within the organization;
 - (5) The availability of qualified instructors;
 - (6) The number of budgeted instructor positions;
 - (7) The availability of adequate clinical facilities for the training program;
 - (8) The anticipated trainee population and tentative time schedule for planning and initiating the program; and
 - (9) Fee schedules.
- (c) Submit the application fee.

9424.2 After reviewing the application, based on the applicant’s compliance with §§ 9427 and 9432, a decision shall be made to:

- (a) Approve the application;
- (b) Defer approval if additional information is needed; or
- (c) Deny approval of the application.

9424.3 If an application approval has been granted, a site visit shall be conducted by the Board to determine the program’s compliance with § 9427 and the program’s ability to meet criteria set forth in §§ 9431 and 9432.

9424.4 After reviewing the site visit report, the Board shall vote to approve, deny, or defer program approval based upon resource, facility, or service concerns.

9424.5 A training program shall not admit trainees to the program before the program has been approved by the Board.

9425 PERIODIC REVIEWS OF APPROVED PROGRAMS

9425.1 Programs approved by the Board to train DTs shall submit to the Board an annual report in accordance with procedures set out by the Board.

9425.2 The Board shall re-evaluate DT training programs at least once a year.

- 9425.3 The Board may make unannounced visits to review and assess each DT training program to ensure that the program is in compliance with §§ 9427, 9431, and 9432.
- 9425.4 The Board shall assess each training program on the basis of visits to the facility, the progress of the training program, annual reporting, and any other information deemed appropriate by the Board.
- 9425.5 The Board shall withdraw approval of a training program if:
- (a) It determines that the program is not in compliance with standards set forth in §§ 9427, 9431, and 9432;
 - (b) The program does not permit an unannounced site visit;
 - (c) The institution loses its license from the Education Licensure Commission or has an adverse action which would preclude a health care facility from providing DT training; or
 - (d) The training program has not enrolled a DT class in at least twelve (12) months or more.
- 9425.6 If the training program does not meet the requirements for continued approval, the Board may grant conditional approval pending correction of the deficiencies, for the following reasons:
- (a) The program has not met or maintained the Board's regulatory requirements;
 - (b) The program has failed to correct the deficiencies identified by the Board within the allotted time period;
 - (c) The program has failed to hire a nurse administrator for a minimum of one-half (0.5) full-time equivalent (FTE) instructor positions who meets the Board's qualifications;
 - (d) The program fails to hire faculty who meet the Board's qualifications;
 - (e) The program has not complied with their objectives or policies;
 - (f) The program fails to implement the District-approved curriculum;
 - (g) The program fails to submit records and reports to the Board in a timely manner; or

- (h) The program is noncompliant with any of the regulations in this chapter, and other activities or situations, as determined by the Board that indicate the program is not meeting the legal requirements and standards of vocational education.

9425.7 Programs placed in conditional approval status may be required to comply with any or all of the following conditions:

- (a) Prohibit a program from admitting new students;
- (b) Require the program to limit student admissions;
- (c) Reduce the frequency of classes that are offered; or
- (d) Any other conditions deemed necessary by the Board to assure that the program meets the regulatory requirements of this chapter.

9425.8 Training program deficiencies sufficient to warrant withdrawal of approval shall include, but are not limited to:

- (a) Continued failure to fully implement the District-approved curriculum for the training program;
- (b) Continued failure to maintain an adequate number of instructors with required qualifications;
- (c) Continued failure of trainees to demonstrate adequate competencies upon employment;
- (d) Continued failure to adhere to the training program's stated objectives, and policies; or
- (e) Continued failure to maintain adequate resources, facilities, and services required to meet training objectives.

9425.9 The Board may consider reinstatement or approval of a training program upon submission of satisfactory evidence that the program meets the standards set forth in this chapter.

9425.10 The Board may investigate complaints made against a program and may conduct hearings in connection with such complaints.

9425.11 Any Board action for suspension or withdrawal of a training program's approval shall take place only upon notice to the program and the opportunity for a hearing in accordance with D.C. Official Code § 3-1205.14 (2012 Supp.).

9426 RESERVED

9427 DIALYSIS TECHNICIAN TRAINING PROGRAM

- 9427.1 The training program shall prepare the DT to perform Board approved core skills and the role-specific skills listed in §9415.
- 9427.2 The training program for a DT shall include a minimum of one hundred sixty two (162) hours of didactic instruction skills lab, and a minimum of two hundred and forty (240) hours of instruction in a clinical setting.
- 9427.3 Each training program's curriculum shall prepare trainees to practice as required in § 9415 prior to any direct contact with a client.
- 9427.4 Each training program shall report to the Board for approval of any proposed change in its curriculum prior to the implementation of the change.
- 9427.5 Each training program shall provide trainees with information on the policies governing admission, retention, dismissal, and the course requirements of the training program in writing.
- 9427.6 Each training program shall require testing and vaccination of applicants for communicable disease prior to admission.
- 9427.7 Each training program shall have a sufficient number of qualified instructors to meet the purposes and objectives of the program.
- 9427.8 The training program shall be coordinated by a registered nurse with:
- (a) A current, unencumbered District of Columbia license;
 - (b) At least two (2) years of experience as a registered nurse; and
 - (c) Clinical experience in the practice setting that he or she is coordinating.
- 9427.9 The program coordinator's responsibilities shall include, but not be limited to:
- (a) Ensuring that the curriculum is coordinated and implemented in accordance with this chapter;
 - (b) Establishing job descriptions stating the responsibilities of the instructors;
 - (c) Ensuring that each instructor meets the qualifications specified in this chapter;
 - (d) Ensuring that each student is properly supervised during the student's clinical experience; and

- (e) Ensuring that each clinical preceptor evaluates the student's performance and provides the evaluation results to the clinical instructor.
- 9427.10 The training for DTs shall be performed by a registered nurse licensed in the District of Columbia who has a minimum of two (2) years of current clinical experience as a renal dialysis nurse.
- 9427.11 A licensed, qualified health professional as listed in D.C. Official Code § 3-1201.02 (2012 Supp.) who has a minimum of two (2) years of experience may participate in DT training in non-client care related content.
- 9427.12 The following conditions shall be met when clinical preceptors are used:
 - (a) The criteria for selecting a clinical preceptor shall be in writing and shall include the following:
 - (1) The method of selecting clinical preceptors;
 - (2) The plans for orientation of clinical preceptors;
 - (3) The clinical objectives or outcomes of the preceptorship; and
 - (4) A system for monitoring and evaluating the preceptor's learning experiences.
- 9427.13 There shall be a written agreement between the preceptor and the training program specifying the following:
 - (a) The clinical objectives or outcomes; and
 - (b) The system used for monitoring and evaluating the trainee's learning experiences.
- 9427.14 The clinical instructor shall:
 - (a) Retain responsibility for the trainee's learning experiences and meet periodically with the clinical preceptor and the trainee to monitor and evaluate the trainee's learning experiences; and
 - (b) Be readily available, either directly or by a communication device, when preceptors are in the clinical area.
- 9427.15 The clinical preceptor shall have:
 - (a) A minimum of two (2) years of experience as a licensed nurse or certified DT;

- (b) Experience providing direct client care during the five (5) years immediately preceding the date of the written agreement between the preceptor and the training program;
- (c) A philosophy of health care congruent with that of the dialysis technician program; and
- (d) Current knowledge of practice at the DT level.

- 9427.16 Each clinical instructor and preceptor shall be licensed or certified in the District of Columbia.
- 9427.17 Clinical instruction shall be offered in a facility that provides dialysis services.
- 9427.18 The ratio of clinical instructors to trainees in clinical areas involving direct care of clients shall:
- (a) Be based upon the client acuity level, skill level of the trainee, and the clinical setting; and
 - (b) Not exceed one (1) instructor or preceptor to two (2) trainees.
- 9427.19 Each clinical instructor and preceptor's qualifications shall be documented in the official records of the program and shall be available for review by the Board.
- 9427.20 Each clinical instructor shall be responsible for:
- (a) Assisting in the development, implementation, and evaluation of the objectives of the training program;
 - (b) Helping to implement and evaluate the curriculum;
 - (c) Facilitating preceptor participation in the program and evaluating the progress and retention of preceptors in the program;
 - (d) Giving guidance to preceptors;
 - (e) Evaluating preceptor achievement in the program;
 - (f) Providing for preceptor and peer evaluation of his or her teaching effectiveness; and
 - (g) Participating in continuing nursing education programs to improve his or her competence in areas of responsibilities.

**9428 MINIMUM QUALIFITICATIONS FOR DIALYSIS TECHNICIAN
 TRAINEES**

- 9428.1 Each trainee shall be a high school graduate or have completed a graduate equivalency diploma program.
- 9428.2 Each trainee shall be required to take a pre-admission examination to assess reading, writing, and math skills prior to enrollment in a training program.

9429 RESERVED

9430 CLOSING OF EDUCATION AND TRAINING PROGRAMS

- 9430.1 Each DT training program that voluntarily closes shall:
 - (a) As early as possible, notify the Board, in writing, of the intended closing, stating the reason(s) for and planned date of the intended closing;
 - (b) Continue the training program until the committed class scheduled for currently enrolled trainees is completed; and
 - (c) Notify the Board of the final closing date at least thirty (30) days before the final closing.
- 9430.2 If the Board denies or withdraws approval of a training program, the institution shall:
 - (a) Close the program on the date provided by the Board;
 - (b) Submit to the Board a list of all program graduates and all current trainees transferred to approved programs and dates of transfer; and
 - (c) Comply with the requirements of all applicable rules and notify the Board that the requirements have been fulfilled.

9431 RECORDS RETENTION

- 9431.1 Each DT training program shall maintain an accurate and appropriate system of record keeping.
- 9431.2 Each DT training program shall ensure that administrative and personnel records are protected against loss, destruction, and unauthorized review.
- 9431.3 A record for each trainee shall be maintained by the facility and shall include the trainee’s evaluation and health information.

- 9431.4 Each instructor's personnel records shall be maintained by the facility and shall include application data, qualifications, and position description.
- 9431.5 All records shall be maintained by the DT training program for a minimum of five (5) years.

9432 RESOURCES, FACILITIES, AND SERVICES

- 9432.1 Each DT training program shall maintain resources, facilities, and services which are adequate to accommodate the training program. The resources, facilities, and services shall include, but are not limited to:
- (a) Adequate temperature controls in each training facility;
 - (b) Clean and safe conditions of the facility's premises;
 - (c) Adequate space to accommodate faculty;
 - (d) Adequate lighting in each facility; and
 - (e) Sufficient and adequate equipment for the program's needs, including audio-visual equipment and equipment needed for simulating client care.
- 9432.2 Each classroom, conference room, laboratory, and office shall be adequate to meet the needs of the DT training program.
- 9432.3 Each cooperative agreement between a DT training program and a facility shall be in writing. The training program shall maintain a copy of the agreement in its records.

9499 DEFINITIONS

- 9499.1 As used in this chapter, the following terms shall have the meanings ascribed:

Abuse – Any willful or reckless act or omission by a DT that causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to, physical or emotional injury, death, or financial exploitation of a client.

Activities of daily living - Self-care activities which a person performs independently, when able, to sustain personal needs or to participate in society.

Applicant - A person applying for a registration to practice as a DT.

Board - The Board of Nursing, established by § 204, D.C. Law 6-99, D.C. Official Code § 3-1202.04 (1985).

Boundary violation: Non-therapeutic relationships that are formed between a

DT and a client in which the DT derives a benefit at the client's expense.

Clinical - Faculty planned and guided learning activities designed to assist preceptors in meeting course objectives and to apply nursing knowledge and skills in the direct care of clients, including clinical conferences and planned learning activities in acute care facilities, and other community resources. Clinical shall not include skills lab activities.

Clinical preceptor - An individual meeting the requirements of this chapter that is an employee of a clinical agency who works with a trainee in a clinical setting to facilitate student learning in a manner specified in a signed written agreement between the agency and the educational institution.

Clinical preceptorship - An organized system of clinical experiences which allows a DT trainee to be paired with a clinical preceptor for the purpose of attaining specific learning objectives.

Conditional approval - The approval status that is granted for a time period, specified by the Board, to a DT training program to correct deficiencies when the program has failed to meet or maintain the requirements and standards of this chapter.

Direct supervision - Supervision in which the supervisor is physically present and accessible in the immediate client area and is available to intervene if necessary.

Endorsement - The process of issuing a certification to a DT applicant who is registered by a state board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent at the time of the certification to the standards for that profession set forth in this chapter and who has continually remained in good standing with the Board from the date of certification until the date of certification in the District.

Immediate supervision - Supervision in which the supervisor is on the premises and within vocal communication, either directly or by communication device.

In-service – Learning experiences provided in the work setting for the purpose of assisting staff members in performing their assigned functions in that particular agency or institution; and consists of activities intended to assist the DT to acquire, maintain, or increase competence in fulfilling the assigned responsibilities specific to the expectations of the employer.

Neglect –Any act or omission by a home health aide which causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to the injury, death, or financial exploitation of a consumer.

Reinstatement –Reissuance of an expired DT registration.

9499.2 The definitions in § 4099 of chapter 40 of this title are incorporated by reference into, and are applicable to, this chapter.

Chapter 95 (Medication Aide-Certified) is added to read as follows:

CHAPTER 95 MEDICATION AIDE-CERTIFIED

9500	GENERAL PROVISIONS
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9503	CRIMINAL BACKGROUND CHECK
9504	APPLICATION FOR CERTIFICATION
9505	CERTIFICATION BY EXAMINATION
9506	CERTIFIED MEDICATION AIDE ENDORSEMENT
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9520	STANDARDS FOR MEDICATION AIDE TRAINING PROGRAMS
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9599	DEFINITIONS

9500 GENERAL PROVISIONS

9500.1 This chapter applies to applicants for, and holders of, a certification to practice as a medication aide.

9500.2 Chapter 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title shall supplement this chapter.

9501 CERTIFICATION

9501.1 No person shall practice as a medication aide in the District of Columbia without first being certified by the Board of Nursing (Board).

9502 TERM OF CERTIFICATION

9502.1 Subject to § 9501.1, a medication aide certification issued pursuant to this chapter shall expire at 11:59 on October 30 of each odd-numbered year for medication aides.

9502.2 The Director may modify the renewal system pursuant to § 4006.3 of chapter 40 of this title and may modify the date on which a certification expires.

9503 CRIMINAL BACKGROUND CHECK

9503.1 A person applying for certification as a medication aide shall undergo a criminal background check (CBC) prior to issuance of the certification.

9503.2 After issuance of an initial certification, the applicant shall undergo an additional CBC every four (4) years or as determined by the Department of Health.

9503.3 The applicant shall pay a fee for the CBC.

9503.4 The Board shall receive and review the results of a CBC of a person if, within the seven (7) years preceding the CBC, the person has been convicted in the District of Columbia, or in any state or territory of the United States where the person has worked or resided, of any of the following offenses or their equivalent:

- (a) Murder, attempted murder, or manslaughter;
- (b) Arson;
- (c) Assault, battery, assault and battery, assault with a dangerous weapon, mayhem or threats to do bodily harm;
- (d) Burglary;
- (e) Robbery;
- (f) Kidnapping;

- (g) Theft, fraud, forgery, extortion or blackmail;
- (h) Illegal use or possession of a firearm;
- (i) Trespass or injury to property;
- (j) Rape, sexual assault, sexual battery, or sexual abuse;
- (k) Child abuse or cruelty to children;
- (l) Adult abuse, neglect or exploitation; or
- (m) Unlawful distribution or possession with intent to distribute, of a controlled substance.

9504 APPLICATION FOR CERTIFICATION

9504.1 Persons applying for certification as a medication aide shall:

- (a) Be at least eighteen (18) years of age;
- (b) Provide evidence of having completed an approved medication aide course;
- (d) Meet the requirements of § 9503;
- (d) Submit a completed application to the Board;
- (e) Submit any other documents that may be required by the Board; and
- (f) Pay all required fees.

9504.2 An application that remains incomplete for ninety (90) days or more from the date of submission shall be considered abandoned, and closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for licensure, and pay the required fees.

9505 CERTIFICATION BY EXAMINATION

To qualify for certification by examination a medication aide applicant shall pass the National Council of Boards of Nursing’s (NCSBN) Medication Aide Certification Exam (MACE); and

9505.1 To apply for authorization to take a medication aide examination an applicant shall provide proof of successful completion within the past six (6) month of a

medication aide course with standards determined by the Board to be comparative to the standards in the District of Columbia.

9505.3 Applicants shall take the certification examination not later than ninety (90) days following submission of the application. The Board may, in its discretion, grant an extension of the time requirement if the applicant's failure to sit for the examination was for good cause. As used in this section "good cause" includes the following:

- (a) Serious and protracted illness of the applicant; or
- (b) The death or serious and protracted illness of a member of the applicant's immediate family.

9505.4 To request special accommodations for an examination, an applicant shall submit in writing, the following information:

- (a) A letter from the appropriate health professional which confirms the disability and provides information describing the accommodations required; and
- (b) A letter from the candidate's education program, indicating what modifications were granted by the program.

9505.5 If an applicant has not taken or passed the MACE for more than one (1) year after the date the applicant becomes eligible to apply to take the examination, the applicant shall provide evidence of completion of a new training program.

9505.6 Persons completing course work which includes medication administration and pharmacology from a registered nurse or practical nurse program may request a waiver from the medication aide examination and shall comply with § 9504.1.

9506 CERTIFIED MEDICATION AIDE ENDORSEMENT

9506.1 An applicant for (MA-C) endorsement shall submit proof of:

- (a) Having completed a comparable medication aide course in another jurisdiction;
- (b) Current certification, registration or licensure as a certified medication aide or its equivalent;
- (c) Having passed the MACE or other medication aide examination accepted by the Board; and
- (d) Having met the requirements of § 9504.

9507 RENEWAL OF CERTIFICATION

- 9507.1 Renewal applicants shall provide verification of completion of twelve (12) hours per year, twenty-four (24) hours total of in-service training or continuing education.
- 9507.2 Pursuant to § 9507.1 six (6) of the twenty four (24) in-service or continuing education hours shall include pharmacology or medication administration.
- 9507.3 A minimum of two (2) hours of in-service or continuing education shall include any Board mandated topics.
- 9507.4 MA-Cs who have another active District of Columbia certification as nursing assistive personnel (NAP) may apply continuing education hours to all NAP renewal requirements.
- 9507.5 Applications will be subject to audit to assure compliance with the above requirements.

9508 INACTIVE STATUS; REACTIVATION OF CERTIFICATION

- 9508.1 MA-C with an active certification may request to be placed on inactive status.
- 9508.2 While on inactive status, the individual shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice as a MA-C in the District of Columbia.
- 9508.3 To reactivate an inactive status:
 - (a) An applicant whose status has been inactive for less than five (5) years shall provide verification of Board-approved twenty four (24) hours in-service training or continuing education in pharmacology or medication administration, completed within the last twenty four (24) months;
 - (b) An applicant whose status has been inactive for more than five (5) years shall meet the requirements of §§ 9505 or 9506.

9509 REINSTATEMENT OF EXPIRED CERTIFICATION

- 9509.1 If a MA-C fails to renew his or her certification, the Board shall reinstate the certification if the applicant:
 - (a) Applies to the Board for reinstatement of the certification within five (5) years after the certification expires; and
 - (b) Provides evidence of having completed twenty four (24) continuing

education hours within the past two (2) years prior to submission of an application;

9509.2 If a MA-C fails to apply for reinstatement within five (5) years after the certification expires, the Board may reinstate the certification if the applicant provides proof of the following:

- (a) Having a current certification in another jurisdiction approved by the Board; or
- (b) Having practiced for a minimum of one hundred (100) hours within the last twenty-four (24) months under the supervision of a licensed nurse.

9509.3 If a MA-C does not hold a certification in another jurisdiction and fails to apply for reinstatement within five (5) years after his or her certification expires, the applicant shall meet the requirements for certification pursuant to § 9505.

9510 RESERVED

9511 RESERVED

9512 RESERVED

9513 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS TO MEDICATION AIDES

9513.1 A licensed nurse may delegate a task to an MA-C if the task is appropriate to the level of knowledge and skill of the MA-C and is within the scope of authorized tasks of an MA-C.

9513.2 MA-C's shall not practice independently but shall work under the supervision of a licensed nurse.

9513.3 The delegation shall comply with the standards for delegation listed in 17 DCMR §§ 5400 and 5500.

9513.4 Nursing care tasks that may be delegated shall be determined by:

- (a) The knowledge and skills of the MA-C;
- (b) Verification of the clinical competence of the MA-C by the employing agency;
- (c) The stability of the client's condition, including factors such as predictability, absence of risk of complication, and rate of change; and

- (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices, and channels of communication that lend support to the type of nursing tasks being delegated to the MA-C;
 - (2) The complexity and frequency of care needed by a given client population; and
 - (3) The accessibility of a licensed nurse.

9513.4 The MA-C shall not perform a task involving the administration of medication if:

- (a) The medication administration requires a calculation of the dosage of the medication or the conversion of the dosage;
- (b) The supervising nurse is unavailable either in person or by telephone to monitor the progress of the client and the effect on the client of a medication;
- (c) The client is not stable or has changing health care needs; or
- (d) The MA-C has not been prepared by training to perform the delegated task.

9513.5 The MA-C shall immediately inform the delegating nurse if the MA-C is unable to perform a delegated task.

9514 RESERVED

9515 MEDICATION AIDE TASKS

9515.1 Under the supervision of a licensed nurse the MA-C may perform the following tasks:

- (a) Perform personal care including bathing, grooming, and assistance with toileting or bedpan use;
- (b) Assist the client with transfer, ambulation, and exercise as prescribed;
- (c) Observe, record, and report the client’s physical condition, behavior, or appearance;
- (d) Assist with eating;

- (e) Measure and record height and weight;
- (f) Implement universal precautions to assure infection control;
- (g) Perform tasks related to keeping the client's living area in a condition that promotes the client's health and comfort;
- (h) Assist the client with activities that are directly supportive of skilled therapy services; and
- (i) Communicate with clients who have cognitive impairment, sensory deficits or impairments, communication limitations, agitation or combativeness

9515.2 In addition to the tasks in § 9515.1, under the supervision of a licensed nurse the MA-C may perform the following tasks:

- (a) Administering medication in emergency or life-threatening circumstances
- (b) Conducting a fingerstick blood glucose test with a physician's, nurse practitioner's or physician assistant's order which shall indicate:
 - (1) The daily frequency for finger sticks;
 - (2) The normal blood sugar range;
 - (3) The values outside the range that requires notification to the nurse; and
 - (4) The parameters for when to contact emergency services.
- (c) Reporting of symptoms or side effects;
- (d) Administering unit dose insulin;
- (e) Administering oral medications;
- (f) Administering medication via eye, ear, or nose;
- (g) Administering of medication via suppository;
- (h) Administering topical medications and medicated shampoos;
- (i) Reporting of symptoms or side effects; and

- (j) Documenting medication administration or omissions on medication administration record

9516 REPORTING REQUIREMENTS

9516.1 Based on agency or facility policies, the MA-C shall document in the medication record, ordered medications that have been administered, withheld, or omitted.

9516.2 The MA-C shall:

- (a) Report the following to the supervising nurse:
 - (1) Signs or symptoms that appear life threatening;
 - (2) Events that appear health threatening; and
 - (3) Medications that produce no results or undesirable effects as reported by the client.
- (b) Notify a nurse prior to the administration of prescribed PRN (as needed) medications;
- (c) Be personally responsible and accountable for all actions taken when implementing delegated tasks;
- (d) Comply with laws, policies and procedures applicable to the setting in which the MA-C is administering medication; and
- (e) Performs tasks only in situations where licensed nurse supervision is available.

9517 DISCIPLINE

9517.1 The Board may revoke, suspend, or deny registration of any MA-C who is convicted during a period of time in which he or she is registered, of any of the crimes listed in § 9417.2 or any act specified in D.C. Official Code § 3-1205.14 (2012 Supp.).

9517.2 In addition to any other disciplinary action it may take, the Board may impose a civil penalty of not more than five thousand dollars (\$5,000) per violation or file a letter of concern if the Board believes there is insufficient evidence to support direct action against the MA-C.

9517.3 Grounds for discipline of an MA-C include, but are not limited to:

- (a) Substance abuse or other chemical dependency;

- (b) Client abandonment;
- (c) Fraud or deceit, which may include but is not limited to:
 - (1) Filing false credentials;
 - (2) Falsely representing facts on an application for initial certification, reinstatement or renew; or
 - (3) Giving or receiving assistance in taking the competency evaluation;
- (d) Client neglect, abuse or misappropriation of funds;
- (e) Boundary violations;
- (f) Unsafe client care;
- (g) Performing acts beyond the DT’s range of functions or beyond those tasks delegated;
- (h) Misappropriating or misusing property;
- (i) Criminal conviction;
- (j) Failure to conform to acceptable standards of practice as a dialysis technician;
- (k) Putting clients at risk of harm; or
- (l) Violating the privacy or failing to maintain the confidentiality of client information;

9517.4 The Board shall maintain records of disciplinary actions.

9517.5 MA-C’s who are unable to perform their duties due to drug or alcohol dependency or mental illness may utilize the services offered under the Nurse’s Rehabilitation Program pursuant to D.C. Official Code §3-1251.01, et seq.

9518 RESERVED

9519 RESERVED

9520 STANDARDS FOR MEDICATION AIDE TRAINING PROGRAMS

- 9520.1 Each institution authorized to provide MA-C training shall be approved by the Board.
- 9520.2 The following types of institutions may apply for approval to provide MA-C training:
- (a) Private, degree-granting educational institutions operating or incorporated in the District of Columbia which are licensed by the Education Licensure Commission pursuant to the Educational Institution Licensure Act of 1976(D.C. Law 1-104; D.C. Official Code § 38-1601, et seq. (2012));
 - (b) Private, non-degree, post-secondary schools operating in the District of Columbia which are licensed by the Education Licensure Commission;
 - (c) District public universities or colleges; and
 - (d) Health care facilities licensed and operating in the District of Columbia, that have not received any adverse actions during the preceding two (2) years.
- 9520.3 The Board shall consider any one of the following as an adverse action which would preclude a health care facility from providing MA:
- (a) A facility's participation in the Medicaid or Medicare Program has been terminated, restricted or revoked;
 - (b) A facility, other than a new facility, has received a provisional or restricted license; or
 - (c) A facility has been given a provider agreement of less than one (1) year.
- 9520.4 All MA training programs shall have adequate faculty and clinical facilities to provide supervised clinical experience with early, realistic exposure to job requirements. The clinical experience shall include exposure to the full range of skills needed in the workplace.

9521 SUPERVISED PRACTICE OF MEDICATION AIDE TRAINEES

- 9521.1 A trainee may practice only in accordance with the Act and this chapter.
- 9521.2 A trainee who is fulfilling educational requirements under this chapter may engage in supervised practice without a District of Columbia certification.
- 9521.3 All supervised practice of a trainee shall take place under the general or immediate supervision of a licensed nurse or other appropriate health professional.
- 9521.4 A trainee shall identify himself or herself as a trainee before practicing.

9521.5 A trainee shall not receive compensation of any nature, directly or indirectly, from a client or client’s family member.

9521.6 The Board may deny an application for certification by, or take other disciplinary action against, a trainee who is found to have violated the Act or this chapter. The Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the trainee.

9522 RESERVED

9523 RESERVED

9524 MEDICATION AIDE PROGRAM APPROVAL PROCEDURES

9524.1 Each institution applying for approval to provide training shall do the following:

- (a) Submit to the Board a statement of intent to establish a training program; and
- (b) Submit to the Board an application for approval which contains the following information:
 - (1) A statement of purpose;
 - (2) A statement of need for the training program in the District of Columbia;
 - (3) A description of the proposed program's potential effect on existing MA training programs in the area;
 - (4) A description of the organizational structure of the institution showing the relationship of the proposed training program within the organization;
 - (5) Evidence of financial resources, adequate planning, implementation, and continuation of the program;
 - (6) The number of full-time equivalent (FTE) budgeted instructor positions;
 - (7) The number of budgeted instructor positions;
 - (8) Evidence of the availability of adequate clinical facilities;
 - (9) A description of the anticipated trainee population, including admission criteria along with a copy of the admissions exam;
 - (10) A tentative time schedule for planning and initiating the program; and

- (11) A fee schedule; and
 - (c) Submit the application fee.
- 9524.2 After reviewing the application, based on the applicant's compliance with §§ 9527 and 9532, a decision shall be made to:
- (a) Approve the application;
 - (b) Defer approval if additional information is needed; or
 - (c) Deny approval of the application.
- 9524.3 If an application approval has been granted, a site visit shall be conducted by the Board in conjunction with the Education Licensure Commission staff to determine the program's compliance with § 9527 and the program's ability to meet criteria set forth in §§ 9531 and 9532.
- 9524.4 After reviewing the site visit report, the Board shall vote to approve, deny, or defer program approval for resource, facility, or service concerns.
- 9524.5 A training program shall not admit trainees to the program before the program has been approved by the Board.

9525 PERIODIC REVIEW OF APPROVED PROGRAMS

- 9525.1 Programs approved by the Board to train the MA shall submit to the Board an annual report in accordance with procedures established by the Board.
- 9525.2 The Board shall re-evaluate the MA training programs once a year.
- 9525.3 The Board shall make unannounced visits to review and assess each nursing assistive personnel training program to ensure that the program is in compliance with §§ 9522 and 9523.
- 9525.4 The Board shall assess each training program on the basis of visits to the facility, the progress of the training program, and any other information deemed appropriate by the Board.
- 9525.5 Each training program shall ensure that at least seventy-five percent (75%) of first time candidates from its program shall achieve a passing score on the District's approved competency evaluation.
- 9525.6 The Board shall withdraw approval of a training program if:
- (a) It determines that the program is not in compliance with standards set forth in §§ 9522 and 9523.

- (b) The program does not permit unannounced survey visits; or
- (c) The educational institution loses its licensure.

9525.7 If the training program does not meet the requirements for approval, the Board may grant conditional approval pending correction of the deficiencies.

9525.8 The training program deficiencies sufficient to warrant withdrawal of approval shall include, but are not limited to the following:

- (a) Failure to effectively utilize the District's approved curriculum for the training program;
- (b) Failure to maintain an adequate number of instructors with required qualifications;
- (c) Failure to meet the seventy five percent (75%) passing rate of the District's approved competency evaluation for a period of two (2) years or more;
- (d) Failure of trainees to demonstrate minimal competencies upon employment;
- (e) Failure to adhere to training program's stated objectives, and policies; and
- (f) Failure to maintain adequate resources, facilities, and services required to meet training objectives.

9525.9 The Board may consider reinstatement or approval of training upon submission of satisfactory evidence that the program meets the standards set forth in this chapter.

9525.10 The Board may investigate complaints made against a program and may conduct hearings in connection with such complaints.

9525.11 Any Board action for suspension or withdrawal of a training program's approval shall only take place after notice to the program and the opportunity for a hearing in accordance with D.C. Official Code § 3-1205.14 (2012 Supp.).

9526 RESERVED

9527 MEDICATION AIDE TRAINING PROGRAM

9527.1 The MA training program shall prepare the MA to provide core care skills and specific role skills as listed in § 9415.

9527.2 Training programs for Board approved MA model curriculum shall provide a minimum of:

- (a) One hundred forty (140) training hours for MAs;
 - (b) Fifty (50) training hours for home health aides or certified nurse assistants;
 - (c) Eighty (80) training hours for direct support professionals; or
- 9527.3 Each training program shall have a sufficient number of qualified instructors to meet the purposes and objectives of the program.
- 9527.4 The training program shall be coordinated by a licensed nurse who has:
- (a) A current, unencumbered District of Columbia license; and
 - (b) At least two (2) years of full-time or full-time equivalent clinical experience as a licensed nurse.
- 9527.5 The program coordinator's responsibilities shall include, but not be limited to:
- (a) Ensuring that the curriculum is coordinated and implemented in accordance with the chapter;
 - (b) Establishing job descriptions indicating the responsibilities of the instructors;
 - (c) Ensuring that each instructor meets the qualifications as specified in this chapter;
 - (d) Ensuring that each MA trainee is properly supervised during the clinical experience; and
 - (e) Ensuring that each clinical preceptor evaluates the MA trainee's performance and provides the evaluation results to clinical instructor.
- 9527.7 (a) The criteria for selecting a clinical preceptor shall be in writing and shall include the following:
- (1) The method of selecting clinical preceptors;
 - (2) The plans for orientation of clinical preceptors;
 - (3) The clinical objectives or outcomes of the preceptorship; and
 - (4) A system for monitoring and evaluating the trainee's learning experiences.
- (b) The instructor shall:

- (1) Retain responsibility for the trainee's learning experiences and meet periodically with the clinical preceptor and the trainee to monitor and evaluate the trainee's learning experiences; and
- (2) Be readily available, either directly or by a communication device, when preceptors are in the clinical area.

- 9527.8 The clinical preceptor shall meet the following minimum qualifications:
- (a) Have a current license in good standing, in the jurisdiction in which he or she is providing the preceptorship; and
 - (b) Have a minimum of two (2) years of experience as a licensed nurse providing direct patient care, during the five (5) years immediately preceding the date of the written agreement.
- 9527.9 The ratio of preceptor to trainees in a clinical setting shall not exceed one (1) preceptor to one (1) trainee.
- 9527.10 The ratio of instructors to trainees in clinical areas involving direct care of clients shall be based upon the client acuity level, the skill level of the trainee, and the clinical setting.
- 9527.11 The ratio of instructor to trainees in a skills lab shall not exceed one (1) instructor to eight (8) trainees.
- 9527.13 The ratio of instructor to trainees in a clinical setting shall not exceed one (1) instructor to two (2) trainees during medication administration.
- 9527.14 Each instructor's qualifications shall be documented in the official records of the program and available for review by the Board.
- 9527.15 Each instructor shall be responsible for doing the following:
- (a) Assisting in the development, implementation, and evaluation of the purpose, philosophy, and objective of the training program;
 - (b) Helping to implement and evaluate the curriculum;
 - (c) Facilitating preceptor participation in the program and evaluating the progress and retention of preceptors in the program;
 - (d) Giving guidance to preceptors;
 - (e) Evaluating preceptor achievement in the program;
 - (f) Providing for preceptor and peer evaluation of his or her teaching effectiveness; and

- (g) Participating in continuing nursing education programs to improve his or her competence in areas of responsibilities.

9527.16 Each training program shall provide trainees with information on the policies governing admission, retention, dismissal, and the course requirements of the training program in writing.

9527.17 Each training program shall test and vaccinate applicants for communicable disease prior to admission.

9528 MINIMUM QUALIFICATIONS FOR MEDICATION AIDE TRAINEE

9528.1 Each trainee shall be a high school graduate or have completed a graduate equivalency diploma program.

9528.2 Each trainee shall be required to take a pre-admission examination to assess reading, writing and math skills prior to enrollment in a training program.

9529 RESERVED

9530 CLOSING OF EDUCATION AND TRAINING PROGRAMS

9530.1 Each MA program that voluntarily closes shall:

- (a) Notify the Board, in writing, as early as possible, of the intended closing, stating the reason(s) and planned date of the intended closing;
- (b) Continue the training program until the committed class scheduled for currently enrolled trainees is completed; and
- (c) Notify the Board of the final closing date at least thirty (30) days before the final closing.

9530.2 If the Board denies or withdraws approval of a training program, the institution shall:

- (a) Close the program on the date provided by the Board;
- (b) Submit to the Board a list of all program graduates and all current trainees transferred to approved programs and dates of transfer; and
- (c) Comply with the requirements of all applicable rules and notify the Board that the requirements have been fulfilled.

9531 RECORDS RETENTION

- 9531.1 Each MA training program shall maintain an accurate and appropriate system of record keeping.
- 9531.2 Each training program shall ensure that administrative and personnel records are protected against loss, destruction, and unauthorized review.
- 9531.3 A record for each trainee shall be maintained by the facility and shall include the trainee's evaluation and health information.
- 9531.4 Each instructor's personnel records shall be maintained by the facility and shall include application data, qualifications, and position description.
- 9531.5 All records shall be maintained by the training program for a minimum of five (5) years.

9532 RESOURCES, FACILITIES, AND SERVICES

- 9532.1 Each MA training program shall maintain resources, facilities, and services which are adequate to accommodate the training program. The resources, facilities, and services shall have at a minimum, the following:
- (a) Adequate temperature controls in each training facility;
 - (b) Clean and safe conditions of the facility's premises;
 - (c) Adequate space to accommodate faculty;
 - (d) Adequate lighting in each facility; and
 - (e) Sufficient and adequate equipment for the program's needs, including audio-visual equipment and equipment needed for simulating client care.
- 9532.2 Each classroom, conference room, laboratory, and office shall be adequate to meet the needs of the training program.
- 9532.3 Each cooperative agreement between a training program and an agency shall be in writing. The training program shall maintain a copy of the agreement in its records.

9599 DEFINITIONS

- 9599.1 As used in this chapter, the following terms have the meanings ascribed:

Administer The direct application of medication to the human body whether by

ingestion, inhalation, insertion, sublingual, or topical means or an injection of epipen or equivalent injection system for emergency purposes only.

Applicant –A person applying for certification as a trained medication employee under this chapter.

Boundary violation: Non-therapeutic relationships that are formed between a MA-C and a client in which the MA-C derives a benefit at the client's expense.

Board –The Board of Nursing as established by section 204 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986, D.C. Law 6-99; D.C. Code § 3-1202.04 (1985).

Clinical - Faculty planned and guided learning activities designed to assist preceptors in meeting course objectives and to apply nursing knowledge and skills in the direct care of clients, including clinical conferences and planned learning activities in acute care facilities, and other community resources. Clinical shall not include skills lab activities.

Continuing education –Systematic learning experiences designed to augment the knowledge, skills, and attitudes of the medication aide.

Delegation –The transference from the licensed nurse to another individual within the scope of his or her practice, the authority to act on behalf of the licensed nurse in the performance of a nursing intervention, while the licensed nurse retains accountability and responsibility for the delegated act.

Direct support professional - Any person employed by, under contract with, sub-contracted with, through a provider Medicaid Agreement, or serving in a volunteer capacity with, or for a public or private agency that provides services and supports to, or for individuals with intellectual and developmental disabilities.

Direct supervision – Supervision in which the supervising nurse is available to the medication aide on the premises and within vocal communication either directly or by a communication device.

Facilities –An assisted living residence, District of Columbia schools, and homes for persons with physical or intellectual disabilities, skilled home care agencies, or other facilities authorized by the Board.

Fingerstick –Sticking of the finger to get a blood sample to use in a glucometer to measure the amount of glucose in blood.

General supervision –Supervision in which the supervising nurse is available to the trained certified medication aide for consultation either in person or by a communication device, but need not be physically present on the premises at the time the actions are performed.

Glucometer –A machine that measures the amount of glucose in the blood.

In-service –Activities intended to assist the MA-C in acquiring, maintaining, or increasing competence in fulfilling the assigned responsibilities specific to the expectations of the employer.

Licensed practitioner –An individual licensed to practice a health occupation in the District of Columbia.

Medication –A controlled or non-controlled substance or treatment regarded as effective in bringing about recovery, restoration of health, alleviation of pain or symptoms of an illness, or the normal functioning of the body.

9600 GENERAL PROVISIONS

9600.1 This chapter applies to applicants for and holders of, a certification to practice as a certified nurse assistant (CNA) or patient care technician (PCT).

9600.2 This chapter shall apply to persons working under the supervision of a licensed nurse, or other licensed health care professional, regardless of title, who perform duties as specified in this chapter.

9600.3 Chapters 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title shall supplement this chapter.

9601 NURSE ASSISTANT AND PATIENT CARE TECHNICIAN CERTIFICATION

9601.1 No person shall practice as a CNA or PCT in the District of Columbia without first being certified by the Board of Nursing (Board).

9602 TERM OF CERTIFICATION

9602.1 Subject to § 9601.1, a certification issued pursuant to this chapter shall expire at 11:59 p.m. of October 30 of each odd-numbered year.

9602.2 The Director may modify the renewal system pursuant to § 4006.3 of chapter 40 of this title and may modify the date on which a certification expires.

9603 CRIMINAL BACKGROUND CHECK

9603.1 A person applying for certification as a nurse assistant shall undergo a criminal background check (CBC) prior to issuance of the certification.

9603.2 After issuance of an initial certification, the applicant shall undergo an additional CBC every four (4) years or as determined by the Department of Health.

9603.3 The applicant shall pay a fee for the CBC.

9603.4 The Board shall receive and review the results of a CBC of a person if, within the seven (7) years preceding the CBC, the person has been convicted in the District of Columbia, or in any state or territory of the United States where the person has worked or resided, of any of the following offenses or their equivalent:

- (a) Murder, attempted murder, or manslaughter;
- (b) Arson;

- (c) Assault, battery, assault and battery, assault with a dangerous weapon, mayhem or threats to do bodily harm;
- (d) Burglary;
- (e) Robbery;
- (f) Kidnapping;
- (g) Theft, fraud, forgery, extortion or blackmail;
- (h) Illegal use or possession of a firearm;
- (i) Trespass or injury to property;
- (j) Rape, sexual assault, sexual battery, or sexual abuse;
- (k) Child abuse or cruelty to children;
- (l) Adult abuse, neglect or exploitation; or
- (m) Unlawful distribution or possession with intent to distribute, of a controlled substance.

9604 APPLICATION FOR CERTIFICATION

9604.1 A person applying for certification as a CNA shall:

- (a) Be at least eighteen (18) years of age;
- (b) Submit evidence of having successfully completed an approved national nurse aide exam;
- (c) Meet the requirements of § 9603;
- (d) Submit a completed application to the Board;
- (e) Submit any other documents that may be required by the Board; and
- (f) Pay all required fees.

9604.2 An applicant for certification as a PCT shall submit evidence of:

- (a) Certification as a CNA;

- (b) Successful completion of a Board-approved patient care technician program;
- (c) Completion of a Board-approved registered nursing “Fundamentals of Nursing” course with a minimum of forty (40) hours of clinical experience within the last thirty-six (36) months from the date of an application for certification; and
- (d) Having practiced as a hospital corpsman within the last thirty-six (36) months.

9604.3 The Board shall waive the training requirements for any person currently practicing as a PCT provided that the applicant demonstrates, to the satisfaction of the Board, that he or she has been performing the functions of a PCT or a full-time or substantially full-time (a minimum of five hundred (500) hours per year) basis provided that the patient care technician complies with the following:

- (a) Has completed a Board approved patient care training program;
- (b) Has provided a statement from a supervising nurse or health care professional, indicating the applicant’s continued competence to provide care;
- (c) Has submitted a letter from an employer certifying the applicant’s ability to perform skills as listed in § 9616; and
- (d) Has submitted an application no later than one hundred eighty days (180) after these regulations are published as Final Rulemaking.

9605 CERTIFICATION BY EXAMINATION

9605.1 To qualify for nurse assistant certification by examination, an applicant shall provide proof of one (1) of the following:

- (a) Successful completion of a nurse assistant program, within the past twenty-four (24) months, approved by the Board or by a nursing board in the United States with standards determined by the Board to be substantially equivalent to the standards in the District of Columbia;
- (b) Successful completion of a practical nursing or registered nursing “Fundamentals of Nursing” course with a clinical component in the United States within the last thirty-six (36) months from the date of an application for certification; or
- (c) Receipt of a Commission on Graduates of Foreign Nursing Schools certificate, received within the last thirty-six (36) months from the date of

an application for certification, indicating education as a registered nurse (RN) or licensed practical nurse (LPN) outside the United States.

9605.2 If an applicant has not taken or passed the nurse aide certification exam for more than one (1) year after the date the applicant becomes eligible to apply to sit for examination, the applicant shall provide evidence of completion of a new training program.

9606 CERTIFICATION BY ENDORSEMENT

9606.1 An applicant for endorsement as a CNA shall provide proof of the following:

- (a) Having obtained a current certification as a CNA or similar title and duties; and
- (b) Having met the requirements of § 9604.

9606.2 An applicant for endorsement as a patient care technician shall provide proof of the following:

- (a) Current certification as a PCT or similar title and duties; or
- (c) Current certification as a CNA and verification from supervising licensed nurse or employer certifying the applicant's ability to perform skills listed in § 9616.

9607 RENEWAL OF CERTIFICATION

9607.1 An applicant for renewal shall provide evidence of:

- (a) Completion of twenty-four (24) hours of continuing education or in-service training in the area of health or nursing needs of an assigned client population, to include a minimum of two (2) hours of any Board mandated topics; and
- (b) Completion of CBC as required.

9607.2 Applicants who have another active District of Columbia certification as nursing assistive personnel (NAP) may apply continuing education hours to CNA renewal requirements.

9607.3 Applications will be subject to audit to assure compliance with the above requirements.

9608 INACTIVE STATUS; REACTIVATION OF CERTIFICATION

- 9608.1 A CNA or PCT with an active certification may request to be placed on inactive status.
- 9608.2 While on inactive status, the individual shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice in the District of Columbia.
- 9608.3 To reactivate an inactive status, an applicant whose status has been inactive for less than five (5) years shall provide verification of Board-approved twenty- four (24) hours in-service or continuing education completed within the last twenty- four (24) months.
- 9608.4 An applicant whose status has been inactive for more than five (5) years shall meet the requirements of § 9605.

9609 REINSTATEMENT OF EXPIRED CERTIFICATION

9609.1 If a CNA or PCT fails to renew his or her certification, the Board shall reinstate the certification if the applicant:

- (a) Applies to the Board for reinstatement of the certification within five (5) years after the certification expires; and
- (b) Provides evidence of having completed twenty -four (24) continuing education or in-service hours within twenty-four (24) months prior to submission of an application;

9609.2 If a CNA or PCT fails to apply for reinstatement within five (5) years after the certification expires, the Board may reinstate the certification if the applicant provides proof of the following:

- (a) Receipt of current certification in another jurisdiction approved by the Board; or
- (b) Having practiced for a minimum of one hundred (100) hours within the last twenty-four (24) months under the supervision of a licensed nurse or other licensed health professional deemed appropriate by the Board.

9609.3 If a CNA or PCT does not hold a certification in another jurisdiction and fails to apply for reinstatement within five (5) years after his or her certification expires, the applicant shall meet the requirements for certification pursuant to § 9604.

9610 RESERVED

9611 RESERVED

9612 RESERVED

9613 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS

9613.1 A licensed nurse or health care professional may assign or delegate tasks to a CNA or PCT that are among the authorized tasks listed in §§ 9615.1 or 9616.2.

9613.2 A CNA or PCT shall not practice independently but shall work under the immediate supervision of a licensed nurse or other licensed health care professional.

9613.3 The delegation shall comply with the standards for delegation listed in 17 DCMR §§ 5400 and 5500.

9613.4 Nursing care tasks that may be delegated shall depend upon:

- (a) The knowledge and skills of the CNA or PCT;
- (b) Verification of the clinical competence of the CNA or PCT by the employing agency;
- (c) The stability of the client’s condition, including factors such as predictability, absence of risk of complication, and rate of change in health status; and
- (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices, and channels of communication that lend support to the type of nursing tasks being delegated;
 - (2) The complexity and frequency of care needed by a given client population; and
 - (3) The accessibility of a licensed nurse.

9613.4 Nursing tasks that inherently involve on-going assessment, interpretation, or decision making that cannot be logically separated from one or more procedures shall not be delegated to the certified nurse assistant or patient care technician.

9614 RESERVED

9615 CERTIFIED NURSE ASSISTANT TASKS

- 9615.1 Under the supervision of a licensed nurse or health professional a CNA may perform the following tasks:
- (a) Provide effective communication and interpersonal skills;
 - (b) Maintain infection control;
 - (c) Provide safety and emergency procedures;
 - (d) Promote resident's independence;
 - (e) Recognize and report abuse;
 - (f) Basic nursing skills which include:
 - (1) Taking and recording vital signs;
 - (2) Measuring and recording height and weight;
 - (3) Observing and reporting pain;
 - (4) Recognizing abnormal signs and symptoms of common diseases and conditions;
 - (5) Applying clean bandages; and
 - (6) Assisting with admitting, transferring, or discharging patients.
 - (g) Personal care skills, including but not limited to:
 - (1) Bathing, skin care and dressing;
 - (2) Oral and denture care;
 - (3) Shampoo and hair care;
 - (4) Fingernail care;
 - (5) Toileting, perineal and ostomy care; and
 - (6) Feeding and hydration, including proper feeding techniques and use of assistive devices in feeding.
 - (h) Mental health and social welfare care such as:
 - (1) Responding appropriately to behavior;
 - (2) Providing care sensitive to religion, national origin, gender identity, and sexual orientation; and
 - (3) Providing care to dying patients.
 - (i) Basic restorative services such as:
 - (1) Transferring, ambulation, eating, and dressing;
 - (2) Range of motion exercises;
 - (3) Proper turning and positioning in bed and chair;
 - (4) Bowel and bladder training;

- (5) Care and use of prosthetic and orthotic devices; and
- (j) Protect patient's rights such as:
 - (1) Providing privacy and maintaining confidentiality;
 - (2) Promoting the resident's rights to make personal choices to accommodate his or her needs;
 - (3) Giving assistance in resolving grievances and disputes;
 - (4) Providing needed assistance in getting to and participating in resident and family groups and other activities;
 - (5) Maintaining care and security of a resident's personal possessions;
 - (6) Providing care which ensures that the resident is free from abuse, mistreatment, and neglect and the need to report any such instance to appropriate facility staff; and
 - (7) Maintaining the resident's environment and care to avoid the need for restraints.

9616 PATIENT CARE TECHNICIAN TASKS

9616.1 Under the supervision of a licensed nurse or health professional a PCT may perform the following tasks in addition to the tasks specified in § 9615:

- (a) Monitoring the administration of oxygen equipment by observing settings, tubing and equipment;
- (b) Setting-up intravenous (IV) equipment and discontinue peripheral IV catheter (this shall not include insertion of a peripheral IV catheter or administration or discontinuation of IV fluids.);
- (c) Performing elimination procedures, including enemas, fleets and soap suds enemas;
- (d) Performing electrocardiograms;
- (e) Carrying out blood glucose test;
- (f) Collecting specimens;
- (g) Assisting patients in using incentive spirometer;
- (h) Performing phlebotomy; and
- (i) Mounting a pulse oximeter.

9617 DISCIPLINE

- 9617.1 The Board may revoke, suspend, or deny registration of any DT who is convicted during a period of registration, of any of the crimes listed in § 9417.2 or convicted of any act specified in D.C. Official Code § 3-1205.14 (2012 Supp.).
- 9617.2 In addition to any other disciplinary action it may take, the Board may impose a civil penalty of not more than five thousand dollars (\$5,000) per violation or file a letter of concern if the Board believes there is insufficient evidence to support direct action against a CNA or PCT.
- 9617.3 Grounds for denial, suspension, revocation or other discipline of CNA OR PCT include evidence of the inability to function with reasonable skill and safety for the following reasons and conviction of any additional acts as specified in D.C. Official Code § 3-1205.14:
- (a) Substance abuse or other chemical dependency;
 - (b) Client or patient abandonment;
 - (c) Fraud or deceit, which may include but is not limited to:
 - (1) Filing false credentials;
 - (2) Falsely representing facts on an application for initial certification, reinstatement or renew; or
 - (3) Giving or receiving assistance in taking the competency evaluation;
 - (d) Client or patient neglect, abuse or misappropriation of funds;
 - (e) Boundary violations;
 - (f) Unsafe client care;
 - (g) Performing acts beyond the certified nurse assistant or patient care technician's range of functions or beyond those tasks delegated;
 - (h) Misappropriation or misuse of property;
 - (i) Criminal conviction;
 - (j) Failure to conform to acceptable standards of practice as a dialysis technician;

- (k) Putting clients or patients at risk of harm; or
- (l) Violating the privacy or failing to maintain the confidentiality of client information;

9617.4 CNAs or PCTs who are unable to perform their duties due to drug or alcohol dependency or mental illness may utilize the services offered under the Nurse’s Rehabilitation Program pursuant to D.C. Official Code §3-1251.01, et seq.

9618 RESERVED

9619 RESERVED

9620 STANDARDS FOR TRAINING PROGRAMS

9620.1 The following types of institutions may apply for certificate of approval to provide CNA or PCT training:

- (a) Private, degree-granting educational institutions operating or incorporated in the District of Columbia;
- (b) Private, non-degree post-secondary schools operating in the District of Columbia which are licensed by the Education Licensure Commission;
- (c) District public schools (for nurse assistants only);
- (d) District public universities or colleges; and
- (e) Nursing facilities licensed and operating in the District of Columbia that have received no adverse actions during the preceding two (2) years.

9620.2 The Board of Nursing shall consider any one of the following as an adverse action which would preclude a facility from providing training:

- (a) A facility's participation in the Medicaid or Medicare program has been terminated, restricted or revoked;
- (b) A facility, other than a new facility, has received a provisional or restricted license; or
- (c) A facility has been given a provider agreement of less than one (1) year.

9621 SUPERVISED PRACTICE OF TRAINEES

9621.1 A trainee may practice only in accordance with the Act and this chapter.

9621.2 A trainee who is fulfilling educational requirements of this chapter may engage in supervised practice without a District of Columbia certification.

- 9621.3 All supervised practice of a trainee shall take place under the general or immediate supervision of a licensed nurse or other appropriate health professional.
- 9621.4 A trainee shall identify himself or herself as a trainee before practicing.
- 9621.5 A trainee shall not receive compensation of any nature, directly or indirectly, from a client or client’s family member.
- 9621.6 The nurse supervising the trainee shall be responsible for all practice by a trainee during the period of supervision and may be subject to disciplinary action for violations of the District of Columbia Health Occupations Revision Act of 1985, effective March 15, 1986 (Act) (D.C. Law 6-99; D.C. Official Code §§ 3-1203.01, *et seq.* (2007 Repl. & 2012 Supp.)) or this chapter by the trainee.
- 9621.7 The Board may deny an application for certification by, or take other disciplinary action against, a trainee who is found to have violated the Act or this chapter. The Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the trainee.

9622 RESERVED

9623 RESERVED

9624 TRAINING PROGRAM APPROVAL PROCEDURES

9624.1 Each institution applying for a certificate of approval to provide nurse assistant training shall do the following:

- (a) Submit to the Board of Nursing, at least ninety (90) days in advance of the scheduled starting date, a statement of intent to establish a nurse assistant training program; and
- (b) Submit an application which contains the following:
 - (1) A statement of purpose;
 - (2) A statement of need for the training program in the District of Columbia;
 - (3) A description of the proposed program's potential effect on existing nurse assistant training programs in the area;
 - (4) A description of the organizational structure of the institution showing the relationship of the proposed training program within the organization;
 - (5) Evidence of financial resources adequate for planning, implementation, and continuation of the program;

- (6) Evidence of Licensure status of the proposed training facility;
- (7) A list of available qualified instructors;
- (8) The number of budgeted instructor positions;
- (9) Signed agreements with clinical facilities which meet the educational needs of the training program;
- (10) The anticipated trainee population and tentative time schedule for planning and initiating the program; and
- (11) Fee schedules.

9624.2 After reviewing the application, based on the applicant’s compliance with §§ 9627 and 9632, a decision shall be made to:

- (a) Approve the application;
- (b) Defer approval if additional information is needed; or
- (c) Deny approval of the application.

9624.3 If an application approval has been granted, a site visit shall be conducted by the Board staff to determine the program’s compliance with § 9627 and the program’s ability to meet criteria set forth in §§ 9631 and 9632.

9624.4 After reviewing the site visit report, the Board shall vote to approve, deny, or defer program approval for resource, facility, or service concerns.

9624.5 A training program shall not admit trainees to the program before the program has been approved by the Board.

9625 PERIODIC REVIEW OF APPROVED PROGRAMS

9625.1 Programs approved by the Board to train nursing assistant shall submit to the Board an annual report in accordance with procedures established by the Board.

9625.2 The Board shall re-evaluate nursing assistant training programs once a year.

9625.3 The Board shall make unannounced visits to review and assess each NAP training program to ensure that the program is in compliance with §§ 9621 and 9624.

9625.4 The Board shall assess each training program on the basis of visits to the facility, the progress of the training program, and any other information deemed appropriate by the Board.

- 9625.5 Each training program shall ensure that at least seventy-five percent (75%) of first time candidates shall achieve a passing score on the District's approved competency evaluation.
- 9625.6 The Board shall withdraw approval of a training program if:
- (a) It determines that the program is not in compliance with standards set forth in §§ 9621 and 9624;
 - (b) The program does not permit unannounced survey visits; or
 - (c) The education institution loses its licensure.
- 9625.7 If the training program does not meet the requirements for approval, the Board may grant conditional approval pending correction of the deficiencies.
- 9625.8 The training program deficiencies sufficient to warrant withdrawal of approval shall include, but are not limited to the following:
- (a) Failure to effectively utilize the District's approved curriculum for the training program;
 - (b) Failure to maintain an adequate number of instructors with required qualifications;
 - (c) Failure to meet the seventy five percent (75%) passing rate on the District's approved competency evaluation for a period of two (2) years or more;
 - (d) Failure of trainees to demonstrate minimal competencies upon employment;
 - (e) Failure to adhere to training program's stated objectives, and policies; and
 - (f) Failure to maintain adequate resources, facilities, and services required to meet training objectives.
- 9625.9 The Board may consider reinstatement or approval of training upon submission of satisfactory evidence that the program meets the standards set forth in this chapter.
- 9625.10 The Board may investigate complaints made against a program and may conduct hearings in connection with such complaints.
- 9625.11 Any Board action for suspension or withdrawal of a training program's approval shall take place only upon notice to the program and the opportunity for a hearing in accordance with D.C. Official Code § 3-1205.14 (2012 Supp.).

9626 RESERVED**9627 TRAINING PROGRAM REQUIREMENTS**

- 9627.1 The nursing assistant training programs shall provide core skills and specific skills as specified in § 9615 and shall provide a minimum of one hundred twenty-five (125) hours of training, eighty-five (85) hours of didactic and forty (40) hours in the clinical setting.
- 9627.2 Patient care technician training shall provide skills as specified in § 9616 and shall include fifty (50) hours of didactic and clinical consisting of thirty-four (34) hours of classroom and laboratory, and sixteen (16) hours of clinical.
- 9627.3 Each training program shall have a sufficient number of qualified instructors to meet the purposes and objectives of the program.
- 9627.4 The training program shall be coordinated by a licensed nurse with:
- (a) A current, unencumbered District of Columbia license; and
 - (b) At least two (2) years of full-time or full-time equivalent experience as a licensed nurse with clinical experience in the clinical practice setting he or she is responsible for coordinating;
- 9627.5 The program coordinator's responsibilities shall include, but not be limited to:
- (a) Ensuring that the curriculum is coordinated and implemented in accordance with the chapter;
 - (b) Establishing job descriptions indicating the responsibilities of the instructors;
 - (c) Ensuring that each instructor meets the qualifications as specified in this chapter;
 - (d) Ensuring that each trainee is properly supervised during the trainee's clinical experience; and
 - (e) Ensuring that each clinical preceptor evaluates the MA trainee's performance and provides the evaluation results to clinical instructor.
- 9627.6 (a) The criteria for selecting a clinical preceptor shall be in writing and shall include the following:
- (1) The method of selecting clinical preceptors;
 - (2) The plans for orientation of clinical preceptors;
 - (3) The clinical objectives or outcomes of the preceptorship; and
 - (4) A system for monitoring and evaluating the preceptor's learning experiences.

- (b) The instructor shall:
 - (1) Retain responsibility for the trainee's learning experiences and meet periodically with the clinical preceptor and the trainee to monitor and evaluate the trainee's learning experiences; and
 - (2) Be readily available, either directly or by a communication device, when preceptors are in the clinical area.

9627.7 The clinical preceptor shall meet the following minimum qualifications:

- (a) He or she shall be currently licensed or registered in good standing, in the jurisdiction in which he or she is providing the preceptorship, at or above the level for which the preceptor is preparing; and
- (b) He or she shall have a minimum of two (2) years of experience as a licensed nurse providing direct patient care, during the five (5) years immediately preceding the date of the written agreement.

9627.8 The ratio of preceptor to trainees in a clinical setting shall not exceed one (1) preceptor to two (2) trainees.

9627.9 Each instructor shall be, where applicable, licensed, registered, or certified in his or her profession in the District of Columbia.

9627.10 The ratio of instructors to trainees in clinical areas involving direct care of clients shall be based upon client acuity level, skill level of the trainee, and the clinical setting.

9627.11 The ratio of instructor to trainees in a clinical skills lab shall not exceed one (1) instructor to eight (8) trainees.

9627.12 The ratio of instructor to trainees in a clinical setting shall not exceed one (1) instructor to eight (8) trainees

9627.13 Each instructor's qualifications shall be documented in the official records of the program and available for review by the Board.

9627.14 Each instructor shall be responsible for doing the following:

- (a) Assisting in the development, implementation, and evaluation of the purpose, philosophy, and objective of the training program;
- (b) Helping to implement and evaluate the curriculum;
- (c) Facilitating preceptor participation in the program and evaluating the progress and retention of preceptors in the program;

- (d) Giving guidance to preceptors;
- (e) Evaluating preceptor achievement in the program;
- (f) Providing for preceptor and peer evaluation of his or her teaching effectiveness; and
- (g) Participating in continuing nursing education programs to improve his or her competence in areas of responsibilities.

9627.15 Each training program shall provide trainees with information on the policies governing admission, retention, dismissal, and the course requirements of the training program in writing.

9627.16 Each training program shall test and vaccinate applicants for communicable disease prior to admission.

9628 MINIMUM QUALIFICATIONS FOR NURSE ASSISTANT TRAINEES

9628.1 Each trainee shall be a high school graduate or possess a graduate equivalency diploma.

9628.2 Each trainee shall be required to take a pre-admission examination to assess reading, writing and math skills prior to enrollment in a training program.

9629 RESERVED

9630 CLOSING OF EDUCATION AND TRAINING PROGRAMS

9630.1 Each nurse assistant program that voluntarily closes shall:

- (a) As early as possible, notify the Board, in writing, of the intended closing, stating the reason(s) and planned date of the intended closing;
- (b) Continue the training program until the committed class scheduled for currently enrolled trainees is completed;
- (c) Notify the Board of the final closing date at least thirty (30) days before the final closing.

9630.2 If the Board denies or withdraws approval of a training program, the institution shall:

- (a) Close the program on the date provided by the Board;
- (b) Submit to the Board a list of all program graduates and all current trainees transferred to approved programs and dates of transfer;

- (c) Comply with the requirements of all applicable rules and notify the Board that the requirements have been fulfilled.

9631 RECORDS RETENTION

- 9631.1 Each nurse assistant training program shall maintain an accurate and appropriate system of record keeping.
- 9631.2 Each training program shall ensure that administrative and personnel records are protected against loss, destruction, and unauthorized review.
- 9631.3 A record for each trainee shall be maintained by the facility and shall include the trainee's evaluation and health information.
- 9631.4 Each instructor's personnel records shall be maintained by the facility and shall include application data, qualifications, and position description.
- 9631.5 All records shall be maintained by the training program for a minimum of five (5) years.

9632 RESOURCES, FACILITIES, AND SERVICES

- 9632.1 Each nurse assistant training program shall maintain resources, facilities, and services which are adequate to accommodate the training program. The resources, facilities, and services shall include, but are not limited to:
 - (a) Adequate temperature controls in each training facility;
 - (b) Clean and safe conditions of the facility's premises;
 - (c) Adequate space to accommodate faculty;
 - (d) Adequate lighting in each facility; and
 - (e) Sufficient and adequate equipment for the program's needs, including audio-visual equipment and equipment needed for simulating client care.
- 9632.2 Each classroom, conference room, laboratory, and office shall be adequate to meet the needs of the training program.
- 9632.3 Each cooperative agreement between a training program and an agency shall be in writing. The training program shall maintain a copy of the agreement in its records.

9699 DEFINITIONS

9699.1 When used in this chapter, the following terms shall have the meaning ascribed below:

Abuse –The infliction of physical or mental harm on a nursing home resident.

Boundary violation - Non-therapeutic relationships that are formed between a CNA or PCT and a client in which the CNA or PCT derives a benefit at the client's expense.

Certified nurse assistant –An individual, who as a result of training and demonstrated competencies, provides nursing or nursing related services to residents in a nursing facility. This definition does not include an individual who volunteers to provide such services without pay, but does include individuals who are hired by residents and their families to provide care to residents in a nursing facility and includes nurse aides supplied by an agency as well as those actually employed by the facility.

Clinical Faculty planned and guided learning activities designed to assist preceptors in meeting course objectives and to apply nursing knowledge and skills in the direct care of clients, including clinical conferences and planned learning activities in acute care facilities, and other community resources. Clinical shall not include skills lab activities.

Department –The Department of Health.

Director –The Director of the Department of Health, or his or her designee.

District – The District of Columbia.

Facility –A licensed nursing home in the District of Columbia.

Misappropriation – means to appropriate wrongfully or dishonestly to one's own an item or money belonging to a nursing home resident.

Neglect –To fail to carry out or perform, or to be remiss in the care or treatment of a nursing home resident.

Nursing assistive personnel –An individual, other than a licensed nurse, who has received appropriate training or instruction to function in a complementary or assistant role to a licensed nurse, in providing direct patient care or in carrying out common nursing tasks. The term includes, but is not limited to, nursing students, graduate nurses, home health aides, personal care aides, medication aides, DTs, certified nurse assistants, or others as specified by the Board of Nursing.

Nursing home administrator – A licensed person responsible for planning, organizing, directing, and controlling the operation of a nursing facility licensed in the District of Columbia.

Pass rate –A percentage of first time candidates who receive a passing score on the competency evaluation.

Patient care technician – Any unlicensed personnel working in a health care setting, regardless of title, to whom nursing tasks specified in this chapter, are delegated.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. In addition, comments may be forwarded via e-mail to Van.Brathwaite@dc.gov.

DEPARTMENT OF HEALTH

FOURTH NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 4902 of the Department of Health Functions Clarification Act of 2001 (Act), effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(a)(8) (2008 Repl.)) and Mayor’s Order 2007-63, dated March 8, 2007, hereby gives notice of the intent to adopt a new Subtitle F entitled “Tanning Facility Regulations”, within Title 25 of the District of Columbia Municipal Regulations (DCMR). The proposed rules will allow the District of Columbia to comply with current industry standards that protect the health and safety of individuals, especially minors, who use tanning equipment and devices by minimizing the risks associated with tanning using ultraviolet radiation and establishing personnel, licensing, and enforcement standards.

The Department, in response to two (2) comments received regarding the Third Notice of Proposed Rulemaking published in the *D.C. Register* on October 12, 2012 at 59 DCR 011810, has revised this Fourth Notice of Proposed Rulemaking as follows:

- Reworded section 200 to require training for managers and operators
- Reworded sections 401.2, 405.1, and 408 for better clarification;
- Reworded sections 603 and 609.2 for better clarification;
- Reworded sections 800.4, 801.4, and 609.2 for better clarification;
- Reworded sections 1200.2 and 1200.5 for better clarification;
- Deleted sections 201.6, 608.2 and 805.1(d) and renumbered the remaining provisions;
- Added sections 800.5, 906.2(f) and (g); and
- Added more definitions

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

Subtitle F of Title 25 of the DCMR is added to read as follows:

SUBTITLE F TANNING FACILITY REGULATIONS

100 Title – Tanning Facility Regulations
101 Intent – Safety
102 Compliance with Federal and District Laws
200 Licensees Responsibilities – Manager and Operator Certifications, and District-Issued ID Requirements, Basic Knowledge, Assignment & Posting*
201 Licensees Responsibilities – Safety Requirements and Tanning Procedures & Temperature*
300 Policy & Procedures – Age Restrictions and Prohibitions, and Parental/ Legal Guardian Authorization*
301 Policy & Procedures – Age Restriction Sign and Posting*
302 Policy & Procedures – Warning Statement, Content and Posting*
303 Operating Procedures – Recordkeeping Manual, Content*
304 Operating Procedures – Recordkeeping, Purchase, Maintenance, and Users’ Instructions
305 Operating Procedures – Recordkeeping, Retention
306 Operating Procedures – Recordkeeping, Reports of Injuries
400 Design & Construction – Tanning Equipment and Devices*

- 401 Design & Construction – Tanning Equipment and Devices, Protective Eyewear
- 402 Design & Construction – Tanning Equipment and Devices, Timer
- 403 Design & Construction – Tanning Stand-up Booths, Cabinets and Vertical Tanning Devices – Additional Requirements and Temperatures*
- 404 Design & Construction – Tanning Equipment and Devices, Supplies, Installation and Use*
- 405 Design & Construction – Tanning Equipment Devices, Supplies, and Bulbs, Shielding*
- 406 Design & Construction – Tanning Equipment and Devices, and Supplies, Replacement, Ultraviolet Lamps, Bulbs or Filters, Compatibility*
- 407 Maintenance – Tanning Equipment, Timer, Good Repair and Accurate Calibration*
- 408 Cleaning & Sanitizing – Equipment and Devices, Tables and Chairs, and Test Kits
- 409 Water Source – Approved System*
- 410 Water Source – Bottled Drinking Water*
- 411 Water Quality – Standards*
- 412 Water Capacity – Quality and Availability
- 500 Materials – Approved Materials, Use*
- 501 Design, Construction, and Installation – Approved System and Cleanable Fixtures*
- 502 Design, Construction, and Installation – Handwashing Sinks, Water Temperature, and Flow
- 503 Handwashing Sinks – Handwashing Cleanser, Availability, Hand Drying Provision, and Handwashing Signage
- 504 Handwashing Sinks – Disposable, Waste Receptacle
- 505 Design, Construction and Installation – Toilets and Urinals, Enclosed
- 506 Toilets and Urinals – Number, Capacity, Convenience and Accessibility, Prohibition*
- 507 Toilets and Urinals – Toilet Tissue, Receptacle Covered and Available
- 508 Operation and Maintenance – System Maintained in Good Repair
- 600 Design & Construction – Building Materials and Workmanship
- 601 Design & Installation – Lighting and Electronic Devices
- 602 Design & Installation – Smoke Alarms
- 603 Design & Installation – Heating and Ventilation Systems and Posting*
- 604 Construction & Installation – Floors, Walls, Ceilings, and Utility Lines
- 605 Cleanability – Floors, Walls, Ceilings, and Utility Lines
- 606 Cleanability – Floor and Wall Junctions, Coved, and Enclosed or Sealed
- 607 Cleanability – Floor Carpeting, Restrictions and Installation
- 608 Cleanability – Floor Covering, Mats and Duckboards
- 609 Physical Facilities – Maintenance, Floors, Public Areas
- 610 Physical Facilities – Cleanability, Sanitization and Maintenance of Plumbing Fixtures
- 611 Physical Facilities – Maintaining Premises, Unnecessary Items and Litter
- 612 Physical Facilities – Controlling Pests*
- 613 Physical Facilities – Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests
- 614 Physical Facilities – Prohibiting Animals*
- 700 Refuse Facilities on Premises – Receptacles, Storage Areas, Good Repair, Outside Storage Areas, and Removal Frequency
- 701 Removal Frequency
- 800 License Requirements – Prerequisite for Operating, Vending, Managing, or Training*
- 801 Application Procedure – Period and Form of Submission, Processing

802	Application Procedure – Contents of the Application Packet
803	Denial of Application for License - Notice
804	Issuance of License – Notice of Opening, Discontinuance of Operation, and Posting
805	Issuance of License – New, Converted or Remodeled, Existing Operations and Change of Ownership or Location
806	Issuance of License – Required Plan Reviews and Approvals
807	Issuance of License – Required Inspections, Preoperational, Conversions and Renovations*
808	Conditions of License Retention – Responsibilities of the Licensee
809	Conditions of Retention – License Not Transferable
900	Access & Inspection Frequency – Department Right of Entry, Denial Misdemeanor*
901	Report of Findings – Documenting Information and Observations
902	Report of Findings – Specifying Time Frame for Corrections
903	Report of Findings – Issuing Report and Obtaining Acknowledgement of Receipt
904	Report of Findings – Refusal to Sign Acknowledgment
905	Report of Findings – Public Information, Records Retention
906	Imminent Health Hazard – Ceasing Operations and Emergency Reporting*
907	Imminent Health Hazard – Resumption of Operations
908	Critical Violations – Time Frame for Correction *
909	Critical Violation – Verification and Documentation of Correction
910	NonCritical Violations – Time Frame for Correction
911	Request for Reinspection
1000	Service of Notice – Proper Methods
1001	Service of Notice – Restriction of Exclusion, Condemnation, or Summary Suspension Orders
1002	Service of Notice – When Notice is Effective
1003	Service of Notice – Proof of Proper Service
1100	Criteria for Seeking Remedies – Conditions Warranting Remedy
1101	Administrative – Examining, Sampling, and Testing of Equipment, Furniture, Devices, Fixtures
1102	Administrative – Condemnation Order, Justifying Conditions and Removal of Equipment or Device
1103	Administrative – Condemnation Order, Contents
1104	Administrative – Condemnation Order, Official Tagging or Marking of Equipment or Device
1105	Administrative – Condemnation Order, Equipment, Device and Furnishing Restrictions
1106	Administrative – Condemnation Order, Removing the Official Tag or Marking
1107	Administrative – Condemnation Order, Warning or Hearing Not Required
1108	Administrative – Summary Suspension of License, Conditions Warranting Action
1109	Administrative – Contents of Summary Suspension Notice
1110	Administrative – Summary Suspension, Warning or Hearing Not Required
1111	Administrative – Summary Suspension, Time Frame for Reinspection
1112	Administrative – Summary Suspension, Term of Suspension, Reinstatement
1113	Administrative – Revocation or Suspension of License
1114	Administrative – Civil Penalties
1115	Administrative – Civil Penalties, Notices of Violation or Infractions
1116	Judicial – Criminal Penalties, Injunctive Relief, or Imprisonment
1200	Prohibited Conduct – Advertisement, Posting
1201	Prohibited Activities*

1300	Administrative — Notice, Request for Hearings, Basis and Time Frame
1301	Administrative — Hearings Administration – Contents of Response to Hearing Notice, or Hearing Request
1302	Administrative — Hearings Administration, Timeliness
1400	Judicial Review — Appeals
9900	General Provisions
9901	Definitions

CHAPTER 1 TITLE, INTENT, SCOPE

100 TITLE — TANNING FACILITY REGULATIONS

100.1 These provisions shall be known as the Tanning Facility Regulations hereinafter referred to as “these regulations.”

101 INTENT — SAFETY

101.1 The purpose of these regulations is to protect the public health and safety by preventing and controlling the spread of communicable diseases; protecting the environment by promoting and regulating the safety and sanitary conditions of tanning facilities; and ensuring the safety and proper installation and servicing of equipment which uses ultraviolet radiation to artificially tan human skin.

101.2 These regulations:

- (a) Minimize the risks associated with tanning using ultraviolet radiation by prescribing minimum standards for the design, construction, operation, and maintenance of tanning facilities;
- (b) Set standards for maintenance and replacement of equipment;
- (c) Set standards for personnel and sanitary operations;
- (d) Establish recordkeeping and reporting requirements;
- (e) Establish prohibited conduct within tanning facilities;
- (f) Establish operational standards;
- (g) Provide for the issuance of licenses; and
- (h) Provide for enforcement through inspections, suspension and revocation of licenses, and the issuance of fines and penalties; and
- (i) Establish definitions for this subtitle.

- 101.3 These regulations do not apply to medical facilities' phototherapy devices that are used by or under the supervision of licensed physicians or health care professionals who are trained in the use of such phototherapy devices in which patients are intentionally exposed to ultraviolet radiation for the treatment of diseases.
- 101.4 Certain provisions of these regulations are identified as critical. Critical provisions are those provisions where noncompliance may result in injuries, spread of communicable diseases, or environmental health hazards. A critical item is denoted with an asterisk (*).
- 101.5 Certain provisions of these regulations are identified as noncritical. Noncritical provisions are those provisions where noncompliance is less likely to spread communicable diseases or create environmental health hazards. A section that is denoted in these regulations without an asterisk (*) after the head note is a noncritical item. However, a critical item may have a provision within it that is designated as a noncritical item with a superscripted letter "N" following the provision.

102 COMPLIANCE WITH FEDERAL AND DISTRICT LAWS

- 102.1 The Department shall use these regulations to promote the safeguarding of public health and ensure tanning facilities are safe and in compliance with Federal and District laws and regulations. The most current versions of the following District and Federal regulations are hereby incorporated by reference:
- (a) The District of Columbia's Construction Codes of 2008, consisting of the following International Code Council (ICC):
 - (1) International Building Code (2006 edition);
 - (2) International Mechanical Code (2006 edition);
 - (3) International Plumbing Code (2006 edition);
 - (4) International Fire Code (2006 edition);
 - (5) International Existing Building Code (2006 edition); and
 - (6) The NFPA National Electrical Code (2005 edition);
 - (b) Title 12 (Construction Codes) of the District of Columbia Municipal Regulations;
 - (c) 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products);
 - (d) 21 C.F.R. § 1010.3 (Performance Standards for Electronic Products: General, Identification); and

- (e) 29 C.F.R. § 1910.1030 – Part 1910 (Occupational Safety and Health Standard, Subpart Z – Toxic and Hazardous Substances).

102.2 In enforcing the provisions of these regulations, the Department shall assess a tanning facility's physical structure, operating systems, and design; and operation and maintenance of facilities' tanning equipment and devices, furnishings, and other fixtures in use before the effective date of these regulations based on the following considerations:

- (a) Whether the facility's physical structure; operating systems, and design; and the facility's tanning equipment and devices, furnishings, and other fixtures are safe to operate, in good repair, and capable of being maintained in a sanitary condition; and
- (b) The existence of a documented agreement with the licensee that the facility's operating systems, or tanning equipment and devices, furnishings, and other fixtures will be replaced by an agreed upon date.

CHAPTER 2 SUPERVISION AND TRAINING

200 LICENSEE RESPONSIBILITIES – MANAGER AND OPERATOR, CERTIFICATION AND DISTRICT-ISSUED ID REQUIREMENTS, BASIC KNOWLEDGE, ASSIGNMENT, AND POSTING*

200.1 The licensee shall ensure that tanning facility managers and operators are trained as specified in section 200.4.

200.2 The licensee shall ensure that a manager or operator is on duty and present at the tanning facility during all hours of operation.

200.3 The licensee shall ensure that new employees hired to work as operators work under the direct supervision of a trained operator until the new employee is trained as specified in section 200.4.

200.4 Training shall cover FDA and District regulations, eye protection, equipment and maintenance, and the following information:

- (a) Requirements in this section and FDA requirements stated in 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products);
- (b) Proper use of FDA Recommended Exposure Schedule;
- (c) Proper procedures for sanitizing protective eyewear and tanning equipment;
- (d) Proper procedures for the use of and the instruction in use of protective eyewear;
- (e) Recognition of injury or overexposure to ultraviolet radiation;

- (f) The tanning equipment manufacturer’s procedures for operation and maintenance of the tanning equipment or devices;
- (g) Emergency procedures to be followed in case of an actual or alleged ultraviolet radiation injury;
- (h) Biological effects of ultraviolet radiation, including the potential acute and long term health effects of ultraviolet radiation;
- (i) Knowledge of potential photosensitizing agents, to include food, cosmetics and medications, and the possibility of photosensitivity and photoallergic reactions;
- (j) The classification and determination of skin type of consumers, using the Fitzpatrick Scale;
- (k) The human skin and the tanning process;
- (l) Recordkeeping requirements as specified in §§ 303, 304, 305, and 306 of this subtitle;
- (m) Determination of lamp equivalency;
- (n) The types and wavelengths of ultraviolet light;
- (o) General information and features of all types of commercial tanning equipment and devices; and
- (p) The public health reasons for avoiding overexposure and the dangers of overexposure.

200.5 Documentation that managers and operators are trained as required in section 200.4 shall be conspicuously posted in the tanning facility next to the tanning facility license. This documentation shall be removed when an individual is no longer employed on-site by the facility.

200.6 The licensee shall ensure managers obtain a required Department of Health (DOH)-Issued Tanning Facility Manager’s Identification Card (ID Card).

201 LICENSEE RESPONSIBILITIES – SAFETY REQUIREMENTS AND TANNING PROCEDURES AND TEMPERATURE*

201.1 The licensee shall ensure managers and operators are knowledgeable in the correct use of all tanning devices on the premises so that they are able to inform and assist each customer in the proper use of the tanning devices.

201.2 Only one (1) customer may be in a tanning room at a time, with the following exceptions:

- (a) If two (2) or more sunlamp products are used in the same room, in which case only those customers using the sunlamp products may be present in the room; and
 - (b) If a customer using a sunlamp product needs aid or assistance from another person, in which case that individual shall also be provided with, and wear, protective eyewear.
- 201.3 The licensee shall ensure the interior temperature of the tanning facility is controlled so that it does not exceed one hundred degrees Fahrenheit (100 °F) (thirty-eight degrees Celsius (38 °C)) at any time.
- 201.4 The licensee shall ensure tanning equipment and devices are maintained in good condition and are sanitized after each use.
- 201.5 The licensee shall ensure all protective eyewear is in optimal condition, properly sanitized, and provides adequate vision in accordance with its design.
- 201.6 The licensee shall ensure each customer receives instructions on how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer of the tanning equipment or devices.
- 201.7 The licensee shall ensure timers on ultraviolet tanning equipment or devices are accurate within plus or minus ten percent ($\pm 10\%$) of any selected time interval. The timer shall also be remotely located so that customers cannot set their own exposure time.
- 201.8 The licensee shall ensure each customer using ultraviolet tanning equipment or devices is limited to the maximum exposure time recommended by the manufacturer.
- 201.9 The licensee shall ensure during a customer's initial visit, and at least annually thereafter, that each customer is provided with a copy of the "Warning Statement" identified in section 302.4.
- 201.10 The licensee shall ensure customers have reviewed, signed, and dated the required Acknowledgment; that they have read and understood the "Warning Statement" provided to them by the facility, as specified in subsections 201.09, 300.1, and 302.4, before using the facility's tanning equipment or devices; and that they have agreed to use FDA compliant protective eyewear provided by the tanning facility or their own.
- 201.11 The licensee shall ensure that customers have submitted a signed and dated "Parental/Legal Guardian Authorization Form" provided to them by the facility before a minor's use of the facility's tanning equipment or devices as specified in sections 300 and 301.
- 201.12 If the customer is illiterate, or visually impaired the licensee shall ensure that the "Warning Statement" and "Parental/Legal Guardian Authorization Form"

have been read to the customer prior to the customer's use or a customer's minor child's use of the facility's tanning equipment or devices.

CHAPTER 3 STANDARD POLICIES & OPERATING PROCEDURES AND RECORDKEEPING

300 POLICY & PROCEDURES – AGE RESTRICTIONS AND PROHIBITION, AND PARENTAL/LEGAL GUARDIAN AUTHORIZATION*

- 300.1 The licensee shall require every customer, including the parent or legal guardian of minors, who uses the facility's tanning equipment and devices to sign an acknowledgement that he or she has:
- (a) Received the required "Warning Statement" provided by the facility;
 - (b) Read and understood the required "Warning Statement" provided by the facility; and
 - (c) Agreed to use FDA compliant protective eyewear; and
 - (d) Consented to a minor's use of the facility's tanning equipment or devices by providing the facility with a properly completed "Parental/Legal Guardian Authorization Form", where applicable.
- 300.2 The general use of tanning equipment or devices shall be restricted to customers who are eighteen (18) years of age or older.
- 300.3 The licensee shall require a parent or legal guardian of a minor child to complete a "Parental/Legal Guardian Authorization Form" provided by the facility prior to the minor's use of the facility's tanning equipment or devices.
- 300.4 The licensee shall prohibit minors younger than fourteen (14) years of age from using ultraviolet tanning equipment or devices.
- 300.5 The licensee shall prohibit minors between fourteen (14) and seventeen (17) years of age from using ultraviolet tanning equipment or devices without a valid "Parental/Legal Guardian Authorization Form" on file. Proof of age shall be satisfied with a driver's license or other government issued identification containing the date of birth and a photograph of the individual, or school issued identifications.
- 300.6 For parents or legal guardians of minors who are sixteen (16) or seventeen (17) years of age, prior to the minors' use of a facility's tanning equipment or devices, the tanning facility shall:
- (a) Provide a copy of the "Warning Statement" identified in section 302.4 to a parent or legal guardian; and
 - (b) Obtain a "Parental/Legal Guardian Authorization Form" from a parent or legal guardian that is signed and dated in the presence of the facility's

operator. The "Parental/Legal Guardian Form" shall not be given to a minor to take home for signing.

300.7 For parents or legal guardians of minors who are fourteen (14) or fifteen (15) years of age, prior to the minors' use of a facility's tanning equipment or devices, the tanning facility shall:

- (a) Provide a copy of the "Warning Statement" identified in section 302.4 to the parent or legal guardian; and
- (b) Obtain a "Parental/Legal Guardian Authorization Form" from a parent or legal guardian that is signed and dated in the presence of the facility's operator. The "Parental/Legal Guardian Authorization Form" shall not be given to a minor to take home for signing; and
- (c) Require a parent or legal guardian to accompany the minor when using the facility's tanning equipment or devices.

300.8 The licensee shall not permit any infant or other minor in a tanning area where tanning equipment or devices are being used by a parent or legal guardian.

301 POLICY & PROCEDURES — AGE RESTRICTION SIGN AND POSTING*

301.1 A licensee shall conspicuously post an Age Restriction Sign at or near the reception area with the following text:

- (a) INDIVIDUALS AGE 14 TO 17 YEARS OF AGE ARE REQUIRED TO HAVE A PARENT OR LEGAL GUARDIAN SIGN A "WARNING STATEMENT" AND A "PARENTAL/ LEGAL GUARDIAN AUTHORIZATION FORM" IN THE PRESENCE OF AN OPERATOR BEFORE USING THE FACILITY'S TANNING EQUIPMENT OR DEVICES;
- (b) INDIVIDUALS AGE 14 TO 15 YEARS OF AGE ARE ALSO REQUIRED TO HAVE A PARENT OR LEGAL GUARDIAN PRESENT DURING ALL TANNING SESSIONS; and
- (c) INDIVIDUALS AGE 13 YEARS OF AGE AND YOUNGER ARE PROHIBITED FROM USING ANY ULTRAVIOLET TANNING EQUIPMENT OR DEVICES.

302 POLICY & PROCEDURES — WARNING STATEMENT, CONTENT, AND POSTING*

302.1 During a customer's initial visit, an operator shall advise a consumer that tanning indoors and outdoors on the same day, or tanning at multiple salons or other similar occurrences is hazardous to his or her health.

302.2 Operators shall remind each customer to consult their physician if the customer is taking any medication, has skin problems, or is sensitive to sunlight, certain foods, or cosmetics.

302.3 The licensee shall conspicuously post a “Warning Sign” as specified in section 302.4, in the reception area next to the tanning facility District-issued license as specified in section 804.4. The sign shall be readily legible, clearly visible, and not obstructed by any item for easy viewing by customers.

302.4 The lettering on the warning sign shall be at least five millimeters (5 mm) high for the word “WARNING”. All capital letters shall be at least five millimeters (5 mm) high and all lower case letters shall be at least three millimeters (3 mm) high. The warning sign shall read as follows:

WARNING
DANGER – ULTRAVIOLET RADIATION

Avoid too frequent or too lengthy exposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeat exposure can cause chronic sun damage, such as premature aging of the skin, which is characterized by wrinkling, dryness, fragility and bruising of the skin or skin cancer.

Wear Food and Drug Administration-Approved Protective Eyewear. Failure to wear protective eyewear may result in severe burns or long-term injury to the eyes.

Do not sunbathe before or after exposure to ultraviolet radiation. Ultraviolet radiation from tanning equipment or devices will aggravate the effects of the sun. So, do not sunbathe during the twenty-four (24) hours immediately before or immediately after using tanning equipment or devices.

Tanning indoors and outdoors on the same day, or tanning at multiple salons, or other similar occurrences is hazardous to your health.

Medications and cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using tanning equipment or devices if: (1) you are taking any medication; or (2) you have a history of skin problems, or believe that you are especially sensitive to sunlight, certain foods, or cosmetics.

Women who are pregnant or using birth control pills and who use tanning equipment or devices may develop discolored skin.

If you do not tan in the sun, you are unlikely to tan when exposed to a tanning device.

If you believe that you have been injured by this tanning device, you should contact: District of Columbia Department of Health, Radiation Protection Division, 899 North Capitol Street, N.E., 2nd Floor, Washington, D.C. 20002-4210, Telephone: (202) 724-8800.

303 OPERATING PROCEDURES – RECORDKEEPING MANUAL, CONTENT*

303.1 The licensee shall maintain a procedural manual at the tanning facility which shall be available at all times to operators and the Department during inspections. Each licensee’s procedural manual shall maintain:

- (a) Statements for customers who are illiterate or visually impaired and unable to sign their names in accordance with section 201.12;
- (b) Parental/Legal Guardian Authorization Forms;

- (c) Warning Statement; and
- (d) A record of each operator's completion of training requirements.

303.2 Each tanning facility shall maintain on file each customer's:

- (a) Statements signed by the tanning facility's staff for customers who are illiterate or visually impaired and unable to sign their names in accordance with section 201.12, if applicable;
- (b) Parental/Legal Guardian Authorization Forms, if applicable;
- (c) Written tanning profiles and consultations;
- (d) Records of suitability for using tanning equipment; and
- (e) Records showing the a adherence to the manufacturer's recommended exposure schedule, or the procedures used for determining if a consumer has exceeded the exposure schedule as provided in subsections 200.4(b) and 200.4(k), including:
 - (1) Determining exposure times;
 - (2) Frequency of visits;
 - (3) Spacing of visits; and
 - (4) Maximum exposure time(s) in minutes.

303.3 All records of customers' files shall be maintained for a minimum of three (3) years before or three (3) years past the client's age of majority.

303.4 Each tanning facility shall maintain:

- (a) Maintenance records which identify the manufacturer, model and series number, and the date each tanning equipment or device was sold, leased, transferred, loaned, assembled, certified, recertified, upgraded, installed, serviced, or repaired, including but not limited to records of the:
 - (1) Frequency and dates of cleaning and sanitizing tanning equipment, tanning devices, and protective eyewear;
 - (2) Replacement of tanning lamps;
 - (3) Quarterly testing of tanning equipment timers and emergency off switches; and
 - (4) Calibration dates of tanning equipment and devices.

(b) A list of emergency contact numbers appropriate for the community in which it is located. The list shall be easily accessible and shall include, but is not limited to, contact numbers for:

- (1) The nearest hospital;
- (2) The nearest fire department; and
- (3) Emergency 911 service.

303.5 All files identified in this section that are maintained electronically shall be frequently backed up and accessible from multiple locations, if applicable.

304 OPERATING PROCEDURES – RECORDKEEPING, PURCHASE, MAINTENANCE, AND USERS’ INSTRUCTIONS

304.1 The licensee shall maintain the users’ instructions for each model of tanning equipment used at the tanning facility as stated in 21 C.F.R. § 1040.20(e)(1) (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, instructions to be provided to users).

304.2 Users’ instructions shall be kept on file at the facility and shall be readily available for review by the tanning facility staff, as needed, and the Department upon request.

304.3 The licensee shall keep records showing the receipt, transfer, repair, and disposal of all equipment and devices on the premises.

304.4 Records which are maintained by the licensee on computer systems shall be copied at least monthly and updated on storage media other than the hard drive of the computer to ensure compliance with these regulations.

304.5 An electronic record shall be retrievable as a printed copy.

305 OPERATING PROCEDURES – RECORDKEEPING, RETENTION

305.1 The licensee shall maintain all records at the facility for at least three (3) years or longer if required by any other applicable District law or regulation. The records shall be readily available for review by the Department upon request.

306 OPERATING PROCEDURES – RECORDKEEPING, REPORTS OF INJURIES

306.1 The licensee shall maintain an “Incident Log” of customers’ actual or alleged ultraviolet radiation injuries or other types of injuries.

306.2 The licensee shall submit to the Department a written report of actual or alleged injury from using the licensee’s tanning equipment or devices no later than five (5) business days after notification of actual or alleged injury.

306.3 The report shall include the following information:

- (a) Name, address, and telephone number of the affected individual;
- (b) Tanning facility’s name, location, telephone number, license number, and name of the operator on duty;
- (c) Identification of the specific tanning equipment or devices involved;
- (d) Nature of the actual or alleged injury, including the date and duration of exposure, and any other information relevant to the actual or alleged injury;
- (e) If applicable, the medical attention sought, treatment, and the name of attending physician;
- (f) Copies of the individual’s medical, skin, and exposure history;
- (g) Steps taken to prevent recurrence of future injuries; and
- (h) All information requested on the Department’s “Report of Injury Form.”

306.4 The licensee shall maintain all records or reports pertaining to actual or alleged injury at the facility for review until the Department authorizes their disposal.

CHAPTER 4 CONSTRUCTION, SANITATION & MAINTENANCE, PREVENTION OF CONTAMINATION, AND WATER SOURCE, QUALITY AND CAPACITY

400 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES*

- 400.1 The licensee shall use only tanning equipment and devices that comply with these regulations.
- 400.2 Tanning equipment and devices shall meet the National Fire Protection Association National Electrical Code and shall be provided with ground fault protection on the electrical circuit, or other methods for preventing shock.
- 400.3 Every tanning device used by a tanning facility shall comply with all applicable District and Federal laws and regulations, including those promulgated by the Federal Trade Commission and the United States Food and Drug Administration.
- 400.4 Each assembly of tanning equipment or devices shall be provided with an emergency shut-off mechanism on the tanning equipment or device to allow the consumer to manually terminate radiation emission from the equipment or device at any time without disconnecting the electrical plug or removing any ultraviolet lamp.
- 400.5 Each assembly of tanning equipment or devices shall be designed for use by only one (1) consumer at a time.

- 400.6 All tanning equipment or devices shall include physical barriers to protect consumers from injury induced by touching or breaking the lamps.
- 400.7 There shall be physical barriers around each tanning equipment or device which is in use to protect persons who are not using the device from line-of-sight accidental ultraviolet radiation exposure.
- 401 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, PROTECTIVE EYEWEAR**
- 401.1 If a consumer does not provide compliant protective eyewear, the licensee shall have compliant protective eyewear available for the consumer to use during any use of tanning equipment.
- 401.2 The licensee shall not allow a consumer to use any tanning equipment if a consumer:
- (a) Refuses to accept compliant protective eyewear offered by the licensee if he or she does not have his or her own; or
 - (b) Vocalizes a refusal to use compliant protective eyewear offered by the licensee or his or her own compliant protective eyewear.
- 401.3 The protective eyewear shall meet FDA requirements stated in 21 C.F.R. § 1040.20(c)(4) (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, Protective eyewear).
- 402 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, TIMER**
- 402.1 Each assembly of tanning equipment and devices shall be equipped with a timer which complies with the requirements of 21 C.F.R. § 1040.20(c)(2) (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, Timer system. The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time).
- 402.2 The timer intervals shall be indicated in such a manner that it is consistent with the exposure times on the manufacturer's recommended exposure schedule.
- 402.3 No timer interval shall have an error exceeding plus or minus ten percent ($\pm 10\%$) of the maximum timer interval for the product.
- 402.4 The timer may not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle when emission from the tanning device has been terminated.
- 402.5 All tanning equipment shall be provided with an override timer control installed outside of the room in which a tanning device is located.

- 402.6 The remote timer shall only be operated by a trained operator or other trained facility employee and shall be located so that the consumer cannot set or reset the consumer's own exposure time.
- 402.7 The remote timer(s) shall comply with the requirements for timers as provided in this section.
- 402.8 New facilities shall install remote timers during the installation of tanning equipment or devices. Applications for change in ownership shall not be approved without proof of installation of remote timers.
- 402.9 Existing tanning equipment or devices not equipped with a remote timer control system shall have the remote timer(s) installed within one (1) year of the effective date of these regulations.

403 DESIGN & CONSTRUCTION – TANNING STAND-UP BOOTHS, CABINETS AND VERTICAL TANNING DEVICES – ADDITIONAL REQUIREMENTS AND TEMPERATURE*

- 403.1 Tanning stand-up booths or cabinets or vertical tanning devices shall have physical barriers or other means compliant with 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, such as floor markings, to indicate the manufacturer's recommended exposure distance between the ultraviolet lamps and the consumer's skin).
- 403.2 The temperatures inside of enclosed tanning booths or cabinets or vertical tanning devices shall be maintained below one hundred degrees Fahrenheit (100 °F) (thirty-eight degrees Celsius (38 °C)).
- 403.3 Tanning stand-up booths or cabinets or vertical tanning devices shall be constructed with sufficient strength and rigidity to withstand the stress of use and the impact of a falling person.
- 403.4 Access to tanning stand-up booths or cabinets or vertical tanning devices shall be of rigid construction with doors which are non-locking and open outwardly.
- 403.5 Tanning stand-up booths or cabinets or vertical tanning devices shall be constructed with non-slip floors to reduce the potential for injuries from falls.
- 403.6 The floor inside each tanning stand-up booth or cabinet or vertical tanning devices shall be constructed of easily cleanable surfaces and of such material, finish and so fabricated that residue may be effectively removed by normal cleaning methods.
- 403.7 The floor inside each tanning stand-up booth or cabinet or vertical tanning devices shall be cleaned and sanitized as specified in section 408, and maintained in a non-slip manner as specified in section 403.5.
- 403.8 Tanning stand-up booths or cabinets or vertical tanning devices shall be maintained in good condition as specified in 407.

- 403.9 Tanning stand-up booths or cabinets or vertical tanning devices shall comply with all applicable provisions of these regulations.
- 404 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, SUPPLIES, INSTALLATION, AND USE***
- 404.1 No person shall make, sell, lease, transfer, lend, repair, assemble, recertify, upgrade, or install tanning equipment, devices, or lamps or provide supplies used in connection with such equipment, devices or lamps unless such equipment, devices, lamps or supplies when properly installed and used meet the requirements specified in sections 405, 406, 407, 408, and 409.
- 405 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, AND SUPPLIES, BULBS, SHIELDING***
- 405.1 Each ultraviolet lamp contained within the sunlamp product shall be shielded by two (2) one-piece covers (top and bottom) without cracks or breaks in the acrylic surfaces to prevent contact with the user.
- 406 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, AND SUPPLIES, REPLACEMENT, ULTRAVIOLET LAMPS, BULBS OR FILTERS, COMPATIBILITY***
- 406.1 The licensee shall only use lamps which have been certified by the FDA as “equivalent” lamps under the FDA regulations and policies applicable at the time of the replacement of the lamps. The format for the equivalency document shall be in compliance with 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, and shall be in the form of user instructions).
- 406.2 The licensee shall maintain manufacturer’s literature demonstrating the equivalency of any replacement lamps that are not identified as original equipment. Manufacturer documentation shall be kept for all lamps in use at the facility and shall be readily available for Department review.
- 406.3 Defective lamps or filters shall be replaced before further use of the tanning equipment or devices.
- 406.4 Lamps and bulbs designated for medical use only shall not be used.
- 406.5 The licensee shall replace ultraviolet lamps, bulbs or filters as recommended by the manufacturer or as soon as they become defective or damaged.
- 406.6 Only lamps, bulbs, or filters that meet the requirements of the FDA for a particular tanning bed may be used in tanning facilities.
- 407 MAINTENANCE – TANNING EQUIPMENT, TIMER, GOOD REPAIR AND ACCURATE CALIBRATION***
- 407.1 Tanning equipment and devices shall be maintained in good repair in order to prevent any mechanical safety hazards.

- 407.2 The licensee shall ensure that tests are performed quarterly on each assembly of tanning equipment or device and documented in writing to ensure that:
 - (a) The timer is accurately calibrated to within ten percent (10%) of the maximum timer interval for the product as specified in section 402.3; and
 - (b) The consumer is able to terminate radiation emissions manually as specified in section 400.4.

407.3 Maintenance tests shall include the date of the test, and the timer test shall include the indicated time versus the measured time.

407.4 The timer shall be tested at the tanning equipment manufacturer’s recommended maximum exposure time.

408 CLEANING & SANITIZING – EQUIPMENT AND DEVICES, TABLES AND CHAIRS, AND TEST KITS

408.1 All tanning equipment and devices shall be constructed with a smooth, cleanable, nonabsorbent surface, and shall be cleaned and sanitized after each tanning session.

408.2 All tanning equipment and devices shall, between consumers, be wiped with a clean paper or cloth towel using a cleaning solution on all surfaces and then sanitized as specified in sections 408.3 and 408.4 on any portion of the surface which may come in contact with a person’s body, after each tanning session.

408.3 All tanning equipment and devices, including required eyewear, shall be sanitized with a U.S. Environmental Protection Agency (EPA)-registered sanitizer in accordance with the EPA approved label that is specifically manufactured for sanitizing ultraviolet light emitting equipment, protective eyewear, and that does not damage the unit’s acrylic plastic surface.

408.4 A test kit or other device that accurately measures the concentration of the sanitizing solution in parts per million (ppm) shall be used to measure the strength of the sanitizing solution at least twice per day of tanning facility operation to ensure sufficient strength of the sanitizing solution.

408.5 Tanning facilities shall maintain adequate supplies for cleaning and sanitizing of all tanning equipment and devices.

409 WATER SOURCE – APPROVED SYSTEM*

409.1 The only approved system for drinking water is the District of Columbia public water system.

409.2 A tanning facility shall not obtain water for its operations from a water system that is not the District of Columbia public water system.

410 WATER SOURCE – BOTTLED DRINKING WATER*

410.1 Bottled drinking water used in a tanning facility shall be obtained from approved sources in accordance with 21 C.F.R. § 129.1 (Current good manufacturing practice).

411 WATER QUALITY – STANDARDS*

411.1 Water from a public water system or potable water shall meet the requirements of the applicable provisions of 40 C.F.R. Part 141 (National Primary Drinking Water Regulations), and District of Columbia drinking water quality standards.

411.2 Potable water shall be used for drinking and sanitizing of tanning equipment and devices.

412 WATER CAPACITY – QUANTITY AND AVAILABILITY

412.1 The water source and system shall be of sufficient capacity to meet the water demands of the tanning facility.

412.2 Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the tanning facility.

CHAPTER 5 PLUMBING SYSTEM

500 MATERIALS – APPROVED MATERIALS, USE *

500.1 Each tanning facility's plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to the International Plumbing Code (2006 edition), subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.

500.2 Each tanning facility's water filter shall be made of safe materials.

501 DESIGN, CONSTRUCTION, AND INSTALLATION – APPROVED SYSTEM AND CLEANABLE FIXTURES*

501.1 Each tanning facility's plumbing system shall be designed, constructed, and installed according to the International Plumbing Code (2006 edition), subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.

501.2 Each tanning facility's plumbing system shall be designed, constructed, installed, and maintained according to the International Plumbing Code (2006 edition), subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations and shall be of sufficient size to:

- (a) Properly convey sewage and liquid disposable waste from the premises;
- (b) Avoid creating any unsanitary condition or constituting a source of contamination to potable water, tanning equipment, and devices; and

- (c) Provide sufficient floor drainage to prevent excessive pooling of water or other disposable waste in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.

501.3 Each plumbing fixture such as a handwashing facility, toilet, or urinal shall be easily cleanable.^N

501.4 Each tanning facility shall be equipped with effective plumbing and sewage facilities and adequate accommodations.

502 DESIGN, CONSTRUCTION, AND INSTALLATION — HANDWASHING SINKS, WATER TEMPERATURE, AND FLOW

502.1 All handwashing sinks, including those in toilet rooms, shall be equipped to provide water at a temperature of at least one hundred degrees Fahrenheit (100 °F) (thirty-eight degrees Celsius (38 °C)) through a mixing valve, a combination faucet, or tempered water and a single faucet.

502.2 A steam mixing valve shall not be used at a handwashing sink.

502.3 A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet.

502.4 Any automatic handwashing facility shall be installed in accordance with the manufacturer's instructions.

503 HANDWASHING SINKS — HANDWASHING CLEANSER, AVAILABILITY, HAND DRYING PROVISION, AND HANDWASHING SIGNAGE

503.1 An automatic handwashing facility may be substituted for a handwashing sink in a tanning facility that has at least one (1) handwashing sink.

503.2 An automatic handwashing facility shall be used in accordance with the manufacturer's instructions.

503.3 Each handwashing sink or group of two (2) adjacent sinks shall be provided with hand cleaning liquid or powder.

503.4 Each handwashing sink or group of adjacent sinks shall be provided with:

- (a) Individual, disposable towels; or
- (b) A heated-air, hand-drying device.

503.5 A sign or poster that notifies employees to wash their hands shall be provided at all handwashing sinks.

504 HANDWASHING SINKS — DISPOSABLE TOWELS, WASTE RECEPTACLE

504.1 A handwashing sink or group of adjacent sinks that is supplied with disposable towels or suitable drying devices shall be provided with a waste receptacle as specified in subsections 507.2 and 507.3.

505 DESIGN, CONSTRUCTION AND INSTALLATION – TOILETS AND URINALS, ENCLOSED

505.1 Toilet facilities shall be provided in accordance with section 506 and the International Plumbing Code (2006 edition), subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.

505.2 A toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door, except that this requirement does not apply to a toilet room that is located outside a tanning facility.

505.3 Toilet room doors shall be kept closed except during cleaning and maintenance operations.

506 TOILETS AND URINALS – NUMBER, CAPACITY, CONVENIENCE AND ACCESSIBILITY, PROHIBITION*

506.1 Each tanning facility shall maintain toilet facilities for employees, which shall consist of a toilet room or toilet rooms with proper and sufficient water closets and lavatories. Toilet facilities shall be conveniently located and readily accessible to all personnel and customers.

506.2 Toilets and urinals provided for employees’ use shall be in accordance with the International Plumbing Code (2006 edition), subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations. Urinals may be substituted for toilets if the substitution is approved by the Department of Consumer and Regulatory Affairs and the Department.

506.3 The licensee shall, at a minimum:

- (a) Maintain the toilet facilities in a sanitary condition that is clean and free of trash and litter;
- (b) Keep the facilities in good repair at all times; and
- (c) Provide self-closing doors.

506.4 All single-stall toilet rooms shall display gender-neutral signs on the door that read “Restroom,” or have a universally recognized pictorial indicating that persons of any gender may use each restroom, in accordance with the D.C. Human Rights Act of 1977, as amended, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2007 Repl)).

506.5 Tanning facilities employing:

- (a) Five (5) or fewer employees may provide only a single toilet facility with a gender-neutral sign on the door in accordance with the D.C.

Human Rights Act of 1977, as amended, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2007 Repl); or

- (b) More than five (5) employees shall have multiple toilet facilities that are either:
 - (1) Single-stall toilet rooms with a gender-neutral sign on each door as specified in section 3101.2 in accordance with the D.C. Human Rights Act of 1977, as amended, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2007 Repl.); or
 - (2) Multiple-stall toilet rooms with gender-specific signs on the doors that read “Men” and “Women” or contain gender-specific, universally recognized pictorials of “Men” and “Women”.

506.6 When locker rooms are provided, there shall be both a male and female locker room available, unless the facility is specifically designated for one (1) gender or the other.

506.7 If the tanning facility serves only one (1) gender, a restroom shall be made available for employees of the opposite gender.

506.8 Toilet facilities shall be deemed conveniently located and accessible to employees during all hours of operation if they are:

- (a) Located within the same building as the business they serve; and
- (b) Accessible during working hours without going outside the building.

506.9 At no time shall consumers or employees of one (1) gender enter the bathroom, restroom, or locker room of the other gender, except for routine clean-up after all of the consumers are gone or there is a maintenance emergency that cannot be handled by an employee of the same gender as belongs to the restroom, bathroom, or locker room.

507 TOILETS AND URINALS – TOILET TISSUE, RECEPTACLE COVERED AND AVAILABLE

507.1 The licensee shall provide a supply of toilet tissue at each toilet.

507.2 The licensee shall provide a waste receptacle in each toilet room.

507.3 The licensee shall provide a covered receptacle for feminine hygiene products in any toilet room used by females.

508 OPERATION AND MAINTENANCE – SYSTEM MAINTAINED IN GOOD REPAIR*

508.1 Each tanning facility's plumbing system shall be:

(a) Repaired according to the International Plumbing Code (2006 edition), subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations; and

(b) Maintained in good repair.

CHAPTER 6 PHYSICAL FACILITIES DESIGN AND CONSTRUCTION, CLEANABILITY, SANITATION, AND MAINTENANCE**600 DESIGN & CONSTRUCTION – BUILDING MATERIALS AND WORKMANSHIP**

600.1 The licensee of a newly constructed, remodeled or renovated tanning facility shall ensure that the design, construction, building materials, and workmanship complies with the District's Construction Codes of 2008, as specified in section 102.1(a) of this chapter.

600.2 The licensee of an existing tanning facility shall maintain in good condition the physical integrity of its tanning facility by repairing or replacing structural or design defects, operating systems, or fixtures in use before the effective date of these regulations in accordance with the District's Construction Codes of 2008, as specified in section 102.1.

600.3 At least thirty (30) days before beginning construction or remodeling of a tanning facility, the licensee shall submit construction plans with all schedules, including but not limited to floor plans, elevations, and electrical schematics, to the Department for review and approval, as specified in section 806.

601 DESIGN & INSTALLATION – LIGHTING AND ELECTRONIC DEVICES*

601.1 All rooms of a tanning facility shall have at least one (1) electrical source of light. Lighting luminaries and fixtures may be of incandescent, fluorescent, high density discharge, or light emitting diode (LED) types.

- 601.2 At least fifty (50) foot-candles of light shall be provided in each area and the laundry area.
- 601.3 At least twenty (20) foot-candles of light shall be provided in each restroom, locker room, toilet room, or other areas when fully illuminated for cleaning.
- 601.4 An average illumination value of ten (10) foot-candles of light, but never less than seven and a half (7.5) foot-candles of light, shall be provided in other areas within a tanning facility, including tanning rooms, offices, lobbies, retail shops, and waiting areas.
- 601.5 The above illumination levels shall be attainable at all times while the tanning facility is occupied, except as specified in section 601.6.
- 601.6 Lighting may be dimmed during a tanning session so long as there is enough light to safely see or to leave the room in case of an emergency.
- 601.7 No tanning facility shall be equipped with tinted windows or two-way mirrors in any room therein.
- 601.8 No tanning facility shall be equipped with any electronic, mechanical, or artificial device used or capable of being used for recording either audio or video activities, conversations, or other sounds in tanning rooms or any other room used by customers.

602 DESIGN & INSTALLATION – SMOKE ALARMS

- 602.1 Each distinct area of a tanning facility separated by a doorway, whether or not a door is currently present, shall be equipped with at least one (1) working smoke alarm which is installed, maintained, and tested according to the International Fire Code (2008 edition), (D.C. Fire Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.
- 602.2 The smoke alarm shall be free of foreign matter such as tape or paint which could impair its proper function.

603 DESIGN & INSTALLATION – HEATING AND VENTILATION SYSTEMS AND POSTING*

- 603.1 All restrooms, locker rooms, and toilet rooms shall be adequately ventilated so that excessive moisture is removed from the room. Acceptable ventilation includes mechanical exhaust ventilation, a recirculating vent, or screened windows.
- 603.2 Each system for heating, cooling, or ventilation shall be properly maintained and operational at all times when the rooms are occupied.
- 603.3 Every tanning room within the facility shall have a thermometer mounted at five feet (5 ft.) above the floor. Adjacent to the thermometer shall be a sign that states:

Patrons shall not tan if room temperature is at one hundred degrees Fahrenheit (100 °F) or (thirty-eight degrees Celsius (38 °C)) or higher. Please report excessive heat to the operator immediately.

603.4 All restrooms, locker rooms, and toilet rooms shall be capable of being maintained at a temperature between sixty-eight degrees Fahrenheit (68 °F) (twenty degrees Celsius (20 °C)) and eighty degrees Fahrenheit (80 °F) (twenty-seven degrees Celsius (27 °C)) while being used by customers.

603.5 The use of portable space heaters is prohibited.

604 CONSTRUCTION & INSTALLATION – FLOORS, WALLS, CEILINGS, AND UTILITY LINES

604.1 All floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable, except that antislip floor coverings or applications may be used for safety reasons.

604.2 The floors in bathrooms, restrooms, locker rooms, and toilet rooms that are next to showers or toilets, or any other wet areas, shall be constructed of smooth, durable, nonabsorbent, and easily cleanable material.

604.3 Every concrete, tile, ceramic, or vinyl floor installed in bathrooms, restrooms, locker rooms, and toilet rooms, which are next to showers or toilets, shall be covered at the junctures between the floor and the walls.

604.4 All material used to cover the junctures shall be fitted snugly to the floor and the walls so that they are water tight and there are not openings large enough to permit the entrance of vermin.

604.5 The material used in constructing the walls and ceilings must be joined along their edges so as to leave no open spaces or cracks.

604.6 Tanning rooms shall be constructed and maintained to provide client privacy.

605 CLEANABILITY – FLOORS, WALLS, CEILINGS, AND UTILITY LINES

605.1 Utility service lines and pipes shall not be unnecessarily exposed.

605.2 Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

605.3 Exposed horizontal utility service lines and pipes shall not be installed on the floor.

606 CLEANABILITY – FLOOR AND WALL JUNCTURES, COVERED, AND ENCLOSED OR SEALED

606.1 Floor and wall junctures shall be covered and closed to no larger than one millimeter (1 mm.) or one thirty-second of an inch (1/32 in.).

606.2 Covering of floor and wall junctures shall be sealed.

607 CLEANABILITY — FLOOR CARPETING, RESTRICTIONS AND INSTALLATION

607.1 A floor covering such as carpeting or similar material shall not be installed as a floor covering in toilet room areas where handwashing sinks, toilets, or urinals are located; refuse storage rooms; or other areas where the floor is subject to moisture.

607.2 If carpeting is installed as a floor covering in areas other than those specified in section 607.1, it shall be:

- (a) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another similar method; and
- (b) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

608 CLEANABILITY — FLOOR COVERING, MATS AND DUCKBOARDS

608.1 The licensee or manager shall inspect the premises prior to each consumer's use to ensure that the floors are dry.

608.2 Mats and duckboards shall be designed to be removable and easily cleanable.

609 PHYSICAL FACILITIES — MAINTENANCE, FLOORS, PUBLIC AREAS

609.1 The physical facilities shall be maintained in good repair and cleaned as often as necessary to keep them clean.

609.2 Every floor and floor covering, shall be kept clean and in good repair, sanitized, or replaced so that it does not become a hazard to health or safety.

609.3 All public areas of a tanning facility, such as the lobbies and merchandising and retail areas shall be maintained in a clean and sanitary manner, free of litter, rubbish, and nuisances.

610 PHYSICAL FACILITIES — CLEANABILITY, SANITIZATION AND MAINTENANCE OF PLUMBING FIXTURES

610.1 Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean and well-maintained.

610.2 All tanning facilities shall be equipped with toilet facilities, which include a water closet and handwashing sinks, including hot and cold running water, hand cleaning liquid or powder, and a paper towel dispenser or equivalent hand drying equipment.

610.3 All restrooms shall be kept in sanitary condition and good repair.

611 PHYSICAL FACILITIES – MAINTAINING PREMISES, UNNECESSARY ITEMS AND LITTER

611.1 The grounds surrounding a tanning facility under the control of the licensee shall be kept in a clean and litter-free condition.

611.2 The methods for adequate maintenance of grounds include, but are not limited to, the following:

- (a) Properly storing or removing unnecessary equipment that is nonfunctional or no longer used, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the physical facility that may constitute an attractant, breeding place, or harborage for pests;
- (b) Maintaining roads and parking lots so that they do not constitute an attractant, breeding place, or harborage for pests; and
- (c) Adequately draining areas that may provide an attractant, breeding place, or harborage for pests.

611.3 If the tanning facility's grounds are bordered by grounds not under the operator's control and not maintained in the manner described in sections 611.1 and 611.2, care shall be exercised by the licensee through inspection, extermination, or other means to exclude pests, dirt, and filth that may become an attractant, breeding place, or harborage for pests.

611.4 Methods for maintaining a sanitary operation include providing sufficient space for placement and storage of equipment and linens.

612 PHYSICAL FACILITIES – CONTROLLING PESTS*

612.1 The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:

- (a) Routinely inspecting the premises for evidence of pests;^N
- (b) Using methods, if pests are found, such as trapping devices or other means of pest control as specified in sections 612 and 613; and
- (c) Eliminating harborage conditions.^N

612.2 The licensee shall maintain a copy of the establishment's professional service contract and service schedule, which documents the following information:

- (a) Name and address of its D.C. licensed pest exterminator/contractor;

- (b) Frequency of pest extermination services provided under the contract; and
- (c) The date on which pest extermination services were last provided to the establishment.

613 PHYSICAL FACILITIES – REMOVING DEAD OR TRAPPED BIRDS, INSECTS, RODENTS, AND OTHER PESTS

613.1 Dead or trapped birds, insects, rodents, and other pests shall be removed from a trap or the traps shall be discarded from the premises at a frequency that prevents accumulation, decomposition, or the attraction of other pests.

614 PHYSICAL FACILITIES – PROHIBITING ANIMALS*

614.1 Patrol dogs accompanying police or security officers and sentry dogs running loose in outside fenced areas or dogs providing assistance to individuals with physical handicaps may be allowed in a tanning facility if the presence of the animals does not result in contamination of tanning equipment, devices, or supplies.

CHAPTER 7 REFUSE, RECEPTACLES, STORAGE AND REMOVAL

700 REFUSE FACILITIES ON PREMISES – RECEPTACLES, STORAGE AREAS, GOOD REPAIR, AND OUTSIDE STORAGE AREAS & REMOVAL FREQUENCY

700.1 An inside storage room or area, outside storage area or enclosure, and receptacles shall be of sufficient capacity to hold the refuse that accumulate.

700.2 Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the tanning facility or within closed containers in outside receptacles.

700.3 Receptacles and waste handling units shall be designed and constructed with tight-fitting lids, doors, or covers.

700.4 Receptacles and waste handling units shall be durable, cleanable, insect- and rodent-resistant, leakproof, nonabsorbent, and maintained in good repair.

700.5 If used, an outdoor enclosure for refuse shall be constructed of durable and cleanable materials and shall be located so that a public health hazard or nuisance is not created.

700.6 An outdoor storage surface for refuse shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

700.7 Storage areas, enclosures, and receptacles for refuse shall be maintained in good repair.

700.8 Storage areas and enclosures for refuse shall be kept clean and maintained free of unnecessary items, as specified in section 611.

701 REMOVAL FREQUENCY

701.1 The licensee shall maintain a copy of the facility’s professional service contract which documents the following information:

- (a) Name and address of its District-licensed trash or solid waste contractor;
- (b) Duration of the contract; and
- (c) Frequency of trash or solid waste collection services provided under the contract.

701.2 Trash or solid waste collection shall comply with title 21, chapter 7 of the DCMR.

CHAPTER 8 COMPLIANCE, ENFORCEMENT AND DEFINITIONS

800 LICENSE REQUIREMENTS – PREREQUISITES FOR OPERATING, VENDING, OR MANAGING, OR TRAINING *

800.1 No person shall own, open, or operate a tanning facility in the District without a tanning facility license issued by the Mayor.

800.2 No person shall own, open, or operate a tanning facility in the District with an expired or suspended license.

800.3 No person shall open, or operate a tanning facility in the District without a valid Certificate of Occupancy;

800.4 Except for routine maintenance such as required cleaning and sanitizing of tanning equipment and replacement of bulbs as specified in sections 406 and 408 by a facility’s manager, operator or trained employee, no person shall sell, lease, transfer, loan, assemble, certify, recertify, upgrade, install, service, or repair tanning equipment or devices in the District without a valid tanning service provider registration issued by the Mayor.

800.5 No person shall furnish or offer to furnish tanning equipment, devices, or associated components, such as bulbs and filters, in the District without a valid tanning service provider registration issued by the Mayor.

800.6 No licensee shall use a tanning service provider company unless such company possesses a valid tanning service provider registration issued by the Mayor as specified in section 800.4.

800.7 No person shall manage a tanning facility in the District without obtaining a valid District-issued Tanning Facility Manager Identification Card issued by the Department as specified in section 200.6.

801 APPLICATION PROCEDURE – PERIOD AND FORM OF SUBMISSION, PROCESSING

- 801.1 An applicant shall submit an application for a license at least thirty (30) calendar days before the date planned for opening a tanning facility or at least thirty (30) calendar days before the expiration date of the current license for an existing tanning facility.
- 801.2 Licenses shall be valid for a two (2) year period.
- 801.3 License fees shall be prorated for licenses issued after the beginning of the license period.
- 801.4 An applicant shall submit a written application for a license or tanning service provider registration on a form provided by the Department.
- 801.5 A new application shall be filed with the Department within thirty (30) days of any change in ownership or location. A licensee shall also notify the Department at least thirty (30) calendar days before permanently or temporarily discontinuing operations.
- 801.6 The Department shall not process applications for a change in ownership or location where administrative actions are pending against an existing facility that has not been resolved.

802 APPLICATION PROCEDURE – CONTENTS OF THE APPLICATION PACKET

- 802.1 An application for a license to operate a tanning facility shall include the full name(s), true name(s) or any other name(s) used by the applicant, and the following information:
- (a) The present address and telephone number of each applicant:
 - (1) If the applicant is an individual, the individual's home address;
 - (2) If the applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and each stock holder owning more than ten percent (10%) of the stock of the corporation, and the address of the corporation itself if it is different from the address of the tanning facility; or
 - (3) If the applicant is a partnership, the names and residence addresses of each partner, including limited partners, and the address of the partnership itself if different from the address of the tanning facility.
 - (b) Each applicant's signature;
 - (c) Name and address of registered agent, if applicable;

- (d) The location, mailing address, and all telephone numbers where the business is to be conducted;
- (e) Proof that the applicant is at least the age of majority;
- (f) Driver's license or Government ID with the date of birth of each applicant; and
- (g) A complete set of construction plans including all schedules (for example, floor plans, elevations, and electrical schematics), if applicable.

803 DENIAL OF APPLICATION FOR LICENSE – NOTICE

803.1 If an application for a license or a renewal of a license is denied, the Department shall provide the applicant with written notice that includes:

- (a) The specific reasons and legal authority for denial of the license;
- (b) The actions, if any, that the applicant must take to qualify for a new license or to renew a license; and
- (c) Notice of the applicant's right to a hearing and the process and timeframes for appeal as prescribed in chapter 13 of this subtitle.

804 ISSUANCE OF LICENSE – NOTICE OF OPENING, DISCONTINUANCE OF OPERATION, AND POSTING

804.1 A tanning facility shall provide notice to the Department of its intent to operate at least thirty (30) calendar days before beginning operations.

804.2 A tanning facility shall provide notice to the Department of its intent to shut down permanently or temporarily at least thirty (30) calendar days before discontinuing operations.

804.3 If a tanning facility is closed for more than a thirty (30) day period, the tanning facility's license and certificate of occupancy shall be returned to the Department and the owner shall be required to submit a new application as specified in section 801.5 for the issuance of a new license prior to reopening.

804.4 A current inspection report, and all valid licenses, Certificate of Occupancy and "Warning Statements" required in sections 302.3, 800.1, 800.2 and 800.3, and shall be conspicuously posted in the reception area next to the tanning facility's license.

805 ISSUANCE OF LICENSE – NEW, CONVERTED OR REMODELED, EXISTING OPERATIONS AND CHANGE OF OWNERSHIP OR LOCATION

805.1 Each applicant shall submit:

- (a) A properly completed application packet provided by the Department;
- (b) Copies of all operating and safety procedures unique to the facility's operation;
- (c) Copies of each manufacturer's recommended exposure schedule and the recommended supplies such as lamps and filters for each model of tanning equipment and devices;
- (d) Copies of the maintenance records as specified in section 303 for license renewals;
- (e) Proof of payment of the application and license fees; and
- (f) Proof of the Department's review and approval of required plans and specifications as specified in section 806, if applicable.

805.2 If the applicant meets the qualifications as specified in section 802 and the Department determines through its inspection as specified in section 807 that the operation is in compliance with these regulations, the Department shall approve:

- (a) A new tanning facility;
- (b) An existing tanning facility that has changed ownership or location; or
- (c) An existing tanning facility's license renewal.

806 ISSUANCE OF LICENSE – REQUIRED PLAN REVIEWS AND APPROVALS

806.1 A license applicant or licensee shall submit to the Department for review and approval properly prepared plans and specifications before:

- (a) The construction of a tanning facility;
- (b) The conversion of an existing structure for use as a tanning facility; or
- (c) Major renovation, remodeling, or alteration of a tanning facility if the Department determines that plans and specifications are necessary to ensure compliance with these regulations.

806.2 Plans required by this section shall include specifications showing layout, arrangement, and construction materials, and the location, size, and type of fixed equipment and facilities.

806.3 Plans, specifications, an application form, and the applicable fee shall be submitted at least thirty (30) calendar days before beginning construction, remodeling, or conversion of a facility.

806.4 The Department shall approve the completed plans and specifications if they meet the requirements of these regulations, and the Department shall report its findings to the license applicant or licensee within thirty (30) days of the date the completed plans are received.

806.5 Plans and specifications that are not approved as submitted shall be changed to comply or be deleted from the project.

**807 ISSUANCE OF LICENSE – REQUIRED INSPECTIONS,
PREOPERATIONAL, CONVERSIONS AND RENOVATIONS***

807.1 The Department shall conduct one (1) or more preoperational inspections to verify and approve that the tanning facility is constructed and equipped in accordance with plans and modifications approved by the Department as specified in section 806; has established standard operating procedures as specified in chapter 3; and is in compliance with these regulations.

**808 CONDITIONS OF LICENSE RETENTION – RESPONSIBILITIES OF
THE LICENSEE**

808.1 Upon receipt of a license issued by the Department, the licensee, in order to retain the license, shall comply with subsections 808.2 through 808.6.

808.2 The licensee shall post a current license, valid Certificate of Occupancy, current inspection reports, and “Warning Statement” in a conspicuous location within the tanning facility as specified in section 804.4.

808.3 The licensee shall comply with the provisions of these regulations and approved plans as specified in section 806.

808.4 The licensee shall immediately discontinue operations and notify the Department if an imminent health hazard exists as specified in section 906.

808.5 The licensee shall allow representatives of the Department access to its tanning facility as specified in section 900.

808.6 The licensee shall replace existing operating systems, equipment, devices, fixtures, or furniture that do not comply with these regulations pursuant to a documented agreement with the Department requiring the operating systems, or equipment, devices, or fixtures, furniture to be replaced with an operating system, or equipment, devices, fixtures, linens, furniture that comply with these regulations, or the Department may direct the replacement of existing operating systems, or equipment, devices, fixtures, or furniture because the equipment, devices, fixtures, or furniture constitute a public health hazard or nuisance as specified in section 102.2.

808.7 The licensee shall maintain required maintenance records that reflect the manufacturer, model, and serial number of, and date each piece of tanning equipment or device was sold, leased, transferred, loaned, assembled, recertified, upgraded, installed, serviced, or repaired as specified in section 303.4(a).

809 CONDITIONS OF RETENTION – LICENSE NOT TRANSFERABLE

809.1 A tanning facility license shall not be transferred from one person to another person or from one location to another.

CHAPTER 9 INSPECTION AND CORRECTION OF VIOLATIONS

900 ACCESS & INSPECTION FREQUENCY – DEPARTMENT RIGHT OF ENTRY, DENIAL MISDEMEANOR*

900.1 The Department shall determine a tanning facility’s compliance with these regulations by conducting on-site:

- (a) Preoperational inspections;
- (b) Unannounced routine annual and follow-up inspections; and
- (c) Unannounced complaint generated inspections.

900.2 After representatives of the Department present official credentials and provide notice of the purpose and intent to conduct an inspection in accordance with these regulations, the applicant or licensee shall allow the Department access to any part, portion, or area of a tanning facility.

900.3 The Department may enter and inspect all aspects of a tanning facility, including but not limited to tanning rooms, locker rooms, bathrooms, employee lounge areas, kitchens/food service facilities, or other areas of a tanning facility for the following purposes:

- (a) To determine if the tanning facility is in compliance with these regulations;
- (b) To investigate an emergency affecting the public health if the tanning facility is or may be involved in the matter causing the emergency;
- (c) To investigate, examine, and sample or swab equipment, devices, fixtures, linens, furnishings, garments, or other supplies; and
- (d) To obtain information and examine and copy all records on the premises relating to the purchase, sale, lease, transfer, loan, assemble, certification, upgrade, installation, service, or repair of tanning equipment and devices.

900.4 If a person denies the Department access to any part, portion, or area of a tanning facility, the Department shall inform the individual that:

- (a) The applicant or licensee is required to allow access to the Department, as specified in sections 900.1, 900.2, and 900.3;

- (b) Access is a condition of the receipt and retention of a license as specified in section 808.5;
 - (c) If access is denied, an inspection order allowing access may be obtained in accordance with District law; and
 - (d) The Department is making a final request for access.
- 900.5 If the Department presents credentials and provides notice as specified in section 900.2, explains the authority upon which access is requested, and makes a final request for access as specified in section 900.4(d), and the applicant or licensee continues to refuse access, the Department shall provide details of the denial of access on the inspection report.
- 900.6 If the Department is denied access to a tanning facility for an authorized purpose, after complying with sections 900.2 through 900.4, the Department may:
- (a) Summarily suspend a license to operate a tanning facility in accordance with section 1108;
 - (b) Revoke or suspend a license to operate a tanning facility in accordance with section 1113; or
 - (c) Request that the Office of the Attorney General for the District of Columbia commence an appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief from the court including but not limited to administrative search warrants, to enforce these regulations in accordance with the Health Functions Clarification Act of 2002, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2011 Supp.)).

901 REPORT OF FINDINGS – DOCUMENTING INFORMATION AND OBSERVATIONS

901.1 The Department shall document on an inspection report form:

- (a) Administrative information about the tanning facility's legal identity, street and mailing addresses, inspection date, and other information such as status of the license and personnel certificates that may be required or other inspectional findings; and
- (b) Specific factual observations of violations of these regulations that require correction by the licensee including:
 - (1) Nonconformance with critical items of these regulations;
 - (2) Failure of a licensee to correct cited violations, as specified in section 908 or 910; or
 - (3) Failure of the licensee to ensure that operators are properly trained and have knowledge of their responsibility as specified in chapter 2.

902 REPORT OF FINDINGS – SPECIFYING TIME FRAME FOR CORRECTIONS

902.1 The Department shall specify on the inspection report the time frame for correction of violations as specified in sections 908 and 910.

903 REPORT OF FINDINGS – ISSUING REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT

903.1 At the conclusion of the inspection, the Department shall provide a copy of the completed inspection report and the notice to correct violations to the licensee and request a signed acknowledgment of receipt. The inspection report shall contain a listing of violations by area in the operation and inspection item with corresponding citations to applicable provisions in these regulations and shall be conspicuously posted in the reception area next to the tanning facility's license.

904 REPORT OF FINDINGS – REFUSAL TO SIGN ACKNOWLEDGMENT

904.1 The Department shall inform a person who declines to sign an acknowledgment of receipt of inspection findings that:

- (a) An acknowledgment of receipt is not an agreement with the finding;
- (b) Refusal to sign an acknowledgment of receipt will not affect the licensee's obligation to correct the violations noted in the inspection report within the time frames specified; and
- (c) A refusal to sign an acknowledgment of receipt will be noted in the inspection report for the tanning facility.

**905 REPORT OF FINDINGS — PUBLIC INFORMATION, RECORDS
RETENTION**

- 905.1 The Department shall keep and maintain in-office an active record of each inspection report, complaint, inspector's sample reports, license suspension, and other correspondence made by any tanning facility within the District for a period of one (1) year, and as an inactive record for a period of two (2) additional years. Inactive records shall be destroyed in-house at the end of the two (2)-year inactive period.
- 905.2 In the case of an audit or investigation, the Department shall keep all records until the audit or investigation has been completed.
- 905.3 The Department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code §§ 2-501, *et seq.* (2006 Repl.; 2011 Supp.)).

**906 IMMEDIATE HEALTH HAZARD — CEASING OPERATIONS AND
EMERGENCY REPORTING***

- 906.1 The Department shall summarily suspend operations, or a licensee shall immediately discontinue operations and notify the Department, whenever a facility is operating with any of the following conditions:
- (a) Operating with extensive fire damage that affects the tanning facility's ability to comply with these regulations;
 - (b) Operating with serious flood damage that affects the tanning facility's ability to comply with these regulations;
 - (c) Operating with loss of electrical power to critical systems, including but not limited to lighting, heating, cooling, or ventilation controls for a period of two (2) or more hours;
 - (d) Operating with incorrect hot water temperatures that cannot be corrected during the course of the inspection in violation of section 502.1;
 - (e) Operating with no hot water, or an unplanned water outage, or the water supply is cut off in its entirety for a period of one (1) or more hours in violation of sections 412.2 and 502.1;
 - (f) Operating with inadequate water pressure to any part of the tanning facility;
 - (g) Operating with insufficient water capacity to any part of the tanning facility in violation of section 412.1;
 - (h) Operating with a water supply that is not approved by the Department in violation of section 409;

- (i) Operating with a plumbing system supplying potable water that may result in contamination of the potable water;
- (j) Operating with a sewage backup or sewage that is not disposed of in an approved and sanitary manner;
- (k) Operating with a cross-connection between the potable water and non-potable water distribution systems, including but not limited to landscape irrigation, air conditioning, heating, or fire suppression system;
- (l) Operating with a back siphonage event;
- (m) Operating with toilet or handwashing facilities that are not properly installed;
- (n) Operating with the presence of toxic or noxious gases, vapors, fumes, mists or particulates in concentrations immediately dangerous to life or health, or in concentrations sufficient to cause an environmental disease or public nuisance;
- (o) Operating with the presence of any unapproved pesticide residues in the interior building areas of a tanning facility, in food storage or service areas contained within the tanning facility, or in the presence of any food in the facility; or in the presence of excessive restricted-use pesticide in any outdoor area of a tanning facility; or any evidence of the indiscriminate use of a pesticide or herbicide which may be injurious to the health of humans;
- (p) Operating with equipment that by condition, design, construction, or use poses an immediate risk of entrapment, fall, puncture, pinch, crush, trip, or other injuries;
- (q) Operating with environmental surfaces, including but not limited to tanning beds, stand-up tanning booths, cabinets, or vertical tanning devices, supplies, pillows, linens, garments, other items within a tanning facility that are stained with blood or bodily fluids, or soiled; or infested with vermin; or are in an otherwise unsanitary condition;
- (r) Operating with gross insanitary occurrence or condition that may endanger public health including but not limited to an infestation of vermin; or
- (s) Failing to eliminate the presence of insects, rodents, or other pests on the premises in violation of sections 612 or 613.

906.2

In addition to the imminent health hazards identified in section 906.1, the Department shall summarily suspend operations if it determines through an inspection, or examination of records or other means as specified in section 903, the existence of any other condition which endangers the public health, safety, or welfare, including but not limited to:

- (a) Operating a tanning facility without a license in violation of section 800.1;
- (b) Operating a tanning facility with an expired license in violation of section 800.2;
- (c) Operating a tanning facility with a suspended license in violation of section 800.2;
- (d) Operating a tanning facility without a valid Certificate of Occupancy in violation of section 800.3;
- (e) Operating a tanning facility without required warning statements in violation of sections 804.4;
- (f) Operating a tanning facility without a valid District-Issued Tanning Facility Manager's Identification Card in violation of subsections 200.6 and 800.7;
- (g) Operating a tanning facility without a manager or operator who is on duty and on the premises during all hours of operation in violation of section 200.2;
- (h) Selling, leasing, transferring, loaning, assembling, certifying, recertifying, upgrading, installing, servicing, or repairing tanning equipment or devices without a valid tanning service provider registration in violation of section 800.4;
- (i) Using a tanning service provider company that is not registered in the District in violation of section 800.5;
- (j) Failing to allow access to DOH representatives during the facility's hours of operation and other reasonable times as determined by the Department in violation of section 900.2;
- (k) Hindering, obstructing, or in any way interfering with any inspector or authorized Department personnel in the performance of his or her duty; or
- (l) Operating in violation of any provision specified in chapter 12.

907 IMMEDIATE HEALTH HAZARD – RESUMPTION OF OPERATIONS

907.1 If operations are discontinued as specified in section 906 or otherwise according to applicable D.C. laws and regulations, the licensee shall obtain approval from the Department before resuming operations.

907.2 The Department shall determine whether a licensee needs to discontinue operations that are unaffected by the imminent health hazard in a tanning facility as determined by the Department or other District agency.

908 CRITICAL VIOLATIONS – TIME FRAME FOR CORRECTION*

908.1 A licensee shall, at the time of inspection, correct a critical violation of these regulations and implement corrective action as specified in section 908.2.

908.2 The Department may consider the nature of the potential hazard involved and the complexity of the corrective action needed and agree to specify a longer timeframe, not to exceed five (5) business days after the inspection, for the licensee to correct a critical violation of these regulations.

908.3 Failure to correct violations in accordance with this section may subject a licensee to a condemnation order pursuant to section 1102, summary suspension of a license pursuant to section 1108, revocation or suspension of a license pursuant to section 1113, civil penalties pursuant to section 1114, or judicial remedies pursuant to section 1116.

909 CRITICAL VIOLATION – VERIFICATION AND DOCUMENTATION OF CORRECTION

909.1 The licensee shall correct critical violations no later than five (5) business days after an inspection. The Department shall enter the violation and information about the corrective action on the inspection report.

909.2 After receiving notification that the licensee has corrected a critical violation, the Department shall verify correction of the violation, document the information on an inspection report, and enter the report in the Department's records.

910 NONCRITICAL VIOLATIONS – TIME FRAME FOR CORRECTION

910.1 The licensee shall correct noncritical violations no later than fourteen (14) business days after the inspection, except as specified in section 910.2.

910.2 The Department may approve a compliance schedule that extends beyond the time limits specified in section 910.1 if the licensee submits a written schedule of compliance and no health hazard exists or will result from allowing an extended schedule for compliance.

910.3 Failure to correct violations in accordance with this section may result in the revocation or suspension of a license pursuant to section 1113, issuance of civil

penalties pursuant to section 1114, or the imposition of judicial remedies pursuant to section 1116.

911 REQUEST FOR REINSPECTION

911.1 If a license is summarily suspended pursuant to section 1108 or suspended or revoked pursuant to section 1113 because of violations of these regulations, the licensee shall submit a written request for reinspection and pay the required reinspection fee.

911.2 Upon receipt of a request for reinspection, the Department shall conduct the reinspection of a tanning facility within three (3) business days of receipt of the request.

911.3 A tanning facility shall not resume operations or remove from public view any warning or current inspection result as specified in sections 301, 302.3, or 804.4, or any enforcement order as specified in section 907.1 until the Department has reinspected the tanning facility and certified that it is in compliance with these regulations.

CHAPTER 10 NOTICES

1000 SERVICE OF NOTICE – PROPER METHODS

1000.1 A notice issued in accordance with section 3102 of title 16 of the District of Columbia Municipal Regulations and these regulations shall be deemed properly served if it is served by one (1) of the following methods:

- (a) The notice is personally served by the Department, a law enforcement officer, or a person authorized to serve civil process and service is made to the licensee or person operating a tanning facility without a license;
- (b) The notice is sent by the Department to the last known address of the licensee or person operating a tanning facility without a license, or by other public means so that a written acknowledgment of receipt may be acquired; or
- (c) For civil infraction penalties, the notice is provided by the Department in accordance with the procedures stated in section 3102 of title 16 of the District of Columbia Municipal Regulations.

1001 SERVICE OF NOTICE – RESTRICTION OR EXCLUSION, CONDEMNATION, OR SUMMARY SUSPENSION ORDERS

1001.1 An employee restriction or exclusion order, condemnation order, or summary suspension order shall be:

- (a) Served as specified in section 1000.1(a); or

- (b) Clearly posted by the Department at a public entrance to the tanning facility and a copy of the notice sent by first class mail to the licensee or manager of a tanning facility, as appropriate.

1002 SERVICE OF NOTICE – WHEN NOTICE IS EFFECTIVE

- 1002.1 Service is effective at the time of the notice's receipt as specified in section 1001.1(a), or if service is made as specified in section 1001.1(b) at the time of the notice's posting.

1003 SERVICE OF NOTICE – PROOF OF PROPER SERVICE

- 1003.1 Proof of proper service may be made by certificate of service signed by the person making service or by admission of a return receipt, certificate of mailing, or a written acknowledgment signed by the licensee or person operating a tanning facility without a license or an authorized agent.

CHAPTER 11 REMEDIES

1100 CRITERIA FOR SEEKING REMEDIES – CONDITIONS WARRANTING REMEDY

- 1100.1 The Department may seek an administrative or judicial remedy to achieve compliance with the provisions of these regulations if a licensee, person operating a tanning facility, or employee:
- (a) Fails to have a valid license as specified in subsections 800.1 and 800.2;
 - (b) Fails to pay the required fee as specified in section 805.1(f);
 - (c) Violates any term or condition of a license as specified in section 808;
 - (d) Fails to allow the Department access to a tanning facility as specified in section 900;
 - (e) Fails to comply with directives of the Department including time frames for corrective actions specified in inspection reports, orders, or warnings issued by the Department as specified in sections 1008 and 1010;
 - (f) Fails to comply with a condemnation order as specified in this chapter;
 - (g) Fails to comply with a summary suspension order by the Department as specified in this chapter;
 - (h) Fails to comply with an order issued as a result of an administrative hearing;
 - (i) Makes any material false statement in the application for licensure;
 - (j) Falsifies or alters records required to be kept by these regulations; or

- (k) Seeks to operate with conditions revealed by the application or any report, records, inspection, or other means which would warrant the Department refusal to grant a new license.

1100.2 The Department may simultaneously use one or more of the remedies listed in this chapter to address a violation of these regulations.

1101 ADMINISTRATIVE – EXAMINING, SAMPLING, AND TESTING OF EQUIPMENT, FURNITURE, DEVICES, FIXTURES, AND FURNISHINGS

1101.1 The Department may examine, collect samples without cost and test as necessary to determine compliance with these regulations.

1102 ADMINISTRATIVE – CONDEMNATION ORDER, JUSTIFYING CONDITIONS AND REMOVAL OF EQUIPMENT OR DEVICES

1102.1 A duly authorized agent of the Department may condemn and forbid the sale of, or cause to be removed and destroyed, any equipment, device, fixture, or supplies found in a tanning facility the use of which does not comply with these regulations, or that is being used in violation of these regulations, or that because of dirt, filth, extraneous matter, corrosion, open seams, or chipped or cracked surfaces is unfit for use.

1103 ADMINISTRATIVE – CONDEMNATION ORDER, CONTENTS

1103.1 The condemnation order shall:

- (a) State that the equipment, devices, fixtures, or other supplies subject to the order may not be used, sold, moved from the tanning facility, or destroyed without a written release of the order from the Department;
- (b) State the specific reasons for placing the equipment, devices, fixtures, or other supplies under the condemnation order with reference to the applicable provisions of these regulations and the hazard or adverse effect created by the observed condition;
- (c) Completely identify the equipment, devices, fixtures, or other supplies subject to the condemnation order by the common name, the label or manufacturer's information, description of the item, the quantity, the Department's tag or identification information, and location;
- (d) State that the licensee has the right to a hearing and may request a hearing by submitting a timely request in accordance with chapter 13, which request does not stay the Department's imposition of the condemnation order;
- (e) State that the Department may order the destruction, replacement or removal of equipment, devices, fixtures, or other supplies if a timely request for a hearing is not received; and

- (f) Provide the name and address of the Department representative to whom a request for a hearing may be made.

1104 ADMINISTRATIVE – CONDEMNATION ORDER, OFFICIAL TAGGING OR MARKING OF EQUIPMENT OR DEVICES

1104.1 The Department shall place a tag, label, or other appropriate marking to indicate the condemnation of equipment, devices, fixtures, or other supplies that do not meet the requirements of these regulations.

1104.2 The tag or other method used to identify the equipment, devices, fixtures, or other supplies that are the subject of a condemnation order shall include a summary of the provisions specified in section 1103 and shall be signed and dated by the Department.

1105 ADMINISTRATIVE – CONDEMNATION ORDER, EQUIPMENT, DEVICES AND FURNISHING RESTRICTIONS

1105.1 Equipment, devices, fixtures, or other supplies that are subject to a condemnation order may not be used, sold, moved, or otherwise destroyed by any person, except as specified in section 1106.2.

1106 ADMINISTRATIVE – CONDEMNATION ORDER, REMOVING THE OFFICIAL TAG OR MARKING

1106.1 No person shall remove the tag, label, or other appropriate marking except under the direction of the Department as specified in section 1106.2.

1106.2 The Department shall issue a notice of release from a condemnation order and shall remove condemnation tags, labels, or other appropriate markings from tanning equipment, devices, fixtures, or other supplies if:

- (a) The condemnation order is vacated; or
- (b) The licensee obtains authorization from the Department to discard the tanning equipment, devices, fixtures, or supplies identified in the condemnation order.

1107 ADMINISTRATIVE – CONDEMNATION ORDER, WARNING OR HEARING NOT REQUIRED

1107.1 The Department may issue a condemnation order to a licensee, or to a person who owns or controls the equipment, devices, fixtures, or other supplies as specified in section 1102, without prior warning, notice of a hearing, or a prior hearing on the condemnation order.

1107.2 The licensee shall have the right to request a hearing within fifteen (15) business days of receiving a Department condemnation order. The Department shall hold a hearing within seventy-two (72) hours of receipt of a timely request, and shall issue a decision within seventy-two (72) hours after the hearing. The request for a hearing shall not act as a stay of the condemnation action.

1108 ADMINISTRATIVE — SUMMARY SUSPENSION OF LICENSE, CONDITIONS WARRANTING ACTION

1108.1 The Department may summarily suspend a license to operate a tanning facility if it is denied access to the tanning facility to conduct an inspection, or determines through an inspection, or examination of operators, employees, records, or other means as specified in the regulations, that an imminent health hazard exists.

1109 ADMINISTRATIVE — CONTENTS OF SUMMARY SUSPENSION NOTICE

1109.1 A summary suspension notice shall state:

- (a) That the license of a tanning facility is immediately suspended and that all operations shall immediately cease;
- (b) The reasons for summary suspension with reference to the provisions of these regulations that are in violation;
- (c) The name and address of the Department representative to whom a written request for reinspection may be made and who may certify that reasons for the suspension are eliminated; and
- (d) That the licensee may request a hearing by submitting a timely request in accordance with section 1110, which request does not stay the Department's imposition of the summary suspension.

1110 ADMINISTRATIVE — SUMMARY SUSPENSION, WARNING OR HEARING NOT REQUIRED

1110.1 The Department may summarily suspend a license as specified in section 1108 by providing written notice as specified in section 1109 of the summary suspension to the licensee, without prior warning, notice of a hearing, or prior hearing.

1110.2 The licensee shall have the right to request a hearing within fifteen (15) business days after receiving the Department's summary suspension notice. The Department shall hold a hearing within seventy-two (72) hours of receipt of a timely request, and shall issue a decision within seventy-two (72) hours after the hearing. The request for a hearing shall not act as a stay of the summary suspension.

1111 ADMINISTRATIVE — SUMMARY SUSPENSION, TIME FRAME FOR REINSPECTION

1111.1 After receiving a written request from the licensee stating that the conditions cited in the summary suspension order no longer exist, the Department shall conduct a reinspection of the tanning facility for which the license was summarily suspended within three (3) business days of receiving the request.

1112 ADMINISTRATIVE — SUMMARY SUSPENSION, TERM OF SUSPENSION, REINSTATEMENT

1112.1 A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and the Department has confirmed, through reinspection or other appropriate means that the conditions cited in the notice of suspension have been eliminated.

1113 ADMINISTRATIVE — REVOCATION OR SUSPENSION OF LICENSE

1113.1 Failure to comply with any of the provisions of these regulations shall be grounds for the revocation or suspension of any license issued to a tanning facility pursuant to the Health Functions Clarification Act of 2002, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b)) (2008 Repl.; 2011 Supp.). When there is a history of repeated violations or where a license has been previously suspended, the Department may revoke a license upon a showing of a subsequent violation.

1113.2 Before the Department revokes or suspends a license, the licensee shall be given an opportunity to answer and to be heard on the violations.

1114 ADMINISTRATIVE — CIVIL PENALTIES

1114.1 Civil fines, penalties, or related costs may be imposed against any tanning facility licensee for violation of any provision of these regulations.

1114.2 The Department may impose penalties for violations of any provision of these regulations not to exceed two thousand five hundred dollars (\$2,500) for each violation. Each day of any failure to comply with these regulations shall constitute a separate offense and the penalties prescribed in this section shall apply to each separate offense in accordance with the Health Functions Clarification Act of 2002, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2011 Supp.)).

1114.3 Civil fines or penalties imposed pursuant to section 1114.2 shall reflect the severity of the violation and the extent to which it creates an imminent threat to the public health. Maximum amounts shall be limited to egregious or flagrant violations involving gross negligence or carelessness resulting in injury which do not meet the criminal penalty standards in section 1116.

1115 ADMINISTRATIVE — CIVIL PENALTIES, NOTICES OF VIOLATION OR INFRACTIONS

1115.1 The notice of violation shall state the nature of the violation and allow a reasonable time for performance of the necessary corrective action.

1115.2 If a person fails to comply with the time stated in the notice of violation issued pursuant to this section, the Department shall issue a proposed compliance order, or a proposed cease and desist order, which shall include a statement of the nature of the violation, afford the right to a hearing, allow a reasonable time

for compliance with the order, and state any penalties to be assessed for failure to comply with the order.

1116 JUDICIAL – CRIMINAL PENALTIES, INJUNCTIVE RELIEF, OR IMPRISONMENT

1116.1 Any person who knowingly violates any provision of these regulations shall, upon conviction, be punished by a fine not to exceed two thousand five hundred dollars (\$2,500), imprisonment not to exceed one (1) year, or both, for each violation. Each day of any failure to comply with these regulations shall constitute a separate offense and the penalties prescribed in this section shall apply to each separate offense in accordance with the Health Functions Clarification Act of 2002, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2011 Supp.)).

CHAPTER 12 PROHIBITED CONDUCT AND ACTIVITIES

1200 PROHIBITED CONDUCT – ADVERTISEMENT, POSTING

1200.1 No person shall state or imply that any activity conducted by such person or such person’s facility has been approved by the Department.

1200.2 Except for advertisements that are used on the premises, no person or facility shall advertise or promote tanning services without the tanning facility’s name, address, telephone number, and license number on the advertisement.

1200.3 No person shall indicate in any advertisement or posting that such person’s tanning equipment is safe or free of hazards from ultraviolet radiation, including but not limited to statements such as “no burning,” “no harmful rays,” “no adverse effects,” “safe tanning,” “healthy,” or similar wording of concepts.

1200.4 No person shall claim in any advertisement or posting any medical or health benefits from such person’s tanning equipment or devices, nor imply use of tanning services as a medical treatment.

1200.5 No person or facility shall advertise or promote “unlimited” tanning exposure packages in excess of a tanning equipment manufacturer’s recommended exposure schedule as defined in section 9901.1.

1200.6 No person shall promote in any advertisement or posting tanning exposure times, number of visits per week, or spacing of visits in excess of those in accordance with the manufacturer’s recommended exposure schedule.

1200.7 No person or facility shall advertise or promote tanning services that are misleading in any way.

1201 PROHIBITED ACTIVITIES*

1201.1 No tanning facility shall employ, in any capacity, any person who is under eighteen (18) years of age.

- 1201.2 No alcoholic beverages shall be served in a tanning facility.
- 1201.3 No person shall enter or remain in any part of a tanning facility while in possession of, consuming, or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The licensee shall not permit any such person to enter or remain upon the premises.

CHAPTER 13 HEARING ADMINISTRATION

1300 ADMINISTRATIVE – NOTICE, REQUEST FOR HEARING, BASIS, AND TIME FRAME

- 1300.1 A person who receives a notice of hearing for an administrative remedy as specified in this chapter and elects to respond to the notice shall file a response to the notice within seven (7) calendar days after service.
- 1300.2 In response to an adverse administrative action, a licensee may submit a written request for a hearing to the Department within fifteen (15) calendar days of the receipt of notice of adverse action.
- 1300.3 A hearing request shall not stay a condemnation order as specified in section 1102, or the imposition of a summary suspension as specified in section 1108.

1301 ADMINISTRATIVE – HEARINGS ADMINISTRATION – CONTENTS OF RESPONSE TO HEARING NOTICE, OR HEARING REQUEST

- 1301.1 A response to a hearing notice shall be in writing and contain the following:
 - (a) An admission or denial of each allegation of fact;
 - (b) A statement as to whether the respondent waives the right to a hearing;
 - (c) A statement of defense, mitigation, or explanation concerning any allegation of fact, if any;
 - (d) A request to the Department for a settlement of the proceeding by consent agreement (if the Department provides this opportunity); and
 - (e) The name and address of the respondent’s legal counsel, if any.
- 1301.2 A request for a hearing shall be in writing and contain the following:
 - (a) An admission or denial of each allegation of fact;
 - (b) A statement of defense, mitigation, denial, or explanation concerning each allegation of fact; and
 - (c) The name and address of the requester’s legal counsel, if any.

1302 ADMINISTRATIVE – HEARINGS ADMINISTRATION, TIMELINESS

- 1302.1 The Department shall afford a hearing within seventy-two (72) hours after receiving a written request for a hearing from:
- (a) A licensee or person who is subject to a condemnation order as specified in section 1102; or
 - (b) A person whose license is summarily suspended as specified in section 1108.
- 1302.2 A licensee or person who submits a request for a hearing as specified in section 1302.1 may waive the expedited hearing in a written request to the Department.

CHAPTER 14 JUDICIAL REVIEW

1400 JUDICIAL REVIEW – APPEALS

- 1400.1 Any person aggrieved by a final order or decision of the Department may seek judicial review in accordance with the Health Functions Clarification Act of 2002, effective October 3, 2001, as amended (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2011 Supp.)).

CHAPTER 99 DEFINITIONS

9900 GENERAL PROVISIONS

- 9900.1 The terms and phrases used in this title shall have the meanings set forth in this Chapter, unless the text or context of the particular chapter, section, subsection, or paragraph provides otherwise.

9901 DEFINITIONS

- 9901.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

Condemnation order – a written administrative notice: (1) to prohibit the use of a specific tanning equipment or device, or (2) to remove a tanning equipment or device from service because the tanning equipment or device does not meet the requirements of these regulations, or the tanning equipment or device is not being operated in accordance with the requirements of these regulations.

Consent – signature on a form acknowledging warnings given by the tanning facility for a minor’s use of ultraviolet tanning equipment or devices and agreeing to the use of required protective eyewear.

Consumer – any member of the public who is provided access to a tanning device in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning device as a condition or benefit of membership or access.

Critical item – a provision of these regulations that if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or an environmental health hazard. Critical items are denoted in these regulations with an asterisk (*).

Critical violation – a condition or practice that violates this Code and results in the production of a product that is adulterated, decomposed, misbranded, or unwholesome; or presents a threat to the health or safety of the consumer.

Department – The District of Columbia Department of Health.

EPA – the United States Environmental Protection Agency.

FDA – the United States Food and Drug Administration.

Guardian – an individual who, by legal appointment or by the effect of a written law, has been given custody of a minor or adult.

Imminent health hazard – a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operations to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

Individual – any human being.

Injury – bodily harm resulting from the use of a tanning device which requires medical attention.

Inspection – an official examination or observation, including but not limited to tests, surveys, and monitoring, to determine compliance with rules, regulations, Department orders, requirements, and conditions.

Licensee – the holder of a license to operate a tanning facility.

Minor – any individual less than eighteen (18) years of age.

Nuisance – anything which is injurious to health or offensive to the senses, so as to interfere with the comfort or endanger the health or safety of the public.

Operator – any individual designated by the licensee to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment.

Other compensation – the payment or exchange of goods, services, or anything of value for use of the tanning device or devices.

Override timer control – a separate electrical timer, switch, or similar device which may be used by the operator to start or stop the timer system for a tanning device. The term does not include electric panels which control the entire electrical system for a building or a portion of a building.

Outbreak – the occurrence of cases of a communicable disease in a community, geographic region, or particular population at a rate in excess of that which is normally expected in that community, geographic region, or particular population.

Pathogenic – the ability to produce disease.

Person – an association, a corporation, individual, partnership, trustee, government or governmental subdivision, or other legal entity.

Protective eyewear – suitable eyewear that protects the eye from ultraviolet radiation and allows adequate vision.

Phototherapy device – equipment that emits ultraviolet radiation and is used by health care professionals in the treatment of disease.

Personal hygiene items – articles such as bars of soap, bath gel, bubble bath, shampoo, conditioner, lotion, mouthwash, toothbrushes, toothpaste, cotton swabs, cotton balls, razors, shaving cream, emery boards, combs, brushes, tweezers, feminine hygiene products, powder, etc. which are used for personal cleanliness or grooming.

Public area – any area open to public view, whether indoors or outdoors to which the public has approved access, excluding individual tanning rooms, locker rooms, bathrooms, or restrooms at a tanning facility.

Safe level – not more than fifty (50) colonies of microorganisms per four square inches (4 sq. in.) of equipment surface.

Sanitization – the effective bactericidal treatment of surfaces of equipment and devices by an EPA or FDA registered product which provides a sufficient concentration of chemicals, allowing enough time to reduce the bacterial count, including pathogens, to a safe level. Chemical germicides that are registered with the EPA as hospital disinfectants, when used at recommended dilutions and directions, may be approved for sanitizing tanning devices.

Sunlamp product – any equipment used for the tanning of the skin that emits electromagnetic radiation with wavelengths in the air between two hundred nanometers (200 nm) and four hundred nanometers (400 nm), including but not limited to a sunlamp, ultraviolet lamp, tanning booth, facial unit, UVA wand, or tanning bed.

Tanning equipment or device – any equipment used during the process of skin tanning with a sunlamp product, such as any sunlamp product intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation and any accompanying equipment, including but not limited to ballasts, starters, lamps, reflectors, acrylic shields, timers, and airflow cooling systems, comfort pillows and handrails.

Tanning facility – any location, place, area, structure, or business that either as a sole service or as part of a salon, health spa or any other facility provides access to sunlamps, ultraviolet lamps, or other equipment intended to induce skin tanning through the irradiation of any part of the human body for cosmetic or non-medical purposes. The term “tanning facility” does not include private residences if access to tanning devices is provided without charge.

Tanning Service Provider – any person or persons with a valid registration issued by the Mayor providing tanning equipment installation, servicing, or services, including but not limited to:

Any person or persons who:

- (a) Makes, sells, leases, transfers, lends, assembles, repairs, or installs tanning equipment or the components used in connection with such equipment;
- (b) Performs health physics consulting, such as calibration of equipment used to perform surveys of ultraviolet radiation and timer accuracy measurements, performs ultraviolet radiation output and timer accuracy measurements, or designs ultraviolet radiation safety programs or procedures;
- (c) Performs preventive maintenance or cleaning services, such as the cleaning of fans, acrylic, lamps, reflectors, and other components; or
- (d) Conducts training seminars for tanning facility personnel.

Timer – tanning device provided to terminate the exposure at a preset time interval.

Ultraviolet radiation – electromagnetic radiation with wavelengths in air between two hundred nanometers (200 nm) and four hundred nanometers (400 nm).

Unlimited – any number of visits implied or allowed in excess of the number of visits per week allowed by the tanning equipment manufacturer's recommended exposure schedule.

All persons wishing to comment on these proposed rules should submit written comments no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to the Office of the General Counsel, Department of Health, 899 North Capitol Street, N.E., Room 547, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the above address, excluding weekends and holidays. You may also submit your comments to Angli Black at (202) 442-5977 or email Angli.Black@dc.gov.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 13-01
(Text Amendment – 11 DCMR)
(Minor Modification to § 1700.1)

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2008 Repl.)) and pursuant to the its Consent Calendar procedure set forth at 11 DCMR § 3030, hereby gives notice of its intent to amend Section 1700.1 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (DCMR). Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The amendment will eliminate an outdated reference to the boundary of the Downtown Development Overlay.

Since the amendment is technical in nature, no hearing was held, nor will the amendment be referred to the National Capital Planning Commission for its review.

The following amendments to the Zoning Regulations are proposed:

Chapter 17, **DOWNTOWN DEVELOPMENT OVERLAY DISTRICT**, § 1700.1, **GENERAL PROVISIONS (DD)**, § 1700.1, is amended by deleting its second sentence,¹ so that the entire provision reads as follows:

1700.1 The Downtown Development (DD) Overlay District is applied to the core of the Downtown area, including subareas identified in the Comprehensive Plan as the Downtown Shopping District (Retail Core), the Arts District, Gallery Place, Chinatown, Pennsylvania Quarter, Convention Center, and Mount Vernon Square, and areas designated for historic preservation and housing mixed use, which areas overlap geographically with the subareas.. All street locations in this overlay district are in Northwest Washington.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon S. Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001. Ms. Schellin may also be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

¹ The second sentence presently reads:

The boundaries of the DD Overlay District are indicated in Map A, filed in Zoning Commission Case No. 89-25, which may be viewed at the D.C. Office of Zoning.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-014
January 16, 2013

SUBJECT: Appointments – District of Columbia State Early Childhood Development Coordinating Council

ORIGINATING AGENCY: Office of the Mayor

- I. By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 (87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(11) (2012 Supp.)), and pursuant to section 107 of the Pre-K Enhancement and Expansion Amendment Act of 2008, effective March 8, 2011 (D.C. Law 18-285; D.C. Official Code § 38-271.07), it is hereby **ORDERED** that:
- a. **GINNIE COOPER**, Chief Librarian, DC Public Library, is appointed, as an additional member identified by the District of Columbia Early Childhood Development Coordinating Council (“**Coordinating Council**”), to the Coordinating Council, and shall serve a term to end two (2) years from the effective date of this order.
 - b. **CHRISTOPHE BEARD**, is appointed, as the State Director for Head Start Collaboration, replacing Maxine M. Maloney, to the Coordinating Council, and shall serve in that capacity at the pleasure of the Mayor.
 - c. **DANIELLE EWEN**, is appointed, as the designee representative of the Chancellor of the District of Columbia Public Schools, to the Coordinating Council, and shall serve in that capacity at the pleasure of the Mayor.
 - d. **AMY TEMPLEMAN**, is appointed, as the designee for the Child and Family Services Agency, replacing Gavin J. Kirkpatrick, to the Coordinating Council, and shall serve in that capacity at the pleasure of the Mayor.
 - e. **HEATHER ELLIOTT**, is appointed, as a member from a public school, to the Coordinating Council, and shall serve a term to end two (2) years from the effective date of this order.


II. In accordance with D.C. Official Code § 38-271.07 (c)(1)(B), it is hereby **RECOGNIZED** that:

- a. **ERIKA WADLINGTON**, is appointed, as the designee representative of the Chairman of the Council of the District of Columbia, to the Coordinating Council, and shall serve in that capacity at the pleasure of the Mayor.

III. **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 2013-015
January 16, 2013

SUBJECT: Final Action on Reorganization and Rightsizing of District of Columbia Public Schools

ORIGINATING AGENCY: Office of the Mayor

On November 13, 2012, the Chancellor of the District of Columbia Public Schools announced a proposed action to consolidate school programs and buildings, pursuant to Title 5, Section 3607 of the District of Columbia Municipal Regulations. The proposal was published on November 23, 2012 in the *District of Columbia Register*.

The proposed action was designed to do the following:

- A. Support the goal of offering a higher quality education to all students;
- B. Enable the District to use all of its resources more effectively;
- C. Give more students an opportunity to attend a modernized school sooner; and
- D. Provide for the District's long-term financial stability

Complete details of the proposal, including supporting criteria, findings, and recommendations, were posted online at www.dcps.dc.gov.

The Chancellor, acting under authority delegated from the Mayor, held four community meetings between November 27, 2012 and December 5, 2012 in addition to participating in Council hearings held on November 15, 2012 and November 19, 2012 and a series of meetings with the Council regarding the proposal.

After careful consideration, and after consultation with the Chancellor, by virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 27, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2012 Supp.), and Title I of the Public Education Reform Amendment Act of 2007, effective June 12, 2007, D.C. Law 17-9, D.C. Official Code § 38-171 *et seq.* (2012 Supp.), it is hereby **ORDERED** that:

1. **FINAL ACTION ON SCHOOL CLOSINGS:** The following 13 District of Columbia Public School buildings shall be closed at the end of the 2012-2013 school year.

<u>Ward</u>	<u>Consolidating School</u>
4	MacFarland MS
5	Marshall ES
5	CHOICE at Hamilton
5	Spingarn SHS
5	Spingarn STAY
6	Shaw MS at Garnet Patterson
6	Prospect LC
7	Davis ES
7	Kenilworth ES
7	Winston EC
7	Ron Brown
8	Ferebee-Hope ES
8	MC Terrell-McGregory ES

The following 2 District of Columbia Public School buildings shall remain open for the 2013-2014 school year and close at the end of the 2013-2014 school year.


<u>Ward</u>	<u>Consolidating School</u>
4	Sharpe Health
5	Mamie D. Lee

2. **DELEGATION OF AUTHORITY:** The Mayor hereby delegates to the Chancellor authority to take such further action as necessary to implement this Order.
3. **EFFECT:** This Mayor's Order supersedes all previous Mayor's Orders to the extent of any inconsistency therein.

4. **EFFECTIVE DATE:** This Order shall be effective January 17, 2013.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

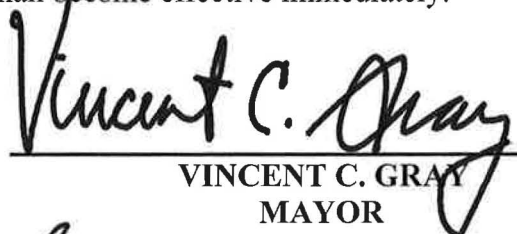
GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-016

January 17, 2013

SUBJECT: Appointments and Reappointments - Board of Psychology**ORIGINATING AGENCY:** Office of the Mayor

- I. By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and in accordance with section 211 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986, D.C. Law 6-99, D.C. Official Code § 3-1202.11 (2012 Supp.), it is hereby **ORDERED** that:
- a. **GERALD J. FILBIN**, who was nominated by the Mayor on September 21, 2012, and was deemed approved by the Council pursuant to Proposed Resolution 19-1013 on November 17, 2012, is appointed, as a consumer member of the Board of Psychology ("Board"), replacing Selerya Moore, for a term to end November 30, 2015.
 - b. **DR. JULIET FRANCIS**, who was nominated by the Mayor on September 21, 2012, and was deemed approved by the Council pursuant to Proposed Resolution 19-1015 on November 17, 2012, is reappointed, as a psychologist member of the Board, for a term to end November 30, 2013.
 - c. **DR. JOHN ROBINSON, JR.**, who was nominated by the Mayor on September 21, 2012, and was deemed approved by the Council pursuant to Proposed Resolution 19-1016 on November 17, 2012, is reappointed, as a psychologist member of the Board, for a term to end November 30, 2013.
- II. **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 2013-017
January 17, 2013

SUBJECT: Delegation of Authority to the Chairman of the D.C. Taxicab Commission to Opt-Out of the Metered Fare System for Taxicabs on Inauguration Day, January 21, 2013

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2012 Supp.) and pursuant to section 105(b) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2023; D.C. Official Code § 50-381(b)) (2012 Supp.), it is hereby **ORDERED** that:

1. The District of Columbia hereby opts out of the requirement to implement a metered fare system for taxicabs with respect to any Designated Route in the District of Columbia during the 24-hour period of January 21, 2013.
2. The Chairman of the D.C. Taxicab Commission is delegated authority to implement this Executive Order by determining, prior to January 21, 2013, such Designated Route(s) upon which taxicab operators shall be required to charge flat fees instead of metered fares on January 21, 2013, and by issuing such guidelines and making such public announcements as he deems necessary and appropriate to ensure the proper use and availability of such Designated Route(s).
3. No trips by taxicab on January 21, 2013 shall be on a flat fee basis other than those on a Designated Route as determined by the Chairman.
4. The delegation of authority granted herein shall expire on January 22, 2013, except to the extent necessary to achieve a complete and final adjudication of any contested case, as defined in the D.C. Administrative Procedures Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.) (2011 Repl.), or any criminal matter, which relates to the delegation of authority in this Executive Order.

5. EFFECTIVE DATE: This Order shall become effective immediately.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
CHANGE OF HOURS AGENDA

WEDNESDAY, JANUARY 30, 2013 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales: Monday through Sunday 7am-12am. No settlement agreement. ANC 7C. **Uncle Lee's Seafood**, 1102 Eastern Avenue, NE, Retailer's A, Lic.#: 085918.
2. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales: Monday through Thursday 8:30am-9pm, Friday and Saturday 8:30am-10pm, Sunday 9am-9pm. No settlement agreement. ANC 2B. **Cairo Liquor Store**, 1618 17th Street, NW, Retailer's A, Lic.#: 000343.

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, JANUARY 30, 2013
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On January 30, 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#12-AUD-00057 Corina's Restaurant, 831 KENNEDY ST NW Retailer C Restaurant, License#: ABRA-079873

2. Case#12-AUD-00058 Lalibela Ethiopian Restaurant, 1415 14TH ST NW Retailer C Restaurant, License#: ABRA-023745

3. Case#12-AUD-00060 Leopold's Kafe Konditorei/L2, 3315 Cady's Alley AL NW Retailer C Restaurant, License#: ABRA-025268

4. Case#12-AUD-00061 Rugby Cafe, 1065 WISCONSIN AVE NW Retailer C Restaurant, License#: ABRA-075703

5. Case#12-AUD-00063 The Meeting Place, 1100 17TH ST NW Retailer C Restaurant, License#: ABRA-074661

6. Case#12-AUD-00067 Wah Sing Restaurant, 2521 PENNSYLVANIA AVE SE Retailer C Restaurant, License#: ABRA-000514

7. Case#12-AUD-00068 Big Bear Cafe, 1700 1ST ST NW Retailer C Restaurant, License#: ABRA-084379

8. Case#13-AUD-00003 Nile Market & Kitchen, 7815 GEORGIA AVE NW Retailer C Restaurant, License#: ABRA-060432

9. Case#12-251-00353 Grand Central, 2447 18TH ST NW Retailer C Restaurant, License#: ABRA-076693

10. Case#12-CMP-00697 Charlie Palmer, 101 CONSTITUTION AVE NW Retailer C Restaurant, License#: ABRA-060654

11. Case#12-CMP-00680 Stadium, 2127 QUEENS CHAPEL RD NE Retailer C Nightclub, License#: ABRA-082005

12. Case#12-CMP-00681 El Rincon, 1826 COLUMBIA RD NW Retailer C Restaurant, License#: ABRA-060003

13. Case#12-CMP-00700 McKinley Market, 321 T ST NE Retailer B Retail - Grocery, License#: ABRA-083044

14. Case#12-CMP-00633 The Mighty Pint, 1831 M ST NW Retailer C Tavern, License#: ABRA-084184

15. Case#12-CMP-00736 The Reef, 2442 - 2446 18TH ST NW Retailer C Tavern, License#: ABRA-060475

16. Case#12-CMP-00723 Smith Commons, 1245 H ST NE Retailer C Restaurant, License#: ABRA-084598

17. Case#12-251-00354 Opera Ultra Lounge, 1400 I ST NW Retailer C Nightclub, License#: ABRA-084711

18. Case#12-CMP-00679 Bistro 18, 2420 18TH ST NW Retailer C Restaurant, License#: ABRA-086876

19. Case#12-CMP-00678 MERKATO ETHIOPIAN RESTAURANT, 1909 9TH ST NW
Retailer C Restaurant, License#: ABRA-089019

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
AGENDA

WEDNESDAY, JANUARY 30, 2013 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Change of Hours Application to change Monday Hours of Operation and Hours of Alcoholic Beverage Sales/Service. ***Current Monday Hours of Operation and Hours of Alcoholic Beverage Sales/Service:*** Closed. ***Proposed Monday Hours of Operation and Hours of Alcoholic Beverage Sales/Service:*** Monday 9pm-2am. No pending investigative matters. No outstanding fines/citations. Conflict with Settlement Agreement but Letter Approving Amendment to VA received from ANC. ANC 6D. ***Ziegfield's/Secrets***, 1824 Half Street SW Retailer CN04, Lic.#: 78663.

2. Review of request from Emanuel Mpras on behalf of Licensee to expand alcohol service on "1st and 2nd floors" to the "1st, 2nd, and 3rd floors" (Licensee will provide updated Certificate of Occupancy). No pending investigative matters. No outstanding fines/citations. No Settlement Agreement. ANC 2F. ***Roc Bar***, 1426 L Street NW Retailer CT01, Lic.#: 89818.

3. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales/Service of Premises and Summer Garden. ***Current Hours of Operation and Hours of Alcoholic Beverage Sales/Service of Premises and Summer Garden:*** Sunday 12pm-1:00am, Monday through Thursday 11:30am-1am, Friday and Saturday 12pm-3am. ***Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service of Premises and Summer Garden:*** Sunday through Thursday 11am-1am, Friday and Saturday 11am-3am. No pending investigative matters. No outstanding fines/citations. No conflict with Settlement Agreement. ANC 3B. ***Town Hall***, 2340-46 Wisconsin Avenue NW Retailer CR03, Lic.#: 87661.

4. Review of request from Stephen O'Brien on behalf of Licensee to expand basement portion of the licensed premises into the contiguous basement space. Current occupancy of 274 will remain the same. Pending investigative matters. No outstanding fines/citations. No conflict with Settlement Agreement. ANC 1C. ***Napoleon***, 1847 Columbia Road NW Retailer CR03, Lic.#: 75836.

Board's Agenda – January 30, 2013 - Page 2

5. Review of Safekeeping Application due to property being sold and business closure. ANC 2B. *Omega*, 2123 Twining Court NW Retailer CT02, Lic.#: 909.
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6. Review of Settlement Agreement Amendment, dated January 16, 2013, between Tortino Restaurant and ANC 2F. *Tortino Restaurant*, 1228 11th Street NW Retailer CR01, Lic.#: 87730. *
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*** In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

CESAR CHAVEZ PUBLIC CHARTER SCHOOL DC**REQUEST FOR PROPOSALS****Common Core Aligned Instructional Materials**

The ToPPP Grant, a Race to the Top Grant administered by Chavez Public Charter Schools, is seeking a provider of Common Core aligned instructional materials for a K-12 school consortium. Materials may consist of but are not limited to the following: books, magazines, workbooks, and digital resources. If you would like to put in a bid as a vendor for these materials, please contact topppgrant@chavezschools.org.

Deadline for receiving bids is Wednesday January 30th at 12pm.

CESAR CHAVEZ PUBLIC CHARTER SCHOOLS

REQUEST FOR PROPOSALS

Purchase of Technology Equipment

The Cesar Chavez Public Charter For Public Policy Schools solicits Request for Proposals for the purchase of telephone equipment.

The full text of the proposal is available upon request by sending an email to roc.blakeney@[chavezschools.org](mailto:roc.blakeney@chavezschools.org)

Deadline for submissions is February 8th, 2013

Please email proposals to roc.blakeney@chavezschools.org

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION**

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

February 2013

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
Greta Cordeiro	Board of Accountancy	5	8:30 am-12:00pm
Leon Lewis	Board of Appraisers	20	8:30 am-4:00 pm
Leon Lewis	Board Architects and Interior Designers	NO MEETING	8:30 am-1:00 pm
Sheldon Brown	Board of Barber and Cosmetology	4	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	12	7:00-pm-8:30 pm
Kevin Cyrus	Board of Funeral Directors	7	9:30am-2:00 pm
Greta Cordeiro	Board of Professional Engineering	28	9:30 am-1:30 pm
Leon Lewis	Real Estate Commission	12	8:30 am-1:00 pm
Pamela Hall	Board of Industrial Trades	19	1:00 pm-4:00 pm
	Asbestos Electrical Elevators Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

Dates and Times are subject to change. All meetings are held at 1100 4th Street, SW, Suite E-300 A-B, Washington, D.C. 20024. Board agendas are available upon request.

For further information on this schedule, please call 202-442-4320.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY

Fiscal Year 2013 DC Physical Activity for Youth (DC PAY)

Announcement Date: **January 28, 2013**Request for Application Release Date: **February 11, 2013**Pre-Application Question Period Ends: **February 26, 2013**Application Submission Deadline: **April 9, 2013**

The Division of Wellness and Nutrition Services within the Office of the State Superintendent of Education (OSSE) is soliciting grant applications for the District of Columbia Physical Activity for Youth (DC PAY) program. **The purpose of this program is to increase the capacity of DC schools to provide physical activity to all students before, during, or after the school day.**

Eligibility: The Office of the State Superintendent of Education will accept applications from Washington DC public schools and public charter schools and organizations participating in the Healthy Schools Act (2010). Past award recipients are eligible.

Length of Award: The grant award period is one year.

Available Funding for Award: The total funding available for this award period is \$200,000. Eligible schools and organizations may apply for an award amount up to \$10,000.

Anticipated Number of Awards: OSSE has funding available for at minimum, twenty (20) awards.

For additional information regarding this grant competition, please contact:

Erin Watts
Health Education Specialist
Department of Wellness and Nutrition
DC Office of the State Superintendent of Education
Government of the District of Columbia
810 First Street, NE
Washington, DC 20002
(202) 481-3755
erin.watts@dc.gov

The RFA and applications will be available on the www.osse.dc.gov, or by contacting Erin Watts.

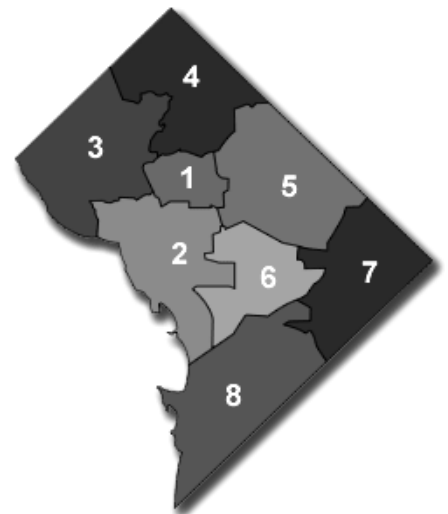
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of DECEMBER 31, 2012**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	45,052	2,943	846	0	215	12,752	61,808
2	31,980	6,460	294	1	189	12,686	51,609
3	39,336	8,033	404	0	156	12,995	60,924
4	51,602	2,666	604	0	197	10,339	65,408
5	53,991	2,269	601	0	188	9,401	66,450
6	52,933	6,560	603	0	225	13,431	73,752
7	51,887	1,413	480	0	140	7,257	61,177
8	50,044	1,472	490	0	196	8,205	60,407
Totals	376,825	31,816	4,322	1	1,506	87,066	501,535
Percentage By Party	75.13%	6.34%	.86%	.00%	.30%	17.36%	100.00%

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF DECEMBER 31, 2012

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 DECEMBER 31, 2012

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,478	41	14	0	12	245	1,790
22	3,688	302	31	0	13	1,010	5,044
23	2,687	162	65	0	11	759	3,684
24	2,633	258	38	0	14	858	3,801
25	4,183	480	80	0	8	1,389	6,140
35	3,672	240	73	0	13	1,151	5,149
36	4,496	298	81	0	22	1,253	6,150
37	3,258	157	56	0	9	778	4,258
38	2,805	139	62	0	11	760	3,777
39	4,282	224	106	0	23	1,112	5,747
40	3,939	238	103	0	33	1,221	5,534
41	3,394	211	68	0	27	1,110	4,810
42	1,869	63	32	0	9	510	2,483
43	1,722	74	26	0	4	377	2,203
137	946	56	11	0	6	219	1,238
TOTALS	45,052	2,943	846	0	215	12,752	61,808

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of DECEMBER 31, 2012**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	712	173	6	0	12	462	1,365
3	1,493	451	18	0	12	754	2,728
4	1,705	486	9	0	9	858	3,067
5	2,295	776	24	0	10	945	4,050
6	2,726	1,159	31	1	23	1,729	5,669
13	1,401	305	7	0	3	521	2,237
14	3,153	495	28	0	14	1,163	4,853
15	3,345	361	27	0	21	1,059	4,813
16	3,878	439	39	0	16	1,125	5,497
17	4,985	714	48	0	41	1,752	7,540
129	2,047	364	17	0	6	842	3,276
141	2,540	275	29	0	11	762	3,617
143	1,700	462	11	0	11	714	2,898
TOTALS	31,980	6,460	294	1	189	12,686	51,609

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of DECEMBER 31, 2012

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,239	440	16	0	3	585	2,283
8	2,420	713	25	0	11	816	3,985
9	1,227	561	12	0	13	567	2,380
10	1,738	487	9	0	12	696	2,942
11	3,509	1,010	48	0	13	1,498	6,078
12	515	218	4	0	4	231	972
26	3,012	396	33	0	8	1,025	4,474
27	2,619	324	18	0	7	656	3,624
28	2,520	659	34	0	10	964	4,187
29	1,370	301	17	0	5	497	2,190
30	1,354	272	19	0	5	312	1,962
31	2,421	383	21	0	9	635	3,469
32	2,900	424	31	0	10	716	4,081
33	3,114	427	36	0	13	869	4,459
34	3,865	582	29	0	13	1,350	5,839
50	2,245	333	20	0	15	549	3,162
136	913	139	9	0	1	375	1,437
138	2,355	364	23	0	4	654	3,400
TOTALS	39,336	8,033	404	0	156	12,995	60,924

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of DECEMBER 31, 2012**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,282	79	46	0	10	477	2,894
46	3,186	92	31	0	14	648	3,971
47	3,197	173	37	0	17	841	4,265
48	2,976	154	36	0	11	649	3,826
49	876	48	19	0	6	219	1,168
51	3,376	620	27	0	11	736	4,770
52	1,360	264	6	0	2	268	1,900
53	1,275	80	19	0	4	310	1,688
54	2,486	114	39	0	10	550	3,199
55	2,734	82	38	0	16	521	3,391
56	3,358	105	36	0	17	776	4,292
57	2,810	98	35	0	17	530	3,490
58	2,500	66	24	0	4	444	3,038
59	2,825	98	38	0	9	450	3,420
60	2,291	99	22	0	8	724	3,144
61	1,811	62	20	0	3	323	2,219
62	3,402	159	30	0	7	417	4,015
63	3,592	137	64	0	14	696	4,503
64	2,434	65	17	0	8	365	2,889
65	2,831	71	20	0	9	395	3,326
Totals	51,602	2,666	604	0	197	10,339	65,408

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of DECEMBER 31, 2012**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,201	205	61	0	15	985	5,467
44	3,051	250	33	0	18	692	4,044
66	5,023	148	37	0	11	600	5,819
67	3,252	127	24	0	9	437	3,849
68	2,039	188	32	0	6	450	2,715
69	2,395	83	17	0	10	294	2,799
70	1,675	74	21	0	3	283	2,056
71	2,649	72	36	0	10	389	3,156
72	4,839	130	29	0	19	810	5,827
73	2,023	112	34	0	10	388	2,567
74	4,399	201	66	0	11	861	5,538
75	3,324	120	47	0	8	679	4,178
76	1,266	55	14	0	4	264	1,603
77	3,186	125	40	0	12	560	3,923
78	3,048	80	33	0	9	490	3,660
79	2,089	64	13	0	8	376	2,550
135	3,193	187	52	0	18	592	4,042
139	2,339	48	12	0	7	251	2,657
TOTALS	53,991	2,269	601	0	188	9,401	66,450

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of DECEMBER 31, 2012

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	4,358	404	50	0	23	1,108	5,943
18	4,191	251	50	0	15	915	5,422
21	1,140	55	18	0	4	268	1,485
81	5,110	373	54	0	24	1,017	6,578
82	2,668	266	25	0	11	586	3,556
83	3,906	421	40	0	15	948	5,330
84	2,072	455	31	0	11	654	3,223
85	2,904	577	27	0	12	864	4,384
86	2,361	291	28	0	7	542	3,229
87	2,933	237	30	0	13	595	3,808
88	2,239	338	22	0	8	563	3,170
89	2,724	752	33	0	9	880	4,398
90	1,702	286	13	0	8	523	2,532
91	4,254	386	48	0	22	1,025	5,735
127	4,179	300	55	0	14	935	5,483
128	2,256	216	35	0	11	663	3,181
130	875	366	10	0	3	345	1,599
131	1,663	412	15	0	9	575	2,674
142	1,398	174	19	0	6	425	2,022
TOTALS	52,933	6,560	603	0	225	13,431	73,752

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of DECEMBER 31, 2012

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,758	87	18	0	8	296	2,167
92	1,694	42	13	0	10	245	2,004
93	1,674	46	15	0	7	231	1,973
94	2,107	58	17	0	3	270	2,455
95	1,815	53	21	0		315	2,204
96	2,499	73	28	0	7	381	2,988
97	1,586	34	13	0	4	202	1,839
98	1,980	43	23	0	7	266	2,319
99	1,556	44	13	0	5	235	1,853
100	2,092	42	15	0	5	281	2,435
101	1,833	38	21	0	5	205	2,102
102	2,600	57	28	0	6	328	3,019
103	3,770	98	40	0	13	576	4,497
104	3,040	84	28	0	12	453	3,617
105	2,540	62	28	0	5	385	3,020
106	3,305	79	23	0	7	466	3,880
107	1,909	56	17	0	3	297	2,282
108	1,271	41	10	0	2	139	1,463
109	1,084	40	9	0	1	116	1,250
110	4,306	129	35	0	13	502	4,985
111	2,677	64	29	0	10	395	3,175
113	2,501	79	19	0	5	309	2,913
132	2,290	64	17	0	2	364	2,737
TOTALS	51,887	1,413	480	0	140	7,257	61,177

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of DECEMBER 31, 2012**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,341	70	12	0	7	332	2,762
114	3,435	110	30	0	22	563	4,160
115	3,239	79	27	0	13	687	4,045
116	4,312	118	43	0	19	686	5,178
117	2,070	57	18	0	10	317	2,472
118	2,929	83	35	0	10	449	3,506
119	3,142	134	49	0	12	614	3,951
120	2,051	47	22	0	7	343	2,470
121	3,574	88	42	0	13	593	4,310
122	2,069	51	20	0	6	313	2,459
123	2,662	133	25	0	14	495	3,329
124	2,920	69	19	0	5	408	3,421
125	5,016	131	46	0	17	797	6,007
126	4,125	136	43	0	19	747	5,070
133	1,549	46	10	0	5	196	1,806
134	2,454	51	32	0	7	324	2,868
140	2,156	69	17	0	10	341	2,593
TOTALS	50,044	1,472	490	0	196	8,205	60,407

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

For voter registration activity between 11/30/2012 and 12/31/2012

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	370,785	31,395	4,291	0	1,502	85,379	493,352
BOEE Over the Counter	0	0	0	0	0	0	0
BOEE by Mail	29	2	1	0	0	4	36
BOEE Online Registration	685	74	8	0	1	255	1,023
Department of Motor Vehicle	1,265	135	10	0	4	452	1,866
Department of Disability Services	0	0	0	0	0	0	0
Office of Aging	0	0	0	0	0	0	0
Federal Postcard Application	0	0	0	0	0	0	0
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	1	0	0	0	0	1	2
Special / Provisional	1,871	177	14	2	7	747	2,818
All Other Sources	486	50	4	1	2	177	720
+Total New Registrations	4,337	438	37	3	14	1,636	6,465

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	732	31	3	0	1	101	868
Administrative Corrections	157	8	3	0	9	2,183	2,360
+TOTAL ACTIVATIONS	889	39	6	2	10	2,284	3,228

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	2	0	0	0	0	0	2
Moved Out of District (Deleted)	0	0	0	0	0	0	0
Felon (Deleted)	0	0	0	0	0	0	0
Deceased (Deleted)	4	0	0	0	0	1	5
Administrative Corrections	1,358	105	11	0	0	24	1,498
-TOTAL DEACTIVATIONS	1,364	105	11	0	0	25	1,505

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	2,602	230	45	2	20	458	
- Changed From Party	-424	-181	-46	-6	-40	-2666	
ENDING TOTALS	376,825	31,816	4,322	1	1,506	87,066	501,535

DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF PUBLIC COMMENT PERIOD

Draft Urban Tree Canopy Plan

The District Department of the Environment (the Department) is soliciting comments on a draft Urban Tree Canopy Plan. Section 4.1.6.1 of the National Pollutant Discharge Elimination System permit for the District's Municipal Separate Storm Sewer System (NPDES Permit No. DC 0000221) directs the District to develop a strategy to reduce the discharge of stormwater pollutants by expanding tree canopy throughout the city, and to make this strategy available for public review and comment. In accordance with this requirement, the Department and the District Department of Transportation's Urban Forestry Administration have developed a draft Urban Tree Canopy Plan, which is available on the Department's website at <http://ddoe.dc.gov/treecanopyplan>, or upon request by contacting the Department's Stormwater Management Division at (202) 741-2136.

The Department is committed to considering the public's comments while finalizing this Plan. Interested persons may submit written comments on the draft Plan, which must include the person's name, telephone number, affiliation, if any, mailing address, a statement outlining their concerns, and any facts underscoring those concerns. All comments must be submitted within thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Comments should be clearly marked "Tree Canopy Plan" and either (1) mailed or hand-delivered to DDOE, Stormwater Management Division, 1200 First Street, N.E., 5th Floor, Washington, DC 20002, Attention: Tree Canopy Plan, or (2) e-mailed to jeffrey.seltzer@dc.gov.

The Department will consider all timely received comments before finalizing the plan. All comments will be treated as public documents and will be made available for public viewing on the Department's website. When the Department identifies a comment containing copyrighted material, the Department will provide a reference to that material on the website. If a comment is sent by e-mail, the email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the Department's website. If the Department cannot read a comment due to technical difficulties, and the email address contains an error, the Department may not be able to contact the commenter for clarification and may not be able to consider the comment. Including the commenter's name and contact information in the comment will avoid this difficulty.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2013

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 permit #6286-R1 to Architect of the Capitol to operate one (1) Cummins diesel-fired emergency generator engine rated at 560 kW. The generator is located at the U.S. Botanic Gardens site at 4700 Shepherd Parkway SW, Washington, DC 20032. The contact person for the facility is James Styers, Environmental Engineer, at (202) 226-6636.

The proposed emission limits are as follows:

- a. 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]
- b. 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 renewal application to operate the generator set and the draft renewal 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 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 February 25, 2013 will be accepted.

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

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2013

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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 permits #6287-R1 and #6288-R1 to the Architect of the Capitol to operate two (2) diesel-fired emergency generator sets with engines rated at 847 kW and 398 kW, respectively. The generators are located the Supreme Court of the United States, 1 First Street NE, Washington, DC 20543. The contact person for the facility is James Styers, Environmental Engineer, at (202) 226-6636.

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from the generators, 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]
- b. 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]

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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 February 25, 2013 will be accepted.

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

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Marriage and Family Therapy (“Board”) hereby gives notice of its regular meeting pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2001) (“Act”).

The Board has resolved to meet monthly on the first Wednesday of the month until May 2013. The next meeting of the Board will be held on Wednesday, February 6, 2013 at 11:00AM. The Board will consider and discuss a variety of matters including proposed regulatory changes pertaining to the practice of occupational therapy and practices by occupational therapy assistants and occupational therapy aides. The meeting will be open to the public from 11:00AM until 12:00PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 12:00PM until 1:00PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.

**DEPARTMENT OF HEALTH
HEALTH PROFESSIONAL LICENSING ADMINISTRATION**

NOTICE OF MEETING

Board of Medicine

Wednesday, January 30, 2013
899 North Capitol Street NE
2nd Floor
Washington, DC 20002

On JANUARY 30, 2013 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 8:30 am until 10:30 am to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations. The meeting will be open to the public from 10:30 am to 12:00 pm to discuss various agenda items and any comments and/or concerns from the public. After which the Board will reconvene in closed session to continue its deliberations until 2:00 pm.

Visit the Board of Medicine website www.doh.dc.gov/bomed - select BoMed Calendars and Agendas to view the agenda.

DEPARTMENT OF HUMAN RESOURCES

EXCEPTED SERVICE EMPLOYEES AS OF DECEMBER 30, 2012

NOTICE OF EXCEPTED SERVICE EMPLOYEES

D.C. Code § 1-609.03(c) requires that a list of Excepted Service positions established under the provision of § 1-609.03(a) along with the types of excepted service appointment, names, position titles, and grades of all persons appointed to these positions be published in the *D.C. Register*. In accordance with the foregoing, the following information is hereby published for the following positions.

OFFICE OF THE MAYOR				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Murphy	Christopher	Chief of Staff	11
Excepted Service	Goulet	Eric	Budget Director	11
Excepted Service	Flowers	Brian	General Counsel	11
Excepted Service	McGaw	John	Deputy Director	10
Excepted Service	Kaufman	Donald	Deputy General Counsel	10
Excepted Service	Bunn	Shiela	Deputy Chief of Staff	10
Excepted Service	Jackson	Janene	Dir, Pol & Legislative Affairs	10
Excepted Service	Glaude	Stephen	Director, Community and Religi	10
Excepted Service	Evans	Kenneth	Deputy Budget Director	10
Excepted Service	Murray	Christopher	Budget Analyst	09
Excepted Service	Gorman	Darryl	Dir Boards & Commissions	09
Excepted Service	Fimbres	Francisco	Director of Community Relation	09
Excepted Service	Evans	Patricia	Executive Director	09
Excepted Service	Constantino	Justin	Senior Budget Analyst	09
Excepted Service	Banta	Susan	Budget Officer	09
Excepted Service	Richardson	Jeffrey	Director	08

OFFICE OF THE MAYOR				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Ribeiro	Pedro	Director of Communications	08
Excepted Service	McCoy	Doxie	Senior Communications Officer	08
Excepted Service	Ferguson	Ursula	Correspondence Officer	08
Excepted Service	DeVillier	Mikelle	Deputy Dir of Boards & Comm	08
Excepted Service	Barnes	Lafayette	Program Analyst	08
Excepted Service	Barge	Lolita	Director of Legislative Support	08
Excepted Service	Pittman	James	Deputy Director	08
Excepted Service	Nutall	Dexter	Executive Assistant	07
Excepted Service	Mangum	Larry	Special Assistant	07
Excepted Service	Lowery	Terese	Exec Dir for Comm on Women	07
Excepted Service	Leistikow	Alexandra	Director of Scheduling	07
Excepted Service	Jennings	Cedric	Director	07
Excepted Service	Henry	Kristen	National Service Officer	07
Excepted Service	Bland	Stephanie	Special Assistant	07
Excepted Service	Rogers	Jonathan	Budget Analyst	07
Excepted Service	Atkins	Latisha	Deputy Director Neighborhood Engagement	07
Excepted Service	Anthony	Lavita	Executive Assistant	07
Excepted Service	Williamson	Jason	Neighborhood Corps Specialist	06
Excepted Service	Thompson	Tiffanie	Budget Analyst	06
Excepted Service	Oding	Alimayu	Visual Information Specialist	06
Excepted Service	Muhammad	Sedrick	Special Assistant	06
Excepted Service	Marus	Robert	Writer Editor	06

OFFICE OF THE MAYOR				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Levine	Daryl	Special Assistant	06
Excepted Service	Hayworth	JohnPaul	Policy Analyst	06
Excepted Service	George	Deborah	Policy Analyst	06
Excepted Service	Fluker	Clarence	Comm. & Initiatives Specialist	06
Excepted Service	Coombs	John	Policy Analyst	06
Excepted Service	Brown	Jerry	Program Analyst	06
Excepted Service	Desjardins	Matthew	Communications Officer	06
Excepted Service	Williams	Marchim	Outreach & Service Specialist	05
Excepted Service	Wright	Brittney	Outreach & Service Specialist	05
Excepted Service	Watson	Leonard	Outreach & Service Specialist	05
Excepted Service	Spake	Isabel	Program Analyst	05
Excepted Service	Norris	Rufus	Constituent Services Special.	05
Excepted Service	Kelly	Deborah	Contract & Reprogram. Special.	05
Excepted Service	Holman	Keith	Community Service Representative	05
Excepted Service	Hernandez Maduro	Frank	Outreach & Service Specialist	05
Excepted Service	Blue	Peter	Program Coordinator	05
Excepted Service	Loudermilk	Amy	Program Analyst	05
Excepted Service	Teferi	Winta	Program Analyst	04
Excepted Service	Saki-Tay	Inez	Correspondence Mgmt. Spec.	03
Excepted Service	Latta	Aretha	Administrative Assistant	03
Excepted Service	Allen	Darin	Scheduling Specialist	03
Excepted Service	Weaver	Zachary	Policy Analyst	02
Excepted Service	Oliver	Paula	Staff Assistant	02
Excepted Service	Retland	David	Policy Analyst	02

OFFICE OF THE INSPECTOR GENERAL				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Branson	Karen	General Counsel	10
Excepted Service	Bruce	Blanche	Deputy Inspector General	10
Excepted Service	Burke	Roger	Chief of Staff	10
Excepted Service	Kennedy	Susan	Supvy Attorney Advisor	10
Excepted Service	King	Ronald	Supervisory Auditor	10
Excepted Service	Pittell	Stacie	Supvy Criminal Investigator	10
Excepted Service	Wright	Alvin	Asst Inspector General Inspector/Evaluation	10
Excepted Service	Lucchesi	Victoria	Deputy General Counsel	09
Excepted Service	Silverman	Stuart	Attorney	09
Excepted Service	Wolfingbarger	Brentton	Supv Attorney Advisor	09
Excepted Service	Block	Elaine	Attorney-Advisor	08
Excepted Service	Muracco	Dominick	Attorney-Advisor	08
Excepted Service	Nguyen	Dangkhoa	Attorney Advisor	08
Excepted Service	Van Croft	Keith	Attorney-Advisor	08
Excepted Service	Williams	Burnette	Attorney-Advisor	08

OFFICE OF THE CITY ADMINISTRATOR				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Lew	Allen	City Administrator	11
Excepted Service	Graves	Warren	Chief of Staff	11
Excepted Service	Robinson	Anthony	Director	10
Excepted Service	Campbell	Natasha	Director, LRCB	10
Excepted Service	Kreiswirth	Barry	Senior Legal Advisor	09

OFFICE OF THE CITY ADMINISTRATOR				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Durso	Michael	Management & Prog Analysis Officer	08
Excepted Service	Love	Phyllis	Management & Prog Anal Ofcr	08
Excepted Service	Moss	J	Executive Assistant	07

DEPARTMENT OF GENERAL SERVICES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Harper	Ollie	Dep. Dir. for Facilities Mgmt.	11
Excepted Service	Burrell	Scott	Chief Operations Officer	11
Excepted Service	Locker	Wanvisaka	Deputy Director Capital Construction	11
Excepted Service	Lanum	Jerry	Assoc Dir for Contract & Procu	10
Excepted Service	Kayne	Jonathan	Assoc Dir for Portfolio Mgmt	10
Excepted Service	Diggs	Kenneth	Communications Manager	10
Excepted Service	Brooks	Samuel	Assoc. Dir., Sustain & Energy	10
Excepted Service	Bankins	Cecilia	Human Capital Administrator	09
Excepted Service	Childs	Keith	Building Manager	08

OFFICE OF THE SECRETARY				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Ferrell Benavides	Aretha	Deputy Director	09
Excepted Service	Reid	Victor	Administrator, Ofc of Document	08
Excepted Service	Elwood	Patricia	Protocol Officer	08
Excepted Service	Phipps	Richard	Notary & Authent. Officer	07
Excepted Service	Davis	Clarence	Public Records Administrator	07
Excepted Service	Pierno	Robert	Special Assistant	05

DC DEPARTMENT OF HUMAN RESOURCES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Williams	Kimberly	Deputy Director	11
Excepted Service	Seed	Sudie Mae	Management and Program Analyst	07

DEPARTMENT OF HOMELAND SECURITIES & EMERGENCY MANAGEMENT AGENCY				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Thomas	Jorhena	Fusion Center Manager	08
Excepted Service	Brannum	Robert	Community Outreach Specialist	06
Excepted Service	Boone	William	Emergency Oper & Info. Spec.	05

OFFICE ON AGING				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Moreno	Denise	Resource Allocation Officer	08
Excepted Service	Holodnak	Tiffany	Special Projects Coordinator	07

OFFICE ON LATINO AFFAIRS				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Sinisterra	Didier	Deputy Director on Latino Affairs	07

DEPARTMENT OF EMPLOYMENT SERVICES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Reich	Stephanie	Chief of Staff	09
Excepted Service	Ward	Tracey	Executive Assistant	06
Excepted Service	Collins	Pamela	Training & Dev. Specialist	06
Excepted Service	Becks	Valencia	Outreach & Service Specialist	05
Excepted Service	Barragan	Juan	Outreach & Service Specialist	05
Excepted Service	Vance	Erna	Customer Relations Assistant	02
Excepted Service	Franklin	Anita	Customer Relations Assistant	02
Excepted Service	Jones	Gwendolyn	Clerical Assistant (OA)	01

OFFICE OF CABLE TELEVISION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Washington	Lindsay	Producer	03

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Szegedy Maszak	Peter	Attorney Examiner	10
Excepted Service	Young	Ronald	Attorney Examiner	10
Excepted Service	Anderson	Keith	Rent Administrator	09
Excepted Service	Fields	Beatrix	Legislative Affairs Specialist	09
Excepted Service	Gutierrez	Sonia	Housing Program Coordinator	09
Excepted Service	Haynes-Franklin	Jessica	Chief of Staff	09
Excepted Service	Johnson	Denise	Realty Project Manager	08
Excepted Service	Allen	Sandy	Community Outreach Specialist	07
Excepted Service	Warner	Quinn	Resource Management Specialist	06

DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Sankaran	Senthilkumar	Special Assistant	10
Excepted Service	Miller	Mark	Chief Operating Officer	10
Excepted Service	Kenner	Brian	Special Assistant	10

DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Zipper	David	Asst. Chief Operating Officer	09
Excepted Service	Greenberg	Judith	Special Assistant	09
Excepted Service	Tyus	Darnetta	Special Assistant	08
Excepted Service	Cross	Jason	Special Assistant	08

DEPARTMENT OF SMALL AND LOCAL BUSINESS				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Summers	Robert	Chief of Staff	09

METROPOLITIAN POLICE DEPARTMENT				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Durham	Alfred	Chief of Staff	11
Excepted Service	Bromeland	Matthew	Special Assistant to the Chief	09
Excepted Service	Crump	Gwendolyn	Director, Office of Corporate	09
Excepted Service	O'Meara	Kelly	Executive Director, Strategic	09
Excepted Service	Major	Jacob	Lieutenant	08

FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Collins	Lionel	Labor Management Liaison Officer	11
Excepted Service	Miramontes	David	Medical Director	11
Excepted Service	Walls	Lon	Communications Director	10
Excepted Service	Leonard	Edward	Supervisory IT Specialist	09

FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Butler	Calvin	Community Relations Specialist	7
Excepted Service	Taylor	Alysia	Administrative Officer	6

PS&J CLUSTER, OFFICE OF THE DEPUTY MAYOR				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Quander	Paul	Deputy Mayor	11
Excepted Service	Booth	Quincy	Chief of Staff	10
Excepted Service	Hook	Melissa	Justice Grants Administrator	09
Excepted Service	Stewart-Ponder	Gitana	Legislative & Policy Analyst	07
Excepted Service	Thompson	Emile	Legislative & Policy Analyst	07
Excepted Service	Compani	Cara	Program Analyst	05
Excepted Service	McCray	Tykisha	Staff Assistant	03

OFFICE OF THE CHIEF MEDICAL EXAMINER				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Fields	Beverly	Chief of Staff	10

OFFICE OF STATE SUPERINTENDENT OF EDUCATION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Mahaley	Hosana	State Superintendent of Education	11
Excepted Service	Solchenberger	Ryan	Dir of Student Transportation Services	10
Excepted Service	Alvarez	Jose	Chief of Staff	10

OFFICE OF STATE SUPERINTENDENT OF EDUCATION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Evans	Patricia	Executive Director	09
Excepted Service	Mitchell	Antoinette	Deputy Asst. Superintendent	08
Excepted Service	Heinrich	Philip	Strategic Plan. & Performance Officer	08
Excepted Service	Williams	Dartanion	Dep Dir. of Student Transport.	08
Excepted Service	Hayling- Williams	Charlayne	Program Analyst	07

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Leonard	Jennifer	Chief of Staff	09
Excepted Service	Salimi	Scheherazade	Educ Strategy Coord. (Non-Pub)	08
Excepted Service	Bleyer	Marc	Policy Analyst	08
Excepted Service	Smith	Eshauna	Special Assistant	07
Excepted Service	Fejeran	Celine	Program Analyst	07
Excepted Service	Starkes	Brandon	Special Assistant	05

DEPARTMENT OF PARKS AND RECREATION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Shanklin	Sharia	Program Manager	08
Excepted Service	Robinson	Damiisa	Program Analyst	05
Excepted Service	Newman	Rachel	Writer Editor	05

DEPARTMENT OF HEALTH				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Pappas	Gregory	Senior Deputy Dir	11
Excepted Service	Snyder	Shaun	Senior Deputy Director	10
Excepted Service	Woldu	Feseha	Sr Dep Dir H'lth Reg & Licensure	10
Excepted Service	Wharton Boyd	Linda	Special Assistant	10
Excepted Service	Robinson	Sandra	Chief Operating Officer	10
Excepted Service	Amy	Brian	Senior Deputy Director	10
Excepted Service	Chichester	Colette	Chief of Staff	09

OFFICE OF THE DEPUTY MAYOR FOR HEALTH AND HUMAN SERVICES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Otero	Beatriz	Dep Mayor for Health & Human Services	11
Excepted Service	Quinones	Ariana	Chief of Staff	10
Excepted Service	Joseph	Rachel	Special Assistant	07
Excepted Service	Nagda	Sonia	Special Assistant	07
Excepted Service	Gomez	Sandra	Administrative Support Specialist	03

DEPARTMENT OF HEALTH CARE FINANCE				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Nathan	Ganayswaran	Dep. Dir. for Medicaid Finance	11
Excepted Service	Elam	Linda	Deputy Director	11
Excepted Service	Vowels	Robert	Medical Officer	10
Excepted Service	McCabe	Heather	Special Assistant	10

DEPARTMENT OF HEALTH CARE FINANCE				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Chaudhuri	Sumita	Chief Operating Officer	10
Excepted Service	Rapp	Melisa	Chief of Staff	09
Excepted Service	Summers	Galek	Executive Assistant	07

DEPARTMENT OF HUMAN SERVICES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Thompson	Sakina	Policy & Program Support Advisor	10
Excepted Service	Nabors-Jackson	Nikol	Chief Operating Officer	10

DEPARTMENT OF YOUTH AND REHABILITATION SERVICES				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Chambers	Dwayne	Social Services Officer	07

DISTRICT DEPARTMENT OF TRANSPORTATION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Nicholson	Ronaldo	Chief Transportation Engineer	11
Excepted Service	Jackson	Carl	Assoc Dir for Prog Transp Svcs	10
Excepted Service	FitzGerald	Christopher	Community Service Representative	05
Excepted Service	Archie	Davena	Community Service Representative	05

DEPARTMENT OF THE ENVIRONMENT				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Anderson	Keith	Interim Director	10

DEPARTMENT OF PUBLIC WORKS				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Thomas	Carl	Clean City Coordinator	09
Excepted Service	Lee	Sandra	Outreach & Service Specialist	05
Excepted Service	Bulger	James	Outreach & Service Specialist	05

CHILD AND FAMILY SERVICES AGENCY				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Rosenberg	Michele	Chief of Staff	08

DEPARTMENT OF MENTAL HEALTH				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Canavan	Patrick	Health System Administrator	11

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	McPherson	Chester	Dep Comm for Market Operations	10

OFFICE OF MOTION PICTURE & TELEVISION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Palmer	Crystal	Director	10
Excepted Service	Green	Leslie	Senior Communications Manager	08

DC TAXICAB COMMISSION				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	McInnis	Sharon	Licensing & Enforcement Ofcr.	08
Excepted Service	Waters	Neville	Public Affairs Specialist	05

OFFICE OF TENANT ADVOCATE				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Shreve	Johanna	Chief Tenant Advocate	09

OFFICE OF VETERAN AFFAIRS				
<i>APPOINTMENT TYPE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>POSITION TITLE</i>	<i>GRADE</i>
Excepted Service	Cary	Matthew	Director, Veterans Affairs	09
Excepted Service	Fabrikant	Michael	Outreach & Service Specialist	05

**KIPP DC
NOTICE OF TECHNOLOGY REQUEST FOR PROPOSALS**

**E-Rate Funding Year 2013-2014
Basic Maintenance for Eligible Equipment**

KIPP DC is soliciting proposals from qualified vendors for Universal Service Fund Education Rate (E-Rate) eligible products and services for Basic Maintenance of Internal Connections for its New College Prep Campus. KIPP DC is particularly seeking companies with demonstrated ability and experience in designing, implementing, and maintaining core network technologies and fully operational systems, providing stability to network services, and ensuring that equipment implemented at our schools are properly integrated with equipment projected for implementation at our hub facility.

The competitive Request for Proposal can be found on KIPP DC's website at www.kippdc.org/procurement.

Proposals are due no later than 5:00 P.M., EST, Feb 21, 2013. No proposals will be accepted after the deadline.

**KIPP DC
NOTICE OF TECHNOLOGY REQUEST FOR PROPOSALS**

**E-Rate Funding Year 2013-2014
Basic Maintenance for Eligible Equipment**

KIPP DC is soliciting proposals from qualified vendors for Universal Service Fund Education Rate (E-Rate) eligible products and services for Basic Maintenance of Internal Connections for its Webb campus. KIPP DC is particularly seeking companies with demonstrated ability and experience in designing, implementing, and maintaining core network technologies and fully operational systems, providing stability to network services, and ensuring that equipment implemented at our schools are properly integrated with equipment projected for implementation at our hub facility.

The competitive Request for Proposal can be found on KIPP DC's website at www.kippdc.org/procurement.

Proposals are due no later than 5:00 P.M., EST, Feb 21, 2013. No proposals will be accepted after the deadline.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA
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 February 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 January 25, 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: February 15, 2013

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Adjei	Nana	Network For Good 1140 Connecticut Avenue, NW, Suite 700	20036
Awan	Zoya Rukh	Microsoft 901 K Street, NW	20001
Baksys	Kenneth	Pretrail Services Agency for the District of Columbia 633 Indiana Avenue, NW, Suite 1120	20004
Barker	William Dewitt	Omni Land Settlement Corporation 2233 Wisconsin Avenue, NW, Suite 232	20007
Barrera	Bernice C.	Friendship Public Charter School, Inc. 120 Q Street, NE	20002
Betz	Alfred A.	Al Betz & Associates, Inc 1425 K Street, NW, Suite 350	20005
Brevis	Daniela	Bank Fund Staff Federal Credit Union 1725 I Street, NW, Suite 400	20006
Brown	Kelli	Walsh Construction Company II, LLC 402 Tingey Street, SE	20003
Chan	Lisa	Transperfect 700 6th Street, NW	20001
Church	Melinda	DDOE - Inspection and Enforcement Branch 1200 First Street, NE, 6th Floor	20002
Davis	Cristina Perez	Bank of America 1090 Vermont Avenue, NW	20005
Fernandes	Janet	National Association of Attorneys General 2030 M Street, NW, 8th Floor	20036
Fransman	Yolande	Bank Fund Staff Federal Credit Union 1725 I Street, NW	20006
Garner	Tyeisha	Self 1339 Saratoga Avenue, NE, Apt. 1	20018

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Hazel	Pauline	Howard University 2244 10th Street, NW, HU Service Center Building, Suite 213	20059
Headman	Kathryn A.	Washington Capitals 601 F Street, NW	20004
Hiegel	Stephen Joseph	Omni Land Settlement Corporation 2233 Wisconsin Avenue, NW, Suite 232	20007
Hurley	Angela	AARP 601 E Street, NW	20049
Johns	Komas N.	Olympia Title c/o Red Rock Title 471 H Street NW, Suite LL	20001
Johnson	Denese T.	Stradley Ronon Stevens & Young, LLP 1250 Connecticut Avenue, NW, Suite 500	20036
Johnson	Phyllis A.	Self 2403 23rd Street, SE	20020
Jones	Tiane A. C.	Arent Fox, LLP 1717 K Street, NW	20036
Kaufman	Claudia M	Edward H. Stolar, MD PC 1712 Eye Street, NW, Suite 712	20006
Knutson	Don R.	Self 4628 Q Street, NW	20007
Lovins	Corinne	Strain and Strain, PLLC 1455 Pennsylvania Avenue, NW, Suite 400	20004
Lucas	Sherrri D.	Office of National Drug Control Policy 750 17th Street, NW	20503
Marques	Catarina	Husch Blackwell, LLP 750 17th Street, NW, Suite 900	20006

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Martyn	Jo Ann	The George Washington University, School of Public Health & Health Services 2175 K Street, NW, Suite 500	20037
May	Christopher M.	Jeffrey J. Kimbell & Associates 601 13th Street, NW, 11th Floor South	20005
Mayes-Winslow	Lorene	Self 4201 16th Street, NW	20011
McManus	Edna	Self 3010 22nd Street, SE	20020
McRae	Ervin H	Maiden and Associates, PC 4930 Wisconsin Avenue, NW	20016
Melchor	Margaret	PNC Bank 800 17th Street, NW	20006
Modlin	Judy L.	Fulbright & Jaworski, LLP 801 Pennsylvania Avenue, NW	20004
Morris, III	Andrew V.	Self 812 Third Street, SW	20024
Muhammad	Francine Nura	Self 4334 Gorman Terrace, SE	20019
Nanthana	Khamla	ProSource Consulting, LLC 1325 G Street, NW, Suite 500	20005
Olojola	Seun G.	Self 1630 Rosedale Street, NE, Unit 2	20002
Patterson	Frank B.	Self (Dual) 3905 21st Street, NE	20018
Rahim	Mohammad M.	ASU Holdings LLC 909 Franklin Steet, NE	20017
Roca	Claudia I.	Edmund J. Flynn Company 5100 Wisconsin Avenue, NW, Suite 514	20016

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Rollins	Vonette Y.	Union Privilege, AFL-CIO 1100 First Street, NE, Suite 850	20002
Rowe	Beatriz V.	Eisen & Rome, PC One Thomas Circle, NW, Suite 850	20005
Russell	Antoine	Medstar Washington Hospital Center 110 Irving Street, NW, POB South, Suite 121	20010
Salmeron	Zulma Y.	Wells Fargo Bank, N.A. 1804 Adams Mill Road, NW	20009
Samuels	Tyrell Lee	Morpho Trust USA 899 North Capitol Street, NE	20002
Santos	Jacinta	International Executive Service Corps 1900 M Street, NW, Suite 500	20036
Saulters	John P.M.	Self 743 Fairmont Street, NW	20001
Short, Jr.	Marcus	Morpho Trust USA 899 North Capitol Street, NE	20002
Stevens	Kathleen	Self (Dual) 1775 I Street, NW, Suite 200	20006
Stevens	Vinniequa Ronniece	BB&T 5200 Wisconsin Avenue, NW	20015
Taylor	Darryl	Asmar, Schor & McKenna, PLLC 5335 Wisconsin Avenue, NW	20015
Tolson	Latise	Bank of America 55 M Street, SE	20003
Tranchik	Rachel N.	IFES 1850 K Street, NW, 5th Floor	20006
Tyler	Kristie Lee	Lee's Flower and Card Shop Inc 1026 U Street, NW	20001

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Tyler	Merita	Office of the Attorney General - Child Support Division 441 4th Street, NW, Suite 550N	20001
Vaughan	Debra L.	Hobbs Straus Dean & Walker 2120 L Street, NW, Suite 700	20037
Visperas	Julie	Self 3540 Rock Creek Church Road, NW #202	20010
Welbeck	Cheryl E.	Directors of Health Promotion and Education 1015 18th Street, NW, Suite 300	20036
Williams	Jua	Citibank, N.A. 3241 14th Street, NW	20010
Williams	Kiara	Bank Fund Staff Federal Credit Union 1725 I Street, NW	20006
Wlodarczyk	Anna	The Wilderness Society 1615 M Street, NW	20036
Yales-Glenn	Wanda	Self 909 Valley Avenue, SE	20032
Yeo	Jin	PNC Bank 800 17th Street, NW	20006
Ziegler	Marilyn T.	Georgetown University 37th and O Street, NW, Gervase 107	20057

THE NEXT STEP PUBLIC CHARTER SCHOOL, INC.**REQUEST FOR PROPOSALS (RFP)****General Contractor – Construction/Renovation Services**

The Next Step Public Charter School, Inc. invites all interested and qualified general contractor construction/contracting firms to submit proposals to provide construction/renovation services for the partial renovation of an approximate 31,300 square foot school facility project located at 3047 15th Street NW, Washington, DC. All proposals submitted in response to this RFP are due no later than 5 p.m. on Friday, February 8, 2013. The RFP with bidding requirements and supporting documentation can be obtained by contacting:

Jerry Levine, General Counsel and Member
Karl Jentoft, Principal and Member
TenSquare, LLC
818 Connecticut Avenue NW – Suite 1009
Washington, DC 20006
jerry@thetensquaregroup.com
karl@thetensquaregroup.com
202-496-3479 (Jerry Levine)
202-328-0760 (Karl Jentoft)

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) will be holding a meeting on Thursday, February 7, 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

- I. Call to Order (Board Chairman)**
- II. Roll Call (Board Secretary)**
- III. Approval of January 3, 2013 Minutes (Board Chairman)**
- IV. Chairman's Overview**
- V. Committee Reports**
 - 1. Governance Committee (Committee Chairperson)
 - 2. Environmental Quality and Sewerage Services Committee (Committee Chairperson)
 - 3. Water Quality and Water Services Committee (Committee Chairperson)
- VI. General Manager's Report (General Manager)**
- VII. Consent Items (Joint-use)**

Those matters affecting the general management of joint-use sewerage facilities.
- VIII. Consent Items (Non-Joint Use)**

Those matters not affecting the general management of joint-use sewerage facilities (Voted on by members representing the District of Columbia).
- IX. Adjournment (Board Chairman)**

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

Application No. 18275 of Potomac Avenue LLC, pursuant to 11 DCMR §§ 3104.1 and 3103.2 for variances from the use provisions of § 350.1 to allow a coffee shop on the first floor and a pet supply store on the second floor of an existing two-story building in the R-5-B District at premises 1200 Potomac Avenue, S.E. (Square 1021, Lot 34).

HEARING DATES: November 15, 2011, December 20, 2011, February 14, 2012,
March 20, 2012

DECISION DATE: March 20, 2012

DECISION AND ORDER

On July 29, 2011, Potomac Avenue, LLC, (“Applicant”) filed an application with the Board of Zoning Adjustment (“Board”) requesting special exception relief under § 2003.1 to allow a coffee shop on the first floor of an existing two-story building, and a use variance for a pet supply store on the second floor of the building. The Board determined that a use variance was required for both uses¹, and ultimately voted to grant the use variance for a coffee shop on the first floor and to deny the use variance for a pet supply store on the second floor. A full discussion of the facts and law supporting these conclusions are found below.

PRELIMINARY MATTERS

Authorization

The Applicant in this case is 1200 Potomac Avenue LLC. Mr. Bruce Bates, a principal in the firm, authorized John Acker, the project architect, as its authorized agent. (Exhibit 7.)

The Application

The application was filed by Mr. Acker on July 29, 2011 seeking two types of relief: a special exception under § 2003.1 to change an existing nonconforming use as a deli to a nonconforming use as a coffee shop on the first floor of the existing building; and a use variance from § 350.1 to permit a new retail pet supply store on the second floor of the existing building. (Exhibit 1.)

Referral by the Zoning Administrator

The application was referred to the Board by the Zoning Administrator (“ZA”) of the District Department of Consumer and Regulatory Affairs. (Exhibit 6.) The relief initially sought was

¹ The caption was changed to reflect the relief that is required.

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consistent with the relief recommended by the ZA.

Notice of Public Hearing

Notice

Pursuant to 11 DCMR § 3113.13, notice of the hearing was sent by the Office of Zoning to the Applicant, all owners of property within 200 feet of the subject site, Advisory Neighborhood Commission (“ANC”) 6B, and the District of Columbia Office of Planning (“OP”).

Posting

The Applicant posted placards at the property regarding the application and public hearing in accordance with 11 DCMR §§ 3113.14 through 3113.20. The Applicant also submitted an affidavit to this effect in accordance with 11 DCMR §§ 3113.19 and 3113.20. (Exhibit 24.)

ANC 6B

The subject site is located within the jurisdiction of ANC 6B, which is automatically a party to this application. In this case, the ANC filed two reports. In a report submitted November 9, 2011, ANC 6B indicated that at a regularly scheduled monthly meeting with a quorum present, it voted to oppose the application. (Exhibit 27.) The report indicated that the Applicant had not provided any evidence or justification for the relief requested. However, in a second report dated December 19, 2011, the ANC indicated that, at a regularly scheduled monthly meeting with a quorum present, the ANC voted to support the application. (Exhibit 28.) The ANC stated further that, after reviewing the Applicant’s documentation, it concluded that the project’s impact on air, light, and privacy would be negligible.

Requests for Party Status

The Board received no requests for party status.

Persons in Opposition

No persons appeared at the hearing to testify in opposition to the application. However, the Board received a letter in opposition from the adjacent property owner at 1208 Potomac Avenue, S.E., Valerie E. Robinson. (Exhibit 23.) Ms. Robinson objected to having any commercial use next door to her home in a residential neighborhood.

Persons in Support

No persons appeared at the hearing to testify in support of the application. Nor were any letters received from persons in support of the application.

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Government Reports

OP Report

OP reviewed the application and prepared a report recommending support in part, and denial in part. (Exhibit 26.) Regarding the request for a special exception under § 2003.1 to allow a coffee shop on the first floor, OP asserted that § 2003.1 was inapplicable, and that a use variance was required instead. However, OP opined that the use variance test could be met for the coffee shop. Regarding the request for a use variance to allow a pet supply store on the second floor, OP opined that the use variance test had not been met. OP's representative, Steve Mordfin, also testified to this effect at the public hearing.

District of Columbia Department of Transportation ("DDOT")

DDOT submitted a report stating that it had no objection to either the requested special exception or the requested variance. (Exhibit 25.)

FINDINGS OF FACT

The Property

1. The property is located at 1200 Potomac Avenue, S.E., in Square 1021, Lot 34, in the R-5-B zone district, and the Capitol Hill Historic District.
2. It is an unusually shaped corner lot with no alley access.
3. The lot is improved with a two-story building that was constructed in 1900, prior to the adoption of the current version of the Zoning Regulations in 1958, as a mixed-use building with a commercial space on the first floor and a residential apartment on the second floor.

The Surrounding Area

4. The character of the surrounding neighborhood is residential.
5. There are row dwellings, detached dwellings, and semi-detached dwellings adjacent to the property.
6. Across Potomac Avenue is a small public park.
7. Across K Street are three- and five-story public housing apartment buildings.

Use of the Property

8. A certificate of occupancy ("C of O") for the building shows that the first floor was used at one point as a "grocery store". However, the date on the C of O is illegible. (Exhibit 10.)

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9. The existing two-story building was abandoned at least eight years ago and is currently vacant. (Hearing Transcript of December 20, 2011, (“Tr.”), p. 70.)

The Project

10. The Applicant proposes to renovate the existing vacant building and locate a coffee shop on the first floor of the building and a pet supply store on the second floor of the building.

The Zoning Relief

11. Regarding the first floor coffee shop, the Applicant initially requested a special exception under § 2003.1 of the Zoning Regulations which, under certain circumstances, allows a change from one non-conforming use to another non-conforming use.
12. Regarding the second floor pet supply store use, the Applicant requested a variance from the use provisions of § 350.1 of the Zoning Regulations.
13. During the public hearing on December 20, 2011, the Board found pursuant to 11 DCMR § 2005.1 that the discontinuance of the previous non-conforming grocery store described in Finding of Fact No. 9 established *prima facie* evidence that there was no intention to resume the active operation of the use. Therefore, pursuant to that provision “any subsequent use shall conform to the regulations of the district in which the use is located.” The Applicant presented no evidence to rebut this presumption.
14. As there was no existing non-conforming use at the property, § 2003.1 (which allows a switching of existing non-conforming uses) was inapplicable. *See, Application No. 17100-A, Jesus is the Way Church, Order on Reconsideration.* (Board granted special exception relief under § 2003.1 where there was evidence of continuous non-conforming retail uses).
15. Since special exception relief was unavailable for the coffee shop on the first floor, the Board determined that use variances were required for both the first floor coffee shop and the second floor pet supply store.

The First Floor Coffee Shop*The Exceptional Condition*

16. The first floor of the building was originally designed as commercial space. (Exhibit 26, OP Report, p. 2, Tr., p. 70.)
17. The entrance to this space faces the corner where 12th Street, K Street, and Potomac Avenue intersect, and the activity associated with an intersection.
18. The first floor is improved with two sets of show windows, one facing 12th Street and the other facing Potomac Avenue. The show windows are at ground level and do not afford any

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privacy to the occupants of the first floor. Show windows, in general, are designed to encourage pedestrians to look in, and are not conducive to residential use.

Undue Hardship

19. The lack of privacy from the show windows and the exposure of the first floor entrance at the intersection make the first floor space undesirable for residential use.
20. It is not feasible to use the first floor for residential use without eliminating the windows and building entrance and completely renovating the first floor of the building.

Impact of the Coffee Shop Use

21. Commercial use will not adversely impact the privacy of neighboring property owners. The first floor space is designed with its entrance away from the adjacent residential properties, shifting any activity associated with the proposed coffee shop towards the corner.
22. The property is now an eyesore. The coffee shop use will be an improvement to the existing abandoned building.

The Second Floor Pet Supply Store*Lack of Exceptional Condition*

23. The second floor was originally designed for residential use.
24. The entrance to the second floor is near the adjacent residential row houses which face the street. It is separate from the first floor entrance and provides direct access to the second floor space.
25. The windows in the second floor space are one flight up and would provide an element of privacy to the occupants on that floor.
26. The Applicant asserted that a mixed use project is not feasible because: (a) the second floor space is too small for the coffee shop owner to live in (Tr., p. 65); and (b) most suitable residential tenants would not enjoy the smell and activity of the coffee shop below and would make complaints. (Tr., p. 62.) However, the Applicant did not provide any statements or testimony from realtors to establish these claims.
27. At the conclusion of the December 20, 2012 hearing, the Board decided that it lacked evidence regarding any exceptional condition at the second floor which would cause an undue hardship in using the second floor residentially.
28. The Board stated that documentation was required to assess the use variance request for the second floor pet supply store. The Board directed the Applicant to provide evidence showing

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the difficulty in establishing a residential use on the second floor. The Board explained to the Applicant that he could submit statements or testimony from a realtor regarding the difficulty obtaining residential tenants, and/or financial information showing that residential use on the second floor was not financially feasible and would result in undue hardship to the Applicant. (Tr., p. 75 – 76.)

29. The Board continued the hearing to February 14, 2012 to allow the Applicant time to gather and/or prepare this documentation.
30. Shortly before the February 14, 2012 adjourned date, the Applicant submitted a letter to the Board requesting more time to prepare its case for the second floor use variance. (Exhibit 32.)
31. On February 14, 2012, the Board continued the case again, this time until March 20, 2012.
32. On March 20, 2012, the Applicant appeared but he did not proffer the additional documentation that had been requested by the Board. Nor did the Applicant present any evidence showing that the pet supply store would not adversely impact neighboring property owners.
33. Instead, the Applicant testified that the unusual trapezoidal shape of the building constrained his ability to convert the second floor space to residential use and that “putting [in] a one bedroom [would be] a little tight.” The Applicant also cited the “cost of construction” in converting the second floor to an apartment. (Hearing Transcript of March 20, 2012, p. 177.) However, the Applicant did not submit any evidence establishing what the cost of construction would be.

CONCLUSIONS OF LAW

The threshold question for the Board in this case was the type of relief required to establish a coffee shop use on the first floor. For the reasons stated in Finding of Fact Nos. 9 and 13 through 15, the Board concludes that a use variance is required, and not a special exception.

The Board is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.07(g)(3)(2001), to grant variances from the strict application of any Zoning Regulation. In order to grant the use variance relief needed to establish the coffee shop and pet store uses, the Applicant must satisfy the three-prong test set out in the Zoning Act and re-stated at 11 DCMR § 3103.2, that (1) its property has an exceptional size, shape, topography, or other extraordinary or exceptional situation or condition inherent in the property; (2) the applicant will encounter practical difficulties or undue hardship if the Zoning Regulations are strictly applied; and (3) the requested variances will not result in substantial detriment to the public good or the zone plan.

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Here, the Applicant must meet the stricter “undue hardship” test for a use variance for the coffee shop use on the first floor, as well as for the pet supply store on the second floor. *See, Palmer v. D.C. Bd. of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972) (“A use variance cannot be granted unless a situation arises where reasonable return cannot be made of the property in a manner consistent with the Zoning Regulations.”); *Bernstein v. D.C. Bd. of Zoning Adjustment*, 376 A.2d 816 (D.C. 1977). (“[I]t must be shown that strict application of the Zoning Regulations would preclude the use of the property for any purpose to which it may reasonably be used.”)

The First Floor Use Variance for a Coffee Shop

Turning to the first prong of the variance test, the Board finds that the first floor of the property presents an exceptional condition. Although the property is now residentially zoned, the first floor was designed for commercial use and has been lawfully used in the past for commercial purposes. In fact, there is no evidence that the first floor was ever used residentially. In addition, the show windows at ground level and the entrance facing an intersection constitute exceptional conditions.

As to the second prong, the Applicant has established that strict application of the Zoning Regulations in this case will result in undue hardship. As explained, neither the ground level show windows nor first floor entrance are conducive to residential use. Therefore, the entire first floor would have to be demolished to convert the floor to residential use. (Findings of Fact 19 & 20.)

Turning to the third prong of the variance test, the Board concludes that the conversion to a coffee shop use on the first floor will not be a detriment to the public good or to the zone plan. The first floor space is designed with its entrance away from the adjacent residential uses. Therefore any activity associated with the coffee shop will be shifted away from the nearby residential properties.

The Second Floor Use Variance for a Pet Supply Store

The Board finds that the Applicant never established any exceptional condition relating to the second floor of the property; and, therefore, did not satisfy the test for a use variance on the second floor. It is undisputed that the second floor was designed for residential use. Therefore, it was incumbent upon the Applicant to show why the second floor could not be used residentially. *Bernstein, id.* The Applicant suggested that it would be difficult finding a suitable tenant, that the residential construction would be a challenge due to the building’s shape, and that the costs of conversion to residential use would be steep. But the Applicant never established any of these facts with any probative evidence.

The Applicant had opportunities to present such evidence on three separate dates: December 20, 2011, February 14, 2012, and March 20, 2012. The Board postponed this case on December 20, and again on February 14, at the Applicant’s request, so that the Applicant could compile documentation to bolster his case. Yet the Applicant failed to produce any additional

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documentation on February 14 or the final March 20 date. The Board was not persuaded by the Applicant's conclusory statements and explained that the Applicant needed to prove that he could not rent the second floor residentially, or that the costs would be financially burdensome to establish residential use. The Board even suggested that the Applicant obtain the statement or testimony from a realtor, who might assist in this regard. But the Applicant failed to provide any documentation substantiating any exceptional condition or undue hardship that would result from using the second floor residentially. Nor did he present any evidence that a pet supply store would not result in adverse impacts upon neighboring property owners. The burden of proof rested with the Applicant. (11 DCMR § 3119.2.) Since the Applicant failed to meet his burden of proof, the Board had no choice but to deny the request for relief.

ANC

Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10 (d)(3)(B)) requires that the Board's written orders give "great weight" to the issues and concerns raised in the recommendations of the affected ANC. Specifically:

The written rationale of the decision shall articulate with particularity and precision the reasons why the Commission does or does not offer persuasive advice under the circumstances. In so doing, the government entity must articulate specific findings and conclusions with respect to each issue and concern raised by the Commission. Further, the government entity is required to support its position on the record.

As noted, the ANC supported the application, stating that the "project's impact on air, light and privacy will be negligible." This conclusion relates to the third prong of the variance test and would normally buttress an Applicant's claim that the project will not result in substantial detriment to the public good. The Board agrees with the ANC as to the coffee shop use, but did not reach the issue as to the pet shop use because the Applicant failed to prove that the second floor of the property was either an exceptional condition or that the strict application of the Zoning Regulations would result in undue hardship. Since the Board did not go on to discuss the third prong with respect to the pet store use, it is not necessary to respond to the ANC's assertions that relate to that element.

The Board is also required under D.C. Official Code § 6-623.04(2001) to give "great weight" to OP recommendations. For the reasons stated in this Decision and Order, the Board finds OP's advice to be persuasive.

Therefore, for the reasons stated above, it is hereby **ORDERED** that the application is hereby **GRANTED** to allow a use variance for a coffee shop on the first floor of the premises, and **ORDERED** that the application is hereby **DENIED** for a use variance for a pet supply store on the second floor of the premises, **SUBJECT** to the approved plans as shown on Exhibit 30, **AS RELATED TO THE APPROVAL OF THE FIRST FLOOR USE ONLY**.

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VOTE: 5-0-0 (Lloyd J. Jordan, Nicole C. Sorg, Rashida Y.V. MacMurray, Jeffery L. Hinkle, and Anthony J. Hood, all voting to APPROVE the first floor use variance, and DENY the second floor use variance.)

Vote taken on March 20, 2012

ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of Board members approved the issuance of this order.

FINAL DATE OF ORDER: January 17, 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.

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

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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. 18447 of Karen Slachetku, pursuant to 11 DCMR § 3104.1, for a special exception to allow a rear deck an existing one-family row dwelling under section 223, not meeting the lot area and width requirements (section 401), lot occupancy (section 403) and rear yard (section 404) requirements in the R-4 District at premises 1139 Abbey Place, N.E. (Square 773, Lot 193).

HEARING DATE(S): November 27, 2012, January 15, 2013
DECISION DATE: January 15, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 3C, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C did not participate in the application. The Office of Planning (“OP”) submitted a report and testified at the hearing in support of the application.

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 subsection 223. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, 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. It is therefore **ORDERED** that this application (pursuant to Exhibit 8 – Plans) be **GRANTED**.

BZA APPLICATION NO. 18447

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VOTE: **4-0-1** (Lloyd J. Jordan, Jeffrey L. Hinkle and Peter G. May to APPROVE. Nicole C. Sorg not present, not voting. The third mayoral member vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: January 16, 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.

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. 18484 of IfeanyiChukwu Egbuniwe, pursuant to 11 DCMR § 3103.2, for a variance from the limitation on the height and number of stories under subsection 400.1, and a variance from the lot area provisions under subsection 401.3, to allow the continued use of an existing four story three-unit apartment house in the R-4 District at premises 26 T Street, N.E. (Square 3509S, Lot 39).

HEARING DATE: January 15, 2013

DECISION DATE: January 15, 2013

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board of Zoning Adjustment (“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 of this application is located within the jurisdiction of ANC 5C, which is automatically a party to this application. The ANC submitted a letter in support of the application. The Office of Planning (“OP”) submitted a report in partial support of the application.

Variance

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 §§ 400.1 and 401.3. 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 in seeking a variance from §§ 400.1 and 401.3, the applicant has met the burden of proving 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 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.

BZA APPLICATION NO. 18484

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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. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 12 – Plans) is hereby **GRANTED**.

VOTE: 3-0-2 Lloyd J. Jordan, Jeffrey L. Hinkle and Peter G. May to Approve. Nicole C. Sorg not present not voting. The third Mayoral appointee position 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: January 16, 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.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING**

Z.C. Case No. 13-02

**(Jemal's Hecht's, LLC – Map Amendment @ Square 4037, parts of Lots 7 and 804)
January 22, 2013**

THIS CASE IS OF INTEREST TO ANC 5D

On January 16, 2013, the Office of Zoning received an application from Jemal's Hecht's, LLC (the "Applicant") for approval of a map amendment for the above-referenced property.

The property that is the subject of this application consists of parts of Lots 7 and 804 in Square 4037 in Northeast Washington, D.C. (Ward 5), which is located at 1401-1535 New York Avenue, N.E. The property is currently zoned C-M-2. The Applicant proposes a map amendment to rezone the property to the C-M-3 Zone District in order to permit the additional height and density to accommodate a proposed new office building with ground-floor retail. The property is currently improved with the former Hecht Company Warehouse, a landmark complex of buildings constructed between 1937 and 1994. The project will require review and approval by the Historic Preservation Review Board.

The C-M-2 Zone District permits development of medium-bulk commercial and light manufacturing uses to a maximum density of 4.0 floor area ratio (FAR) and a maximum height of 60 feet, with standards of external effects and new residential prohibited. A rear yard of not less than 12 feet shall be provided for each structure located in an Industrial District. No side yard shall be required on a lot in an Industrial District, except where a side lot line of the lot abuts a Residence District. Such side yard shall be no less than eight feet.

The C-M-3 Zone District permits development of high-bulk commercial and light manufacturing uses to a maximum density of 6.0 FAR, and a maximum height of 90 feet with, standards of external effects and new residential prohibited. A rear yard of not less than 12 feet shall be provided for each structure located in an Industrial District. No side yard shall be required on a lot in an Industrial District, except where a side lot line of the lot abuts a Residence District. Such side yard shall be no less than eight feet.

This case was filed electronically through the Interactive Zoning Information System ("IZIS"), which can be accessed through <http://.dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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