



District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 20-458, Protecting Pregnant Workers Fairness Act of 2014
- Department of Consumer and Regulatory Affairs publishes Construction Code Administrative Bulletin CC2014-02
- Department of Human Resources updates regulations on paid leave
- Metropolitan Police Department proposes procedures for licensing persons to carry concealed firearms for self-defense
- Office of Open Government proposes procedures for enforcing the Open Meetings Act, effective March 31, 2011
- Department of Small and Local Business Development announces funding availability for the Clean Team Grants
- D.C. Taxicab Commission schedules a public hearing on the proposed rulemaking for the District of Columbia Taxicab Industry Co-op and the Universal Taxicab App

DISTRICT OF COLUMBIA REGISTER

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

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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-454

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 21, 2014

To approve, on an emergency basis, Option Year One of Contract No. DCHBX-2013-C-0001 with Maximus Health Services, Inc., to design, implement, and operate the District of Columbia Exchange Contact Center (“ECC”) with a robust capability to provide consumers with over-the-phone and web-based services for Medicaid and private health insurance, and small business (“SHOP”) health insurance eligibility, enrollment, and related assistance using the new District of Columbia Access System (“DCAS”).

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Contract No. DCHBX 2013-C-0001 Option Year One Approval and Payment Authorization Emergency Act of 2014”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Option Year One to Contract No. DCHBX 2013-C-0001 between the Health Benefit Exchange Authority and Maximus Health Services, Inc., to design, implement, and operate the District’s ECC with a robust capability to provide consumers with over-the-phone and web-based services for Medicaid and private health insurance, and SHOP health insurance eligibility, enrollment, and related assistance using the new DCAS and authorizes payment not to exceed \$5,834,148 for services received under the option year.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

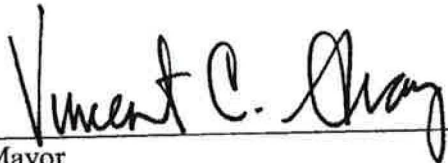
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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

ENROLLED ORIGINAL



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 21, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-455

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 21, 2014

To approve, on an emergency basis, Option Year Two of Contract No. DCHBX-2013-C-0001 with Maximus Health Services, Inc., to design, implement, and operate the District of Columbia Exchange Contact Center ("ECC") with a robust capability to provide consumers with over-the-phone and web-based services for Medicaid and private health insurance, and small business ("SHOP") health insurance eligibility, enrollment, and related assistance using the new District of Columbia Access System ("DCAS").

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. DCHBX 2013-C-0001 Option Year Two Approval and Payment Authorization Emergency Act of 2014".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Option Year Two to Contract No. DCHBX 2013-C-0001 between the Health Benefit Exchange Authority and Maximus Health Services, Inc., to design, implement, and operate the District's ECC with a robust capability to provide consumers with over-the-phone and web-based services for Medicaid and private health insurance, and SHOP health insurance eligibility, enrollment, and related assistance using the new DCAS and authorizes payment not to exceed \$5,784,204 for services received and to be received under the option year.

Sec. 3. Fiscal impact statement.


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

Sec. 4. Effective date.

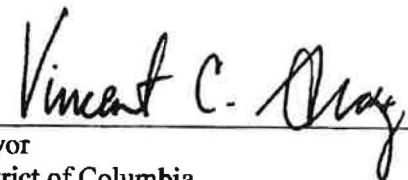
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 21, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-456

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 23, 2014

To standardize, on an emergency basis, due to congressional review, licensing and registration application requirements using the Nationwide Mortgage Licensing System and Registry for all non-depository financial institutions regulated through the administration of the District of Columbia Banking Code, to require each applicant obtain a unique identifier from and apply through the Nationwide Mortgage Licensing System, to authorize the Commissioner to waive or modify any of the requirements of this act or other application requirements in the Banking Code and to establish new requirements as needed to participate in the Nationwide Mortgage Licensing System, to authorize use of the Nationwide Mortgage Licensing System for criminal history background checks and credit checks as necessary, to allow the Commissioner to share confidential information with specified third parties including the Nationwide Mortgage Licensing System, to authorize the Commissioner to contract with third parties to collect fees and share information and maintain records, to authorize license renewal and reinstatement periods, to provide for the payments of non-refundable application fees, to provide that the Commissioner shall report Banking Code violations and enforcement actions to the Nationwide Mortgage Licensing System, to require the Commissioner to establish an information challenge process for data entered into the Nationwide Mortgage Licensing System, and to provide that the Commissioner may promulgate regulations to implement the act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Nationwide Mortgage Licensing System Conformity Congressional Review Emergency Act of 2014”.

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Applicant” means a person filing an initial or renewal application for licensure or registration under the Banking Code.

ENROLLED ORIGINAL

(2) "Application" means an initial or renewal application for licensure or registration under the Banking Code processed through the Department or its designee such as the NMLS or any other person or third party prescribed by the Commissioner.

(3) "Banking Code" means the statutory provisions concerning banking and financial institutions that are codified in Title 26 of the District of Columbia Official Code, laws administered by the Commissioner, and rules and regulations promulgated under those statutory provisions and laws.

(4) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.

(5) "Conference of State Bank Supervisors" or "CSBS" means the professional association of state officials responsible for chartering, regulating, and supervising state-chartered commercial and savings banks and state-licensed branches and agencies of foreign banks.

(6) "Department" means the Department of Insurance, Securities, and Banking.

(7) "Nationwide Mortgage Licensing System and Registry" or "NMLS" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or their successors for the licensing and registration of persons engaged in the state-regulated financial service industries.

(8) "State Regulatory Registry, LLC" or "SRR" means the entity which owns and operates the NMLS, or its successors.

(9) "Unique identifier" means a number or other identifier assigned by protocols established by the NMLS.

Sec. 3. Unique identifier required.

Each licensee and registrant under the Banking Code shall register with, and maintain, a valid unique identifier issued by the NMLS.

Sec. 4. Form and contents of application.

(a) An application shall be filed on a form prescribed by the Commissioner, including all information required by the Commissioner as set forth by statute or regulation.

(b) For purposes of participating in the NMLS, the Commissioner is authorized to waive or modify in whole or by part any statutory or regulatory requirements for applications in any provision of the Banking Code, and to establish new requirements as are reasonably necessary to participate in NMLS.

Sec. 5. Background checks.

The Commissioner may use the NMLS as an agent for requesting information from, and distributing information to, the Federal Bureau of Investigation, the Department of Justice, any governmental agency, or any source as directed by the Commissioner.

ENROLLED ORIGINAL

Sec. 6. Confidential information.

To assist in the performance of the Commissioner's duties under this act, the Commissioner may:

(1) Share documents, materials, or other information, including confidential and privileged documents, materials, or information subject to this act, with state, federal, and international regulatory agencies and law enforcement authorities, and with the CSBS, SRR, NMLS, and their affiliates or subsidiaries; provided, that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, or other information;

(2) Receive documents, materials, or information, including confidential and privileged documents, materials, or other information, including confidential and privileged documents, materials, or other information, from state, federal, or international regulatory agencies or law enforcement authorities or from the CSBS, SRR, NMLS or their affiliates or subsidiaries, and shall maintain as confidential or privileged any documents, materials, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or other information;

(3) Enter into agreements for sharing and using confidential information consistent with this act;

(4) Authorize a national criminal background check and submission of fingerprints and other identifying information, submitted through the NMLS, and receive criminal history record information from NMLS, the Metropolitan Police Department, and the Federal Bureau of Investigation for the purposes of facilitating determinations regarding eligibility for licensure or registration under the Banking Code; and

(5) Contract with a third party, including the SRR, the CSBS, or their affiliates or subsidiaries, to perform any functions, including the collection of licensing, registration and processing fees, collection of contact information and other identifying information, fingerprints, written consent to a criminal background check, personal history and experience, and conduct of examinations-related activities covered under the Banking Code, that the Commissioner may consider appropriate.

Sec. 7. Renewal.

(a) A license or registration issued under this act shall expire on a date to be determined by the Commissioner. A license or registration may thereafter be renewed for one-year term extensions as provided by this section.

(b) Before a license expires, the applicant may renew the license or registration for additional one-year terms, if the applicant:

(1) Demonstrates that the applicant continues to meet the standards for licensing or registration under this act and under all relevant provisions of the Banking Code;

(2) Pays all applicable fees as prescribed by the Commissioner and all third-party fees; and

(3) Submits to the Commissioner a renewal application on the form that the Commissioner requires.

ENROLLED ORIGINAL

Sec. 8. Application fees.

(a) When filing an application, each applicant shall pay the applicable fees prescribed by the Commissioner and any third-party fees. Any fees paid in connection with the processing of an application shall be non-refundable.

(b) The Commissioner may, from time to time, increase or decrease the fees set forth in this section. The fees shall be fixed at such rates, and computed on such bases and in such manner as may, in the judgment of the Commissioner, be necessary to defray the approximate costs of carrying out the regulatory functions set forth in this act and the Banking Code. These fees shall not be abated or refunded by surrender, suspension, cancellation, or revocation of a registration.

Sec. 9. NMLS reporting requirements.

The Commissioner shall regularly report violations of the Banking Code, as well as enforcement actions and other relevant information, to the NMLS. The reports shall be subject to the provisions of section 6t.

Sec. 10. NMLS information challenge process.

The Commissioner shall establish a process whereby applicants, licensees, and registrants may challenge information entered into the NMLS by the Commissioner.

Sec. 11. Rules.

The Commissioner may issue rules to implement the provisions of this act.

Sec. 12. Applicability.

This act shall apply as of October 8, 2014.

Sec. 13. Fiscal impact statement.

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

Sec. 14. Effective date.

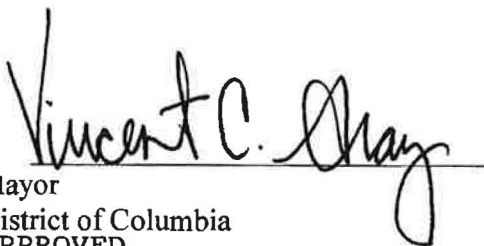
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 23, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-457

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 23, 2014

To establish, on an emergency basis, that it shall be unlawful for the owner or operator of a grocery store to impose a restrictive land covenant or use restriction on the sale, or other transfer, or lease of real property used as a grocery store that prohibits the subsequent use of the property as a grocery store.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Grocery Store Restrictive Covenant Prohibition Emergency Act of 2014".

Sec. 2. (a) It shall be unlawful for the owner or operator of a grocery store to impose a restrictive land covenant or use restriction in a contract for the sale, or other transfer, or lease of real property being used as a grocery store that prohibits the subsequent use of the real property as a grocery store.

(b) Any contract, including a private agreement, that includes a restrictive land covenant or use restriction on real property as described in subsection (a) of this section shall be void and unenforceable.

(c) For the purposes of this act, the term:

(1) "Grocery store" means a retail establishment with a primary business of selling grocery products and includes a selling area that is used for a general line of food and nonfood grocery products.

(2) "Private agreement" means a mutually agreed upon and entered into exchange of promises.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

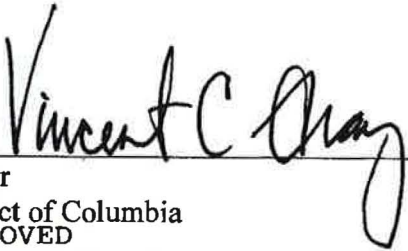
This act shall take effect following approval by the Mayor, (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 23, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-458

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 23, 2014

To require that an employer provide reasonable workplace accommodations for workers whose ability to perform the functions of a job are limited by pregnancy, childbirth, a related medical condition, or breastfeeding, and to provide for enforcement of a violation of this act through administrative and civil action.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Protecting Pregnant Workers Fairness Act of 2014".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "DOES" means the Department of Employment Services.

(2) "Reasonable accommodation" means an accommodation that does not cause undue hardship in the operation of the employer's business that an employer can make for an employee whose ability to perform the functions of the employee's job are affected by pregnancy, childbirth, a related medical condition, or breastfeeding, including:

(A) More frequent or longer breaks;

(B) Time off to recover from childbirth;

(C) The acquisition or modification of equipment or seating;

(D) The temporary transfer to a less strenuous or hazardous position or other job restructuring such as providing light duty or a modified work schedule;

(E) Having the employee refrain from heavy lifting;

(F) Relocating the employee's work area; or

(G) Providing private non-bathroom space for expressing breast milk.

(3) "Undue hardship" means any action that requires significant difficulty in the operation of the employer's business or significant expense on the behalf of the employer when considered in relation to factors such as the size of the business, its financial resources, and the nature and structure of its operation.

Sec. 3. Provision of reasonable accommodation.

(a) An employer shall engage in good faith in a timely and interactive process with an employee requesting or otherwise needing a reasonable accommodation to determine a reasonable accommodation for that employee.

ENROLLED ORIGINAL

(b)(1) An employer may require an employee to provide a certification from the employee's health care provider concerning the medical advisability of a reasonable accommodation to the same extent a certification is required for other temporary disabilities.

(2) A certification shall include:

(A) The date the reasonable accommodation became or will become medically advisable;

(B) An explanatory statement as to the medical condition and the advisability of providing the reasonable accommodation in light of the condition; and

(C) The probable duration that the reasonable accommodation will need to be provided.

(c) In any proceeding brought under this act, the employer shall have the burden of establishing that it would be an undue hardship to provide a reasonable accommodation.

Sec. 4. Prohibitions.

An employer shall not:

(1) Refuse to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding for an employee, unless the employer can demonstrate that the accommodation would impose an undue hardship;

(2) Take an adverse action against an employee who requests or uses a reasonable accommodation in regard to the employee's conditions or privileges of employment, including failing to reinstate the employee when the need for reasonable accommodations ceases to the employee's original job or to an equivalent position with equivalent:

(A) Pay;

(B) Accumulated seniority and retirement;

(C) Benefits; and

(D) Other applicable service credits;

(3) Deny employment opportunities to an employee, or a job applicant, if the denial is based on the need of the employer to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding;

(4) Require an employee affected by pregnancy, childbirth, related medical conditions, or breastfeeding to accept an accommodation that the employee chooses not to accept if the employee does not have a known limitation related to pregnancy, childbirth, related medical conditions, or breastfeeding or the accommodation is not necessary for the employee to perform her duties; or

(5) Require an employee to take leave if a reasonable accommodation can be provided.

Sec. 5. Notice of rights to employees.

(a) An employer shall post and maintain in a conspicuous place a notice of rights in both English and Spanish and provide written notice of an employee's right to a needed reasonable accommodation related to pregnancy, childbirth, related medical conditions, or breastfeeding pursuant to this act to:

(1) New employees at the commencement of employment;

ENROLLED ORIGINAL

(2) Existing employees within 120 days after the effective date of this act; and

(3) An employee who notifies the employer of her pregnancy, or other condition covered by this act, within 10 days of the notification.

(b) The employer shall provide an accurate written translation of the notice of rights to any non-English or non-Spanish speaking employee and as required by section 4 of the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1933).

Sec. 6. Department of Employment Services; education efforts.

The DOES shall develop courses of instruction and conduct ongoing public education efforts as necessary to inform employers, employees, employment agencies, and job applicants about their rights and responsibilities under this act.

Sec. 7. Employee right of action.

An employee or employees injured by a violation of this act shall be entitled to maintain an administrative action or a civil action.

Sec. 8. Administrative enforcement by DOES.

(a) An employee who claims that an employer has violated the employee's right under this act and seeks redress shall file a complaint with DOES.

(b) The DOES, which shall administer this act, shall establish administrative procedures for an aggrieved person to file a complaint against the employer alleged to have violated this act, which shall include:

(1) An investigation of the complaint and an attempt to resolve the complaint by conference or mediation;

(2) If the complaint is not resolved, a determination on the existence of probable cause to believe a violation of this act has occurred;

(3) If it is determined probable cause exists, the issuance and service of a written notice and a copy of the complaint to the employer alleged to have violated this act that requires the employer to answer the charges of the complaint at a hearing before DOES, the procedures of which shall be established by rule; and

(4) The right of the employee to have an attorney authorized to practice law in the District of Columbia and retained by the employee present at the hearing.

(c) If DOES determines, after its hearing, that the employer has violated any provision of this act, DOES shall order the employer to provide affirmative remedies including:

(1) Back pay for lost wages resulting from the employer's violation of this act;

(2) Reinstatement or other injunctive relief; and

(3) Reasonable attorney's fees and costs of enforcement.

(d)(1) To compensate the District for the costs of investigating and remedying a violation, DOES may also order the employer to pay to the District a penalty of not more than \$500 for each day or portion thereof that the violation continues for each employee against whom the violation occurred or continues.

ENROLLED ORIGINAL

(2) The funds recovered by the District under this subsection shall be deposited in the Pregnant Workers Protection Fund established by section 13.

(e)(1) Subject to paragraph (2) of this subsection, if an employer is determined to not be in compliance with this act, DOES shall take any appropriate enforcement action to secure compliance, including initiating a civil action following review by the Office of Administrative Hearings, and, except where prohibited by another law, revoking or suspending any registration certificates, permits, or licenses held or requested by the employer until the violation is remedied.

(2) Before DOES may take action regarding a suspension or revocation of a registration certificate, permit, or license, the employer shall have the opportunity to request a hearing pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*) ("APA").

Sec. 9. Hearing by Office of Administrative Hearings.

(a) In accordance with section 6(b)(1) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03(b)(1)), a party contesting the determination made by DOES shall be entitled to a hearing before the Office of Administrative Hearings.

(b) Upon the exhaustion of administrative remedies, an employee aggrieved by the order of the Office of Administrative Hearings may bring an action in court.

Sec. 10. Enforcement by civil action.

(a) A civil action may be maintained against any employer in a court of competent jurisdiction by one or more employees.

(b) An employer who violates the provisions of this act shall be liable to the affected employee or employees for the remedies set forth in section 8(c).

Sec. 11. Interest and collection on amounts due.

(a) In any administrative or civil action brought under this act, the Mayor or court shall award interest on all amounts due and unpaid at the rate of interest specified in D.C. Official Code § 28-3302(b) or (c).

(b) The award of any money awarded to an employee under this act shall be enforceable by the employee to whom the debt is owed or may be collected by the District on behalf of the employee.

Sec. 12. Penalties.

(a) An employer who willfully violates section 4 shall be subject to a civil penalty of \$1,000 for the 1st offense, \$1,500 for the 2nd offense, and \$2,000 for the 3rd and each subsequent offense.

(b) An employer who fails to post the notice of rights as required by section 5(a) shall be assessed a civil penalty not to exceed \$50 for each day that the employer fails to post the notice; provided, that the total penalty shall not exceed \$250, unless the ongoing violation is willful.

ENROLLED ORIGINAL

Sec. 13. Pregnant Workers Protection Fund.

(a) There is established as a special fund the Pregnant Workers Protection Fund ("Fund"), which shall be administered by DOES in accordance with subsection (c) of this subsection.

(b) The Fund shall consist of the revenue from the following sources recovered under this act:

(1) Civil fines; and

(2) Administrative penalties.

(c) The Fund shall be used to enforce this act.

(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

Sec. 14. Rules.

Within 60 days of the effective date of this act, the Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act, including establishing procedures for a business to prove undue hardship.

Sec. 15. Construction.

This act shall not be construed to preempt, limit, diminish, or otherwise affect any other provision of law relating to sex discrimination or pregnancy or in any way to diminish the coverage for pregnancy, childbirth, or a related medical condition.

Sec. 16. Applicability.

This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Sec. 17. 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. 18. Effective date.

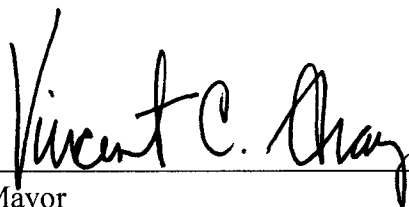
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by Council to override the veto), a 30-day period of congressional review as

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 23, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-459

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 24, 2014

To amend, on an emergency basis, due to congressional review, the District of Columbia Administrative Procedure Act to exempt from disclosure certain critical infrastructure information.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Critical Infrastructure Freedom of Information Second Congressional Review Emergency Amendment Act of 2014”.

Sec. 2. Title II of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D. C. Official Code § 2-531 *et seq.*), is amended as follows:

(a) Section 204(a) (D.C. Official Code § 2-534(a)) is amended as follows:

(1) Paragraph (13) is amended by striking the word “and”.

(2) Paragraph (14) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph (15) is added to read as follows:

“(15) Any critical infrastructure information or plans that contain critical infrastructure information for the critical infrastructures of companies that are regulated by the Public Service Commission of the District of Columbia.”.

(b) The text of section 209 (D.C. Official Code § 2-539) is amended to read as follows:

“(a) For the purposes of this title, the following terms shall have the same meanings as provided in section 102:

“(1) “Adjudication”;

“(2) “Agency”;

“(3) “Council”;

“(4) “District”;

“(5) “Mayor”;

“(6) “Order”;

“(7) “Party”;

“(8) “Person”;

“(9) “Proceedings”;

“(10) “Public record”;

“(11) “Relief”;

ENROLLED ORIGINAL

“(12) “Rule”; and

“(13) “Rulemaking”.

“(b) For the purposes of this title, the term:

“(1) “Critical infrastructure” means existing and proposed infrastructure systems and assets, whether physical or virtual, so vital to the District of Columbia or the United States that the incapacity or destruction of the infrastructure system or asset could jeopardize the physical security, economic security, health, safety, or welfare of the public.

“(2) “Critical infrastructure information” means information not customarily in the public domain that is related to the security of critical infrastructure of companies that are regulated by the Public Service Commission of the District of Columbia, including information regarding:

“(A) Actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates federal or District of Columbia laws, harms interstate commerce of the United States or the economy of the District of Columbia, or threatens public health or safety;

“(B) The ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation, risk-management planning, or risk audit; or

“(C) Any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.”.

Sec. 3. Paragraph 32 of section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 982; Official Code § 34-902), is amended as follows:

(a) The existing text is designated as subsection (a).

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

“(b) The Commission shall publish rules and regulations for the administration of the provisions of section 204(a)(15) of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-534(a)(15)).”.

Sec. 4. Applicability

This act shall apply as of October 3, 2014.

Sec. 5. Fiscal impact statement.


The Council adopts the fiscal impact statement in the committee report for the Critical Infrastructure Freedom of Information Amendment Act of 2014, passed on 2nd reading on September 23, 2014 (Enrolled version of Bill 20-505) as the fiscal impact statement required by

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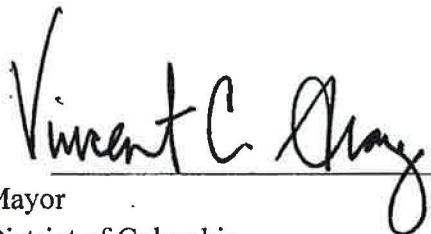
section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 24, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-460

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 24, 2014

To amend, on an emergency basis, the H Street, N.E., Retail Priority Area Incentive Act of 2010 to include other neighborhood-serving retail uses , and to clarify the eligibility of businesses in the Bladensburg Road, N.E., Retail Priority Area to receive grants for retail development projects.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “H Street, N.E., Retail Priority Area Incentive Emergency Amendment Act of 2014”.

Sec. 2. Section 4 of the H Street, N.E., Retail Priority Area Incentive Act of 2010, effective April 8, 2011 (D.C. Law 18-354; D.C. Official Code § 1-325.173), is amended as follows:

(a) Subsection (b)(2) is amended by striking the word “restaurants” and inserting the phrase “restaurants whose annual alcohol sales exceed 20%” in its place.

(b) Subsection (c)(2) is amended to read as follows:

“(2) Direct frontage on a commercial corridor within the H Street, N.E., Retail Priority Area;”.

Sec. 3. Fiscal impact statement.


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

Sec. 4. Effective date.

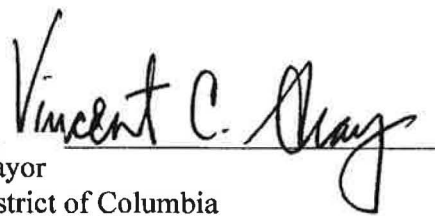
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 24, 2014

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.

COUNCIL OF THE DISTRICT OF COLUMBIA
LEGISLATION

PROPOSED

BILLS

- | | |
|---------|--|
| B20-976 | Public Charter Schools First Source and SLDBE Amendment Act of 2014

Intro. 10-21-14 by Councilmembers Barry, Bonds, Graham, Orange and Alexander and referred to the Committee on Education with comments from the Committee on Finance and Revenue and Committee on Business, Consumer and Regulatory Affairs. Re-referred on October 28, 2014 sequentially to the Committee on Business, Consumer and Regulatory Affairs and Committee on Education |
| B20-979 | Georgia Avenue Great Streets Neighborhood Retail Priority Area Amendment Act of 2014

Intro. 10-23-14 by Councilmember Bowser and referred to the Committee on Economic Development |
-

B20-981 The High Technology Investment Authority Establishment Act of 2014
Intro. 10-21-14 by Councilmember McDuffie and referred sequentially to the
Committee on Economic Development and Committee of the Whole

RESOLUTIONS

PR20-1108 District of Columbia Health Benefit Exchange Authority Executive
Board Nancy J. Hicks Confirmation Resolution of 2014
Intro. 10-21-14 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Health

PR20-1109 Board of Chiropractic Dr. Keita Vanterpool Confirmation Resolution of 2014
Intro. 10-23-14 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Health

PR20-1110 Board of Chiropractic Dr. Miya Corliss Bazley Confirmation Resolution
of 2014
Intro. 10-23-14 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Health

PR20-1111 Board of Chiropractic Dr. Carl Hopson Confirmation Resolution of 2014
Intro. 10-23-14 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Health

PR20-1112 Board of Dentistry Dianne J. Smith Confirmation Resolution of 2014
Intro. 10-23-14 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Health

PR20-1113 Fiscal Year 2015 Income Tax Secured Revenue Bond and General
Obligation Bond Issuance Approval Resolution of 2014

Intro. 10-23-14 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Finance and Revenue

PR20-1118 Sense of the Council Encouraging the District Prudent Investment with
Regard to Fossil Fuels Resolution of 2014

Intro. 10-27-14 by Chairman Mendelson and Retained by the Council with
comments from the Committee of the Whole

PR20-1122 Fiscal Year 2016 Submission Requirements Resolution of 2014

Intro. 10-28-14 by Chairman Mendelson and Retained by the Council

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT
MARY M. CHEH, CHAIR

NOTICE OF PUBLIC HEARING ON

Bill 20-823, Tenant Water Bill Notice Regulation Amendment Act of 2014

Wednesday, November 19, 2014
at 1:30 p.m.
in Room 412 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Wednesday, November 19, 2014, Councilmember Mary M. Cheh, Chairperson of the Committee on the Transportation and the Environment, will hold a public hearing on Bill 20-823, the Tenant Water Bill Notice Regulation Amendment Act of 2014. The hearing will begin at 1:30 p.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official Hearing Record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 8 copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on November 21, 2014.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT
MARY M. CHEH, CHAIR

REVISED

NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE ON

The District of Columbia Streetcar System and the MoveDC Plan

Monday, November 10, 2014
at 11:00 a.m.
in Room 500 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Monday, November 10, 2014, Councilmember Mary M. Cheh, Chairperson of the Committee on the Transportation and the Environment, will hold a public oversight roundtable on the District of Columbia Streetcar System and the MoveDC Plan. The Roundtable will begin at 11:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The District Department of Transportation (DDOT) has planned an 8-line, 37-mile streetcar system throughout the District. Passenger service is expected to begin on the initial H Street / Benning Road segment by the end of 2014. The District is already spending tens of millions of dollars on the streetcar system and has budgeted an additional \$700 million during the next 6 years. DDOT also recently released its MoveDC Plan. The purpose of this hearing is to discuss the status of the initial segment of the streetcar line, plans for future lines, proposals from the private sector, governance alternatives, financing options for the streetcar system, and the MoveDC Plan in general.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official Hearing Record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 8 copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on November 24, 2014.

This hearing notice is revised to reflect that the date of the roundtable has been changed from November 3, 2014 to November 10, 2014, and to reflect that the roundtable will cover the MoveDC Plan in addition to the DC Streetcar System.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

REVISED

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

on

**The Costs and Benefits of Bill 20-805, District of Columbia Soccer Stadium Development
Act of 2014**

on

**Wednesday, November 5, 2014
12:00 p.m., Council Chamber, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces the scheduling of a public oversight roundtable of the Committee of Whole on “The Costs and Benefits of Bill 20-805, District of Columbia Soccer Stadium Development Act of 2014.” The roundtable will be held Wednesday, November 5, 2014 at 12:00 p.m. in the Council Chamber of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW. **This notice has been revised to reflect a new date and time, and the addition of a witness.**

The purpose of this roundtable is to receive testimony from the Council’s consultants (Conventions, Sports and Leisure International (CSL); Integra Realty Resources (IRR); and The Robert Bobb Group (RBG)), and the Office of the Chief Financial Officer (OCFO), on the financial terms of Bill 20-805, the “District of Columbia Soccer Stadium Development Act of 2014.” CSL, IRR, and RBG will present the results of a cost-benefit analysis of the proposed real estate transactions, an assessment of the risks associated with those transactions, and a stadium public cost and subsidy comparison. Transaction documents reviewed for the analyses may be viewed online at <http://dccouncil.us/pages/soccer-stadium-development-documents>. The OCFO will present the results of the required fiscal impact and tax abatement analyses. City Administrator Allen Lew will also testify and answer questions on behalf of the Executive. The roundtable will be exclusively for the testimony of CSL, IRR, RBG, the OCFO, and the City Administrator, and public testimony will not be taken.

While this roundtable will include oral testimony only from CSL, IRR, RBG, the OCFO, and the City Administrator, written statements from the public will be made a part of the official record. Copies of written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Monday, November 17, 2014.

**Council of the District of Columbia
COMMITTEE ON GOVERNMENT OPERATIONS
NOTICE OF PUBLIC ROUNDTABLE**

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

**COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON GOVERNMENT OPERATIONS**

ANNOUNCES A PUBLIC ROUNDTABLE ON

**PR20-1099, THE “PUBLIC EMPLOYEE RELATIONS BOARD ANN HOFFMAN CONFIRMATION
RESOLUTION OF 2014” AND**

**PR20-1100, THE “PUBLIC EMPLOYEE RELATIONS BOARD YVONNE DIXON CONFIRMATION
RESOLUTION OF 2014”**

**Wednesday, November 19, 2014, 1:00 p.m.
Room 120, John A. Wilson Building
1350 Pennsylvania Ave., NW
Washington, D.C. 20004**

Councilmember Kenyan R. McDuffie, Chair of the Committee on Government Operations, announces a public roundtable to consider the nominations of Ann Hoffman and Yvonne Dixon to the Public Employee Relations Board (PERB). The public roundtable will be held on Wednesday, November 19, 2014, at 1:00 p.m., in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

PERB is an independent agency of the District of Columbia created by the Comprehensive Merit Personnel Act of 1978 (CMPA) (D.C. Law 2-139; D.C. Official Code § 1-601.01, *et seq.*). PERB has exclusive jurisdiction over labor-management disputes between District agencies and labor organizations that represent agency employees.

Individuals and representatives of organizations wishing to testify should contact Kate Mitchell, Legislative Counsel, at (202) 724-8155, or kmitchell@dccouncil.us and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Monday, November 17, 2014.

If you are unable to testify at the roundtable, written statements are encouraged and will be made part of the official record. Copies of written statements should be submitted to the Committee on Government Operations, Council of the District of Columbia, Suite G-11 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004, or to kmitchell@dccouncil.us. The record will close by the close of business on November 21, 2014.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

REVISED

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC ROUNDTABLE

on

PR 20-1103, Mid City East Small Area Plan Approval Resolution of 2014

on

**Wednesday, November 5, 2014
10:30 a.m., Council Chamber, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces the scheduling of a public roundtable of the Committee of Whole on PR 20-1103, the “Mid City East Small Area Plan Approval Resolution of 2014.” The roundtable will be held Wednesday, November 5, 2014 at 10:30 a.m. in the Council Chamber of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW. **This notice has been revised to reflect a new date and time.**

The stated purpose of PR 20-1103 is to approve the proposed Mid City East Small Area Plan (SAP). The SAP was initiated by the Office of Planning in February 2013, a draft was made public on July 7, 2014, and a Mayoral hearing was held on July 29, 2014. The purpose of the SAP is to provide a framework for conservation, development, sustainability, and connectivity in the Bates/Truxton Circle, Bloomingdale, Eckington, Hanover, LeDroit Park, and Sursum Corda neighborhoods, including portions of Edgewood and Stronghold. The Plan is based on the following core themes: neighborhood character; commercial revitalization; redevelopment opportunities and housing; neighborhood placemaking and public realm; parks, green space, and stormwater; and connectivity. Once approved, the SAP will provide guidance to the Zoning Commission and other District agencies in carrying out the policies of the Comprehensive Plan.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Jessica Jacobs, Legislative Counsel, at jjacobs@dccouncil.us and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Monday, November 3, 2014. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on November 3, 2014, the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of PR 20-1103 can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>.

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 of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Monday, November 17, 2014.

**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 20-1113, the Fiscal Year 2015 Income Tax Secured Revenue Bond and General
Obligation Bond Issuance Approval Resolution of 2014”**

Thursday, November 6, 2014

10:00 a.m.

Room 120 - John A. Wilson Building

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

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Thursday, November 6, 2014 at 10:00 a.m. in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 20-1113, the Fiscal Year 2015 Income Tax Secured Revenue Bond and General Obligation Bond Issuance Approval Resolution of 2014” would approve the borrowing of funds by the District through the issuance and sale of either income tax secured revenue bonds or general obligation bonds up to \$ 1,092,763,726 to fund capital projects.

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 10:00 a.m. on Wednesday, November 5, 2014. 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: Committee on Finance and Revenue, Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

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

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

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

Reprog. 20-260: Request to reprogram \$2,317,296 of Fiscal Year 2014 Special Purpose Revenue funds budget authority from the District Department of Transportation (DDOT) to the Pay-As-You-Go (Paygo) Capital Fund was filed in the Office of the Secretary on October 22, 2014. This reprogramming ensures that DDOT will be able to purchase additional Circulator buses.

RECEIVED: 14 day review begins October 23, 2014

Reprog. 20-261: Request to reprogram \$3,557,404 of Fiscal Year 2014 Special Purpose Revenue funds budget authority from the District Department of Transportation (DDOT) to the Pay-As-You-Go (Paygo) Capital Fund was filed in the Office of the Secretary on October 22, 2014. This reprogramming ensures that DDOT will be able to fund street paving improvements in the District's wards.

RECEIVED: 14 day review begins October 23, 2014

Reprog. 20-262: Request to reprogram \$3,500,000 of Fiscal Year 2014 Local funds budget authority from the Child and Family Services Agency (CFSA) to the Children and Youth Investment Collaborative (CYIC) was filed in the Office of the Secretary on October 23, 2014. This reprogramming ensures that the CYIC will be able to support events and activities as part of the District's 2014 One City Summer initiative.

RECEIVED: 14 day review begins October 24, 2014

Reprog. 20-263: Request to reprogram \$2,500,000 of Fiscal Year 2014 Local funds budget authority within the Department of General Services (DGS) was filed in the Office of the Secretary on October 23, 2014. This reprogramming ensures that DGS is able to cover higher-than-anticipated water, natural gas, and electricity cost through the end of the fiscal year.

RECEIVED: 14 day review begins October 24, 2014

Reprog. 20-264: Request to reprogram \$2,073,794 of Fiscal Year 2014 Local funds budget authority within the Department of General Services (DGS) was filed in the Office of the Secretary on October 23, 2014. This reprogramming realigns the DGS budget to cover personal services spending across agency activities, including salaries and fringe benefits.

RECEIVED: 14 day review begins October 24, 2014

Reprog. 20-265: Request to reprogram \$7,536,278 of Capital funds budget authority and allotment from the District Department of Transportation (DDOT) and the District Department of the Environment (DDOE) to the Reverse Pay-As-You-Go (Paygo) Capital project and subsequently to the local funds budget of the Office of Planning (OP) and the Commission on the Arts and Humanities (CAH) was filed in the Office of the Secretary on October 23, 2014. This reprogramming will fund the reclassification of FY 2014 ineligible OP and CAH capital expenditures to the respective operating funds budgets of these agencies.

RECEIVED: 14 day review begins October 24, 2014

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 31, 2014
Petition Date: December 15, 2014
Hearing Date: December 29, 2014
Protest Date: March 11, 2015

License No.: ABRA-097046
Licensee: ArtJamz, LLC
Trade Name: ArtJamz
License Class: Retailer's Class "CX" Multi-Purpose Facility
Address: 716 Monroe St., NE
Contact: Rosemarie Salguero 202-589-1836

WARD 5 ANC 5E SMD 5E01

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 1:30 pm on March 11, 2015.

NATURE OF OPERATION

ArtJamz is a locally-owned public art studio and lounge with a seating capacity of 20 inside. Sidewalk café with an occupancy load of 12. No entertainment, performances or dancing.

HOURS OF OPERATION

Sunday through Saturday 10 am – 12 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION INSIDE PREMISES

Sunday 11 am – 12 am, Monday through Friday 4 pm – 12 am, and Saturday 11 am – 12 am

HOURS OF OPERATION OF SIDEWALK CAFE

Sunday through Saturday 10 am – 12 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION IN SIDEWALK CAFE

Sunday through Saturday 10 am – 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/10/2014

****RESCIND**

Notice is hereby given that:

License Number: ABRA-091196

License Class/Type: B Retail - Grocery

Applicant: A AND A LLC

Trade Name: Georgia Line Convenience Store

ANC: 4D04

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

5125 GEORGIA AVE NW

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

11/24/2014

A HEARING WILL BE HELD ON:

12/8/2014

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	6 am - 10pm	none -none
Monday:	6 am - 10pm	9 am - 10pm
Tuesday:	6 am - 10pm	9 am - 10pm
Wednesday:	6 am - 10pm	9 am - 10pm
Thursday:	6 am - 10pm	9 am - 10pm
Friday:	6 am - 12 am	9 am - 10pm
Saturday:	6 am - 12 am	9 am - 10pm
ENDORSEMENTS:		

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/31/2014

Notice is hereby given that:

License Number: ABRA-091196

License Class/Type: B Retail - Grocery

Applicant: A AND A LLC

Trade Name: Georgia Line Convenience Store

ANC: 4D04

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

5125 GEORGIA AVE NW

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

12/15/2014

A HEARING WILL BE HELD ON:

12/29/2014

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	6 am - 10pm	none -none
Monday:	6 am - 10pm	9 am - 10pm
Tuesday:	6 am - 10pm	9 am - 10pm
Wednesday:	6 am - 10pm	9 am - 10pm
Thursday:	6 am - 10pm	9 am - 10pm
Friday:	6 am - 12 am	9 am - 10pm
Saturday:	6 am - 12 am	9 am - 10pm
ENDORSEMENTS:		

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

9/26/2014

****RESCIND**

Notice is hereby given that:

License Number: ABRA-074162

License Class/Type: B Retail - Grocery

Applicant: ZG Market, Inc.

Trade Name: Jubilee Market

ANC: 5E10

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

2316 4TH ST NE

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

11/10/2014

A HEARING WILL BE HELD ON:

11/24/2014

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9 am - 11 pm	9:30 am - 10 pm
Monday:	9 am - 11 pm	9:30 am - 10 pm
Tuesday:	9 am - 11 pm	9:30 am - 10 pm
Wednesday:	9 am - 11 pm	9:30 am - 10 pm
Thursday:	9 am - 11 pm	9:30 am - 10 pm
Friday:	9 am - 11 pm	9:30 am - 10 pm
Saturday:	9 am - 11 pm	9:30 am - 10 pm
ENDORSEMENTS:		

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/31/2014

Notice is hereby given that:

License Number: ABRA-074162

License Class/Type: B Retail - Grocery

Applicant: ZG Market, Inc.

Trade Name: Jubilee Market

ANC: 5E10

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

2316 4TH ST NE

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

12/15/2014

A HEARING WILL BE HELD ON:

12/29/2014

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9 am - 11 pm	9:30 am - 10 pm
Monday:	9 am - 11 pm	9:30 am - 10 pm
Tuesday:	9 am - 11 pm	9:30 am - 10 pm
Wednesday:	9 am - 11 pm	9:30 am - 10 pm
Thursday:	9 am - 11 pm	9:30 am - 10 pm
Friday:	9 am - 11 pm	9:30 am - 10 pm
Saturday:	9 am - 11 pm	9:30 am - 10 pm
ENDORSEMENTS:		

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/3/2014

****RESCIND**

Notice is hereby given that:

License Number: ABRA-094127

License Class/Type: B Retail - Grocery

Applicant: Bella Market LLC

Trade Name: Economy Market

ANC: 6A08

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

1804 D ST NE

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

11/17/2014

A HEARING WILL BE HELD ON:

12/1/2014

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9 am - 8 pm	9 am -8 pm
Monday:	9 am - 10 pm	9 am - 10 pm
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10 pm	9 am - 10 pm
Thursday:	9 am - 10 pm	9 am - 10 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	9 am - 10 pm	9 am - 10 pm

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/3/2014

****RESCIND**

Notice is hereby given that:

License Number: ABRA-073993

License Class/Type: B Retail - Grocery

Applicant: Harris Teeter, Inc

Trade Name: Harris Teeter

ANC: 1C06

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

1631 Kalorama RD NW

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

11/17/2014

A HEARING WILL BE HELD ON:

12/1/2014

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7 am - 12 am	9 am -10 pm
Monday:	7 am - 12 am	9 am - 10 pm
Tuesday:	7 am - 12 am	9 am - 10 pm
Wednesday:	7 am - 12 am	9 am - 10 pm
Thursday:	7 am - 12 am	9 am - 10 pm
Friday:	7 am - 12 am	9 am - 10 pm
Saturday:	7 am - 12 am	9 am - 10 pm
ENDORSEMENTS: Tasting		

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/31/2014

Notice is hereby given that:

License Number: ABRA-094127

License Class/Type: B Retail - Grocery

Applicant: Bella Market LLC

Trade Name: Economy Market

ANC: 6A08

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

1804 D ST NE

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

12/15/2014

A HEARING WILL BE HELD ON:

12/29/2014

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9 am - 8 pm	9 am -8 pm
Monday:	9 am - 10 pm	9 am - 10 pm
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10 pm	9 am - 10 pm
Thursday:	9 am - 10 pm	9 am - 10 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	9 am - 10 pm	9 am - 10 pm
ENDORSEMENTS:		

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/31/2014

Notice is hereby given that:

License Number: ABRA-073993

License Class/Type: B Retail - Grocery

Applicant: Harris Teeter, Inc

Trade Name: Harris Teeter

ANC: 1C06

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

1631 Kalorama RD NW

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

12/15/2014

A HEARING WILL BE HELD ON:

12/29/2014

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7 am - 12 am	9 am - 10 pm
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Tuesday:	7 am - 12 am	9 am - 10 pm
Wednesday:	7 am - 12 am	9 am - 10 pm
Thursday:	7 am - 12 am	9 am - 10 pm
Friday:	7 am - 12 am	9 am - 10 pm
Saturday:	7 am - 12 am	9 am - 10 pm
ENDORSEMENTS: Tasting		

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 31, 2014
Petition Date: December 15, 2014
Hearing Date: December 29, 2014
Protest Date: March 11, 2015

License No.: ABRA-097053
Licensee: Shabby, LLC
Trade Name: Due South
License Class: Retailer's Class "CT" Tavern
Address: 301 Water Street, S.E.
Contact: Andrew Kline 202686-7600

WARD 6 ANC 6D SMD 6D07

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 4:30 pm on March 11, 2015.

NATURE OF OPERATION

Tavern serving Southern food with a seating capacity of 199 and total occupancy load of 250. Requesting a Summer Garden with an occupancy load of 92 and Entertainment Endorsement to include Cover Charge.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SUMMER GARDEN

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

HOURS OF ENTERTAINMENT

Sunday through Thursday 6 pm - 2 am and Friday & Saturday 6 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 31, 2014
Petition Date: December 15, 2014
Hearing Date: December 29, 2014

License No. ABRA-091196
Licensee: A and A, LLC
Trade Name: Georgia Line Convenience Store
License Class: Retailer's Class "B"
Address: 5125 Georgia Ave., N.W.

WARD: 4

ANC: 4D

SMD: 4D04

The Alcoholic Beverage Regulation Administration (ABRA) provides notice that the licensee has filed a petition to amend or terminate the Settlement Agreement or Settlement Agreements attached to its license.

The current parties to the Agreement(s) are: A Group Represented by Tawana V Waugh and Annie Wallace and A and A, LLC.

The petition may be obtained by contacting ABRA's Public Information Office at 202-442-4423.

Any objectors are entitled to be heard before the granting of such a request on the Hearing Date at 1:30 pm, 2000 14th Street, N.W., 400 South, Washington, D.C., 2000. Petitions or requests to appear before the Board must be filed on or before the Petition Date.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 31, 2014
Petition Date: December 15, 2014
Hearing Date: December 29, 2014

License No. ABRA-073993
Licensee: Harris Teeter, Inc.
Trade Name: Harris Teeter
License Class: Retailer's Class "B" Full Grocery
Address: 1631 Kalorama Rd., N.W.

WARD: 1

ANC: 1C

SMD: 1C06

The Alcoholic Beverage Regulation Administration (ABRA) provides notice that the licensee has filed a petition to amend or terminate the Settlement Agreement or Settlement Agreements attached to its license.

The current parties to the Agreement(s) are: ANC 1C, Advisory Neighborhood Association*, and Harris Teeter, Inc.

The petition may be obtained by contacting ABRA's Public Information Office at 202-442-4423.

Any objectors are entitled to be heard before the granting of such a request on the Hearing Date at 1:30 pm, 2000 14th Street, N.W., 400 South, Washington, D.C., 2000. Petitions or requests to appear before the Board must be filed on or before the Petition Date.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 31, 2014
Petition Date: December 15, 2014
Hearing Date: December 29, 2014

License No. ABRA-074162
Licensee: ZG Market, Inc.
Trade Name: Jubilee Market
License Class: Retailer's Class "B"
Address 2316 4th St., N.E.

WARD: 5

ANC: 5E

SMD: 5E10

The Alcoholic Beverage Regulation Administration (ABRA) provides notice that the licensee has filed a petition to amend or terminate the Settlement Agreement or Settlement Agreements attached to its license.

The current parties to the Agreement(s) are: Advisory Neighborhood Commission 5C (ANC 5C) Protestant and A and A, LLC.

The petition may be obtained by contacting ABRA's Public Information Office at 202-442-4423.

Any objectors are entitled to be heard before the granting of such a request on the Hearing Date at 1:30 pm, 2000 14th Street, N.W., 400 South, Washington, D.C., 2000. Petitions or requests to appear before the Board must be filed on or before the Petition Date.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 31, 2014
Petition Date: December 15, 2014
Roll Call Hearing Date: December 29, 2014
Protest Hearing Date: March 11, 2015

License No.: ABRA-097047
Licensee: 3907 14th Hospitality, LLC
Trade Name: Little Coco's
License Class: Retailer's Class "C" Restaurant
Address: 3907 14th Street, N.W.
Contact: Andrew Kline, 202-686-7600

WARD 4

ANC 4C

SMD 4C05

Notice is hereby given that this applicant has applied for a new 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 March 11, 2015 at 1:30 PM.

NATURE OF OPERATION

New restaurant serving Italian cuisine and Artisan pizza. No entertainment, no dancing and no nude performances. Seating inside premises is 99 and the total occupancy load inside is 120. Summer Garden with seating for 64 patrons and Sidewalk Cafe with seating for 29 patrons.

HOURS OF OPERATION FOR INSIDE PREMISES, SUMMER GARDEN AND SIDEWALK CAFE

Sunday through Thursday 7am-2am, Friday and Saturday 7am-3am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR INSIDE PREMISES, SUMMER GARDEN AND SIDEWALK CAFE

Sunday through Thursday 8am-2am, Friday and Saturday 8am-3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**NOTICE OF PUBLIC HEARING**

Posting Date: October 31, 2014
Petition Date: December 15, 2014
Hearing Date: December 29, 2014
Protest Date: March 11, 2015

License No.: ABRA-096999
Licensee: Nagomi Inc.
Trade Name: Nagomi
License Class: Retail Class "C" Restaurant
Address: 1990 M Street, N.W.
Contact: Alan Kesten (770) 317-8215

WARD2

ANC 2B

SMD 2B06

Notice is hereby given that this applicant has applied for a new 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 4:30 pm on March 11, 2015.

NATURE OF OPERATION

New Restaurant. Authentic Japanese food. Occupancy load is 49.

HOURS OF OPERATON

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

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 31, 2014
Petition Date: December 15, 2014
Roll Call Hearing Date: December 29, 2014
Protest Hearing Date: March 11, 2015

License No.: ABRA-097025
Licensee: ODALYS RESTAURANT, LLC
Trade Name: ODALYS RESTAURANT
License Class: Retailer's Class "C" Restaurant
Address: 1200 Kennedy St., NW.
Contact: Jose Argueta: 202-492-9096

WARD 4 ANC 4C SMD 4C01

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Roll Call Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on March 11, 2015 at 4:30 pm.

NATURE OF OPERATION

New Class C restaurant. Entertainment Endorsement/Cover Charge. Total Occupancy Load is 56.

HOURS OF OPERATION

Sunday: 7am-3am, Monday through Saturday: 7am-4am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday: 6pm - 2am, Friday and Saturday: 6pm - 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 31, 2014
Petition Date: December 15, 2014
Hearing Date: December 29, 2014

License No.: ABRA-096294
Licensee: Staples Beer & Wine Grocery LLC
Trade Name: Staples Beer & Wine Grocery LLC
License Class: Retail Class "B"
Address: 1364 Florida Avenue, N.E.
Contact: Abel DeMissie 202-446-7884

WARD 5

ANC 5D

SMD 5D06

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

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

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

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 9 am – 10 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 31, 2014
Petition Date: December 15, 2014
Roll Call Hearing Date: December 29, 2014
Protest Hearing Date: March 11, 2015

License No.: ABRA-096888
Licensee: 301 Water St, LLC
Trade Name: The Navy Yard Oyster Company
License Class: Retailer's Class "C" Restaurant
Address: 301 Water Street, S.E.
Contact: Stephen J. O'Brien, Esq., 202-625-7700

WARD 6

ANC 6D

SMD 6D07

Notice is hereby given that this applicant has applied for a new 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 March 11, 2015 at 1:30 pm.

NATURE OF OPERATION

New establishment will be a wine-centric oyster bar offering a seasonal, seafood-driven small plate menu drawing its inspiration from the Chesapeake Bay and the states that Washington, DC is connected to, both geographically and culturally. Entertainment will consist of live music for jazz brunch, and other occasional similar performances. Seating inside premises is 73 and the total occupancy load inside is 199. Two (2) Summer Gardens with seating for 32 and 18 patrons.

HOURS OF OPERATION FOR INSIDE PREMISES AND SUMMER GARDENS

Sunday 10am-11pm, Monday through Saturday 10am-2am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR INSIDE PREMISES

Sunday 10am-11pm, Monday through Saturday 10am-2am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR THE SUMMER GARDENS

Sunday 10am-8pm, Monday through Saturday 10am-1am

HOURS OF ENTERTAINMENT FOR INSIDE PREMISES

Sunday 10am-8pm, Monday through Saturday 10am-8pm

HOURS OF ENTERTAINMENT FOR THE SUMMER GARDENS

Saturday and Sunday 10am-8pm

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION**NOTICE OF PUBLIC MEETINGS REGARDING
SURPLUS RESOLUTIONS PURSUANT TO D.C. OFFICIAL CODE 10-801**

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

Properties: Square 5344, Lot 0802 – 4650 Benning Road, SE (“Fletcher Johnson School Building”)

Date: November 5, 2014

Time: 6:00 p.m.

Location: DC Department of Employment Services
Community Room
4058 Minnesota Avenue NE
Washington, DC 20019

Contact: Althea O. Holford
Office of the Deputy Mayor for Education
202.727.4036 or althea.holford@dc.gov

**DISTRICT OF COLUMBIA TAXICAB COMMISSION
GOVERNMENT OF THE DISTRICT OF COLUMBIA**

NOTICE OF PUBLIC HEARING

**Proposed Rulemaking for the District of Columbia Taxicab
Industry Co-op and District of Columbia Universal Taxicab App**

**NOVEMBER 6, 2014
9:00 A.M.**

The DC Taxicab Commission (DCTC) has scheduled a Public Hearing at 9:00 am on Thursday, November 6, 2014 at the Frank D. Reeves, Second Floor Community Room, 2000 14th Street, NW, to receive testimony on its notice of proposed rulemaking to amend Chapters 16 (Dispatch Services) and 99 (Definitions) of Title 31 of the D.C. Municipal Regulations: Proposed Rulemaking for the District of Columbia Taxicab Industry Co-op and District of Columbia Universal Taxicab App. The notice was approved for publication as proposed rulemaking at the General Commission Meeting on October 8, 2014, was published in the *D.C. Register* on October 24, 2014 (Vol. 61, No. 44), and is available on the Commission's website.

DCTC will use a protocol that will divide the hearing into two parts for those who intend to testify. The first part of the hearing will consist of speakers on behalf of an association or advocacy group that represents vehicle owners and operators; a company or companies; or a company that is planning to begin operating in the District. These speakers may wish to appear together or with their leadership or legal representatives. Participants during this first part will be allowed up to thirty (30) minutes to present and must provide DCTC with ten (10) paper copies of their presentation delivered to DCTC's Executive Office by Wednesday, November 5, 2014 at 4:00 pm. It should also be noted that the Commission members may elect to ask questions during this first phase.

Please be advised that if a legal representative, officer, or individual from an association, organization or company testifies during the first part of the hearing, then others from the same association, organization or company will NOT be allowed to testify in the second part of the hearing. The second part of the hearing will be reserved for the general public only. These participants will have five (5) minutes to present. Although it is not required, participants are urged to submit their presentations in writing in advance of the hearing. Please register with Juanda Mixon at 202-645-6018 extension 4 no later than Wednesday, November 5, 2014 at 4:00 pm.

The Commission may create panels for both groups. All participants are reminded that this is an issue of material importance to the public vehicle for hire industry. Therefore, when making suggestions as to what should be added or deleted to the proposed rulemakings, participants should cite the specific section of any current taxicab rate rule that is a concern, and provide a suggestion for alternative language, if appropriate. It is important to be clear and specific with presentations given the importance of taxicab rates to drivers, owners, and the riding public.

The Public Hearing will take place at the following time and location:

THURSDAY, NOVEMBER 6, 2014

9:00 am

**FRANK D. REEVES, SECOND FLOOR COMMUNITY ROOM
2000 14th Street, NW, Washington, DC 20009**

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE OF FINAL RULEMAKING**

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.04(a) §§ 1-612.01 *et seq.*), hereby gives notice of the intention to adopt the following rules amending Chapter 12 (Hours of Work, Legal Holidays and Leave) of Title 6, Subtitle B (Government Personnel), of the District of Columbia Municipal Regulations (DCMR).

The rules amend the provisions contained in Section 1279 on the Paid Leave Pursuant to the Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; 55 DCR 3452 (April 4, 2008)) to reflect changes in District law, including those made by the Earned Sick and Safe Leave Amendment Act of 2013, effective February 22, 2013 (D.C. Law 20-89; D.C. Official Code § 32-131.02 (2012 Repl.)), which, among other things, allows an individual who is not covered by another, more generous leave system to begin accruing paid leave at the start of his or her employment, and provides for access to such paid leave after 90 days of service with an employer. In addition, the rules expand on the provisions contained in Section 1211 (Telecommuting); Section 1270 (Declared Emergencies—In General); Section 1272 (Declared Emergencies—Late Arrival, Unscheduled Leave Policy); and Section 1273 (Declared Emergencies—Shut-Down). The rules also amend the definition of the term “When Actually Employed (WAE),” in Section 1299 (Definitions), and add definitions of the terms “Unscheduled Leave” and “Unscheduled telecommuting.”

No comments were received to the Notice of Proposed Rulemaking published on June 13, 2014 at 61 DCR 005989. However, a non-substantive change was made to Subsection 1279.6(b) and a typographical error was corrected in Subsection 1299.1, in the definition of the term “When Actually Employed.” The rules were adopted as final on August 11, 2014 and will become effective upon publication in the *D.C. Register*.

Chapter 12, HOURS OF WORK, LEGAL HOLIDAYS AND LEAVE, of Subtitle B of Title 6, GOVERNMENT PERSONNEL, of the DCMR is amended as follows:

Section 1211, TELECOMMUTING, is amended to read as follows:

1211 TELECOMMUTING

1211.1 Telecommuting is an arrangement in which an employee regularly, or during a declared emergency (if directed to do so), performs officially assigned duties at home or another work site geographically convenient to the employee's residence.

1211.2 Based on the needs of the organization, and to the maximum extent possible without diminishing employee performance, each agency is authorized to establish telecommuting for eligible employees of the agency. Telecommuting must be

offered on an equal basis to all employees of the agency, or to all employees of a subordinate component of the agency.

- 1211.3 Telecommuting shall be part of a scheduled tour of duty, is subject to a written agreement and only permitted after an employee has completed any telecommuting training required by the District of Columbia Department of Human Resources.
- 1211.4 Requests to engage in telecommuting must be signed by the employee, be approved in writing and in advance by the employee's supervisor and the agency head (or his or her designee), and must certify that the position, during the period during which an employee will telecommute, satisfies conditions set forth in Subsections 1211.6 of this section, and that the telecommuting arrangement complies with Subsection 1211.7 of this section.
- 1211.5 Unless otherwise approved by the agency head and personnel authority, telecommuting by an employee shall be limited to not more than two (2) days per workweek.
- 1211.6 Positions best suited for telecommuting are those that:
- (a) Have job tasks that are quantifiable, primarily project or case-work oriented, telephone intensive, or computer-oriented; or have work activities that can be accommodated working away from the current work location with equal efficiency as if being performed at the official work site;
 - (b) Do not require daily unscheduled face-to-face contact with other employees, supervisors, or the public in the current work location; and
 - (c) Allow meetings to be scheduled without inconveniencing or impairing the performance of co-workers.
- 1211.7 Telecommuting shall not be combined with a flexible work schedule under Section 1209 of this chapter, or a compressed work schedule under Section 1210 of this chapter.
- 1211.8 Authorization to engage in telecommuting may be rescinded by the agency head (or designee) whenever the agency head (or designee) determines that the employee has failed to accomplish the work as prescribed, or for other reasons.
- 1211.9 Whenever an agency (or designee) determines that the approval for telecommuting is to be rescinded pursuant to Subsection 1211.8, the employee shall be given, where practicable, at least two weeks' notice prior to the rescission.
- 1211.10 Upon termination of the telecommuting agreement, the employee shall return to the tour of duty that existed prior to receiving approval to engage in telecommuting, unless the tour of duty has been changed by the employee's supervisor in accordance

with applicable rules.

1211.11 Failure of an employee to return to his or her regular tour of duty upon the rescission of the authorization to engage in telecommuting, shall result in the forfeiture of the employee’s opportunity to engage in telecommuting in the future and, where appropriate, will result in disciplinary action.

1211.12 By October 1 of each year, subordinate agencies shall submit a report to DCHR. The report, which covers an agency’s program activities for the prior fiscal year, shall include:

- (a) The name, grade, step, and position title of each employee approved to telecommute;
- (b) The total number of employees approved to telecommute;
- (c) The total number of employees working under an approved telecommuting work agreement;
- (d) The total number of days each employee is authorized to telework per workweek;
- (e) The number of employees that completed the required telecommuting training;
- (f) The reason(s) for the termination of any telecommuting agreement; and
- (g) The reason(s) for the exclusion of any employee or group of employees from participating in the program during the period in question.

1211.13 The D.C. Department of Human Resources shall conduct periodic audits of subordinate agency telecommuting programs for the purpose of ensuring compliance with D.C. personnel regulations and HR procedures. The audit also covers PeopleSoft actions that the agency inputs relative to telecommuting.

Section 1270, DECLARED EMERGENCIES – IN GENERAL, is amended to read as follows:

1270 DECLARED EMERGENCIES—IN GENERAL

1270.1 During a declared emergency, the following situations may occur:

- (a) In response to circumstances that develop while employees are at work, employees may be dismissed early as provided in Section 1271 of this chapter;
- (b) In response to circumstances that develop prior to normal duty hours,

employees may be authorized to take unscheduled leave, unscheduled telecommuting, or arrive late, as provided in Section 1272 of this chapter; and

- (c) In response to circumstances that arise prior to normal duty hours, there may be a shut-down of District government operations as provided in Section 1273 of this chapter.

1270.2 The Mayor may declare an emergency whenever he or she deems it to be appropriate and in the public interest.

1270.3 For the purposes of this section as well as Sections 1271 through 1273 of this chapter, certain District government employees shall be designated as “essential” or “emergency” employees.

1270.4 Critical District government operations cannot be suspended or interrupted during emergency situations such as those described in Subsection 1270.1 of this section. Agencies shall identify each agency position with duties that are vital to the continuity of medical facilities, public safety, emergency services, or other crucial operations; and shall designate employees occupying such positions as “essential employees.” Employees designated “essential” shall be required to be at work regardless of the emergency situation declared.

1270.5 The position description or job specification for a position or groups (families) of positions with duties as described in Subsection 1270.4 of this section shall state that the incumbent of the position or positions shall be considered an essential employee required to be at work when an emergency is declared and regardless of the emergency situation declared.

1270.6 An employee designated as an “essential employee” under the provisions of Subsection 1270.4 of this section shall be identified by position title or other appropriate means and shall be notified in writing of his or her designation as an essential employee and the specific requirements placed upon the employee in emergency situations. The written notification shall occur within thirty (30) days of the agency determination for current employees, or at the time of hire or appointment to the essential position, as applicable. The required thirty-day (30-day) notification period may be suspended during a period of a declared emergency.

1270.7 An agency head may designate employees as “emergency employees,” based on the nature and circumstances of a particular declared emergency. Employees may be designated as emergency employees on a case-by-case basis and, when so designated, will be called in to work, required to stay at work, or required to telecommute, if approved to do so, during the particular emergency situation.

1270.8 An employee designated as an “emergency employee” under the provisions of Subsection 1270.7 of this section shall be informed of the designation within thirty

(30) days of such designation and in writing, or by any other means the agency deems appropriate (*i.e.*, over the telephone or by electronic mail if the employee is not at work when the emergency is declared). A written notification shall follow a verbal notification. The required thirty-day (30-day) notification period may be suspended during a period of a declared emergency.

1270.9 Upon determination by an agency head that an employee's position designation as an emergency employee is no longer applicable, the agency head shall notify the employee, in writing, within thirty (30) days of such determination.

1270.10 Essential and emergency employees who are required to work during a declared emergency when non-essential and non-emergency employees are on administrative leave shall be entitled to compensation as provided in Chapter 11 of these regulations.

Section 1272, DECLARED EMERGENCIES – LATE ARRIVAL OR UNSCHEDULED LEAVE, is amended to read as follows:

1272 DECLARED EMERGENCIES—LATE ARRIVAL, UNSCHEDULED LEAVE, OR UNSCHEDULED TELECOMMUTING POLICY

1272.1 The Mayor may, whenever he or she deems it to be appropriate and in the public interest, authorize one or all of the following:

- (a) A late arrival policy authorizing up to two (2) hours of excused absence;
- (b) An unscheduled leave policy; or
- (c) An unscheduled telecommuting policy.

1272.2 Whenever the Mayor authorizes one of the policies set forth in Subsection 1272.1 of this section, he or she shall make every reasonable effort to ensure that such decision is disseminated by the media as widely and as promptly as possible.

1272.3 Each employee shall be responsible for reporting for duty and for making every possible effort to do so, even upon the occurrence of conditions beyond the control of an employee, such as inclement or hazardous weather or transportation disruption.

1272.4 Whenever the Mayor determines that an unscheduled leave policy is in effect, an employee, other than an essential or emergency employee subject to the provisions of Section 1270 of this chapter, shall be permitted to utilize annual leave, compensatory time, exempt time off, or leave without pay, for all or part of that day, up to a maximum of eight (8) hours or hours worked under a compressed work schedule, if applicable, without obtaining advance approval or providing detailed justification. The use of sick leave must be approved in accordance with Section 1243 of this chapter.

- 1272.5 Whenever the Mayor determines that a late arrival policy is in effect in accordance with Subsection 1272.1(a) of this section, a non-essential and non-emergency employee shall be granted up to two hours of excused absence. The late arrival period shall not extend beyond 10:00 a.m.
- 1272.6 Whenever the Mayor determines that an unscheduled telecommuting policy is in effect in accordance with Subsection 1272.1(c) of this section, an emergency employee previously approved in writing to telecommute by his or her supervisor and agency head, may telecommute if directed to do so.
- 1272.7 An employee who does not request leave during a period when an unscheduled leave policy is in effect, and refuses to consent to any type of leave upon return to duty, shall be charged with absence without leave (AWOL).

Section 1273, DECLARED EMERGENCIES – SHUT-DOWN, is amended to read as follows:

1273 DECLARED EMERGENCIES—SHUT-DOWN

- 1273.1 The Mayor may, whenever he or she deems it to be appropriate and in the public interest, authorize the shut-down of all non-essential District government operations prior to the commencement of normal duty hours.
- 1273.2 Whenever the Mayor authorizes a shut-down of all non-essential operations, he or she shall make every reasonable effort to ensure that such decision shall be disseminated by the media as widely and as promptly as possible.
- 1273.3 Agency heads and other personnel authorities may authorize the shut-down of one or more of their facilities due to breakdown of heating or air conditioning equipment or other similar situations, and shall ensure that all affected employees are promptly notified.
- 1273.4 Except as provided in Subsections 1273.5 and 1273.6 of this section, employees shall be given administrative leave for the entire day of shut-down.
- 1273.5 Each essential employee subject to the provisions of Section 1270 of this chapter shall still be required to report for duty even upon the occurrence of conditions beyond the control of an employee, such as inclement or hazardous weather or transportation disruption.
- 1273.6 Each emergency employee subject to the provisions of Section 1270 of this chapter shall be required to report for duty or telecommute, if so directed, even upon the occurrence of conditions beyond the control of an employee, such as inclement or hazardous weather or transportation disruption.

1279 PAID LEAVE PURSUANT TO THE ACCRUED SICK AND SAFE LEAVE

ACT OF 2008 (D.C. LAW 17-152), AS AMENDED

- 1279.1 As specified in this section, certain District government employees described in Subsection 1279.6 of this section (“covered employees”) are entitled to leave as provided for in the Accrued Sick and Safe Leave Act of 2008 (“2008 Act”), effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code §§ 32-131.01 *et seq.* (2010 Repl.)), as amended by the Earned Sick and Safe Leave Amendment Act of 2013 (“2013 Act”), effective February 22, 2014 (D.C. Law 20-89; D.C. Official Code §§ 32-131.02 *et seq.*) (the 2008 Act, as amended by the 2013 Act is referred to in this section as the “Act”).
- 1279.2 The purpose of the Act is to provide paid leave to covered employees for illness and for absences associated with domestic violence and sexual abuse.
- 1279.3 In accordance with this section, covered employees are provided with not less than one (1) hour of paid leave for every thirty seven (37) hours worked, not to exceed seven (7) days a year.
- 1279.4 Paid leave accrued under this section may be used by a covered employee for any of the following:
- (a) An absence resulting from a physical or mental illness, injury, or medical condition of the employee;
 - (b) An absence resulting from obtaining professional medical diagnosis or care, or preventive medical care, for the employee;
 - (c) An absence for the purpose of caring for a family member who has any of the conditions or needs for diagnosis or care described in paragraphs (a) and (b) of this subsection; or
 - (d) An absence if the employee or the employee’s family member is a victim of stalking, domestic violence, or sexual abuse, provided, that the absence is directly related to medical, social or legal services pertaining to the stalking, domestic violence, or sexual abuse, an employee seeking leave under paragraph (d) of this subsection, may do so to:
 - (1) Seek medical attention for the employee or the employee’s family member to treat or recover from physical or psychological injury or disability caused by the stalking, domestic violence, or sexual abuse;
 - (2) Obtain services from a victim services organization;
 - (3) Obtain psychological or other counseling services; temporarily or permanently relocate;

- (4) Take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the stalking, domestic violence, or sexual abuse; or
 - (5) Take other actions to enhance the physical, psychological, or economic health or safety of the employee or the employee's family member or to enhance the safety of those who associate or work with the employee.
- 1279.5 Pursuant to D.C. Official Code § 32-131.05, and notwithstanding the provisions of Subsection 1279.2 of this section, an employer with a paid leave policy providing paid leave options shall not be required to modify such policy if it offers employees the option to accrue and use leave under terms and conditions that are at least equivalent to the paid leave prescribed in this section.
- 1279.6 Applicability only to "Intermittent" appointments.
 - (a) Because the District government currently has paid leave policies, as specified in this chapter, that provide leave options to eligible District government employees at higher accrual rates than those provided in this section, the provisions of this section shall only apply to "covered employees," that is, temporary employees serving under "When Actually Employed" (WAE) (also known as Intermittent) appointments who have been continuously employed under a WAE appointment for at least one (1) year.
 - (b) Eligible WAE employees shall accrue paid leave on a prorated basis, and shall accrue one (1) hour of paid leave per biweekly pay period.
- 1279.7 Pursuant to the Act, an employee's paid leave under this section shall accrue in accordance with the District government's established biweekly pay period, and at the beginning of his or her employment.
- 1279.8 An employee may begin to access the accrued paid leave after ninety (90) days of service with the District government.
- 1279.9 The unused paid leave previously accrued by an employee subject to this section who separates from employment and is rehired within one (1) year of separation shall be reinstated. The employee shall be entitled to use the accrued paid leave and accrue additional paid leave immediately upon re-employment provided that the employee had previously been eligible to use paid leave.
- 1279.10 The unused paid leave previously accrued by an employee subject to this section who separates from employment for more than one (1) year, shall not be reinstated, and the employee shall be considered as being on a new appointment for purposes of leave accrual and access as provided in Subsections 1279.7 and 1279.8.

- 1279.11 The use of paid leave by an eligible employee in accordance with this section shall not be taken as an absence that may result in discipline, termination, demotion, suspension or other adverse action.
- 1279.12 If the Mayor (or his or her designee) determines that an employer has violated any provisions of the section, the Mayor (or his or her designee) shall order affirmative remedies in accordance with provisions contained in the Act.
- 1279.13 The employer, as defined in this section, shall retain records documenting the hours worked and the paid leave taken by an employee subject to the provisions of this section for a period of three (3) years. The employer shall allow access to the retained records by the Mayor and the Office of the D.C. Auditor, with appropriate notice.
- 1279.15 For the purposes of this section, the following terms shall have the meanings ascribed:

Domestic violence – an intrafamily offense as defined in D.C. Official Code § 16-1001(5) and (8).

Employee – any individual employed by an employer, but shall not include: (a) any individual who, without payment and without expectation of any gain, directly or indirectly, volunteers to engage in the activities of an educational, charitable, religious, or non-profit organization; (b) any lay member elected or appointed to office within the discipline of any religious organization and engaged in religious functions; (c) any individual employed as a casual babysitter, in or about the residence of the employer; (d) an independent contractor; (e) a student; or (f) health care workers who choose to participate in a premium pay program.

Employer – the District government.

Family member – (a) a spouse, including the person identified by an employee as his or her domestic partner, as defined in Section 2(3) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3) (2012 Repl.)); (b) the parents of a spouse; (c) children (including foster children and grandchildren); (d) the spouses of children; (e) parents; (f) brothers and sisters; and (g) the spouses of brothers and sisters; (h) a child who lives with an employee and for whom the employee permanently assumes and discharges parental responsibility; or (i) a person with whom the employee shares or has shared, for not less than the preceding twelve (12) months, a mutual residence and with whom the employee maintains a committed relationship, as defined in Section 2(1) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3)).

Paid leave – accrued increments of compensated leave provided by an employer for use by an employee.

Premium pay program – a plan offered by an employer pursuant to which an employee may elect to receive extra pay in lieu of benefits.

Sexual abuse – any offense described in the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code §§ 22-3001 *et seq.* (2001 ed. & 2011 Supp.)).

Section 1299, DEFINITIONS, is amended to add definitions for the terms “Unscheduled Leave” and “Unscheduled Telecommuting,” and to amend the definition of the term “When Actually Employed (WAE) Appointment,” as follows:

1299 DEFINITIONS

1299.1 When used in this chapter, the following terms have the meaning ascribed:

Unscheduled leave –annual leave, compensatory time, exempt time off, or leave without pay during a declared emergency taken by an employee without obtaining advance approval or providing detailed justification. Unscheduled leave is distinct from emergency annual leave, as provided in Section 1236 of this chapter.

Unscheduled telecommuting – telecommuting by an emergency employee previously designated and approved, in writing, to telecommute when an emergency is in effect on a day or during a period during which the employee was not previously scheduled to telework.

When Actually Employed (WAE) Appointment – an appointment under which an employee serves on an intermittent basis, that is, nonfull-time without a prescheduled regular tour of duty. A person serving on a WAE appointment provides occasional or irregular services on programs or projects requiring intermittent support. This type of appointment is also referred to as an “intermittent appointment.”

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING**FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO ELECTRIC SERVICES MARKET COMPETITION AND REGULATORY PRACTICES**

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to Sections 34-802 and 2-505 of the District of Columbia Code,¹ of its final rulemaking action adopting amendments to Chapter 29, “Renewable Energy Portfolio Standard,” of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations, effective upon the publication of this Notice of Final Rulemaking (“NOFR”) in the *D.C. Register*. On June 27, 2014, the Commission issued a Notice of Proposed Rulemaking (“NOPR”) which was published in the *D.C. Register*, giving notice of the Commission’s intent to adopt the amendments described above in no less than 30 days.² Comments and reply comments on the NOPR were due 30 and 45 days, respectively, from June 27, 2014. On July 28, 2014, the Commission received comments from the Potomac Electric Power Company (“Pepco”)³ and the Retail Energy Supply Association (“RESA”).⁴ No reply comments were filed.

2. As indicated in the NOPR, the proposed amendments modify Section 2901 (“RPS Compliance Requirements”) of Chapter 29 of the Commission’s rules. The purpose of the amendments was to change the deadlines for submission of electricity suppliers’ annual Renewable Energy Portfolio Standard compliance reports and for submission of suppliers’ compliance fees from May 1 to March 1. After fully considering the comments filed by Pepco and RESA, the Commission has made the determination that the deadlines for submission of electricity suppliers’ annual Renewable Energy Portfolio Standard compliance reports and their compliance fees should be moved from May 1 to April 1 in order to provide suppliers with additional time to determine their load and subsequent RPS obligations for the compliance year. This change also aligns the District’s RPS compliance reports and fees submission dates with Maryland’s, which is also April 1.⁵

¹ D.C. Official Code § 34-802 (2012 Repl.); D.C. Official Code § 2-505 (2012 Repl.).

² 61 DCR 8154 (June 27, 2014).

³ *Formal Case No. 945, In the Matter of the Investigation into Electric Services Market Competition and Regulatory Practices*, Comments of Potomac Electric Power Company in Response to Notice of Proposed Rulemaking, filed July 28, 2014 (“Pepco’s Comments”).

⁴ *Formal Case No. 945, In the Matter of the Investigation into Electric Services Market Competition and Regulatory Practices*, Comments Regarding the Notice of Proposed Rulemaking of the Retail Energy Supply Association, filed July 28, 2014 (“RESA’s Comments”).

⁵ See COMAR 20.61.04.02.

3. Accordingly, by Order No. 17673, the Commission took final action to adopt the amendments as reflected in this NOFR. The following rules will become effective upon publication of this NOFR in the *D.C. Register*.

4. Subsection 2901.7 is amended to read as follows:

2901.7 Each Electricity Supplier's annual compliance report shall be submitted to the Commission by April 1 of the calendar year following the year of compliance. After notification of a decision of non-compliance by the Commission, a supplier shall, within ten (10) days, submit the appropriate payment, take the actions necessary to come into compliance, or file its response contesting the decision.

5. Subsection 2901.9 is amended to read as follows:

2901.9 Any Electricity Supplier that fails to meet its Renewable Energy Portfolio Standard requirements shall submit the required annual Compliance Fee to the District of Columbia Renewable Energy Development Fund administered by the District of Columbia Department of the Environment's Energy Office (DDOE or Energy Office) by April 1 of the calendar year following the year of compliance.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c)(1), (2), (3), (4), (5), (7), (10), (12), (13), (17), (18), (19); 14, 20, 20a and 20f of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(1), (2), (3), (4), (5), (7), (10), (12), (13), (17), (18), (19), 50-313, 50-319, 50-320 and 50-325 (2012 Repl. & 2013 Supp.)), hereby gives notice of its intent to amend Chapter 18 (Wheelchair Accessible Paratransit Taxicab Service) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (“DCMR”).

The proposed rules would implement two minor changes to the Coordinated Alternative to Paratransit Services – DC (“CAPS-DC”) Pilot Program between the D.C. Government and the Washington Metropolitan Area Transit Authority (“WMATA”), established by Title 31 DCMR Chapter 18. First, the rules implement disposal requirements for WMATA vans following use in the CAPS-DC program, and second, the rules clarify the priority order of service and applicable fares for CAPS-DC passengers, wheelchair accessible passengers, and other passengers.

The proposed rules for Chapter 18 were approved by the Commission for publication on August 6, 2014 and were published in the *D.C. Register* on August 22, 2014 at 61 DCR 8812. No comments were received during the comment period which ended on September 21, 2014. No substantive changes have been made. Minor changes have been made to correct grammar and typographical errors, to provide clarity, or to lessen the burdens established by the proposed rules.

The Commission voted to adopt this rules as final on October 8, 2014, and they will become effective upon publication in the *D.C. Register*.

The Commission amends WHEELCHAIR ACCESSIBLE PARATRANSIT TAXICAB SERVICE, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, as follows:

Section 1806, TAXICAB COMPANIES AND OPERATORS – OPERATING REQUIREMENTS, is amended as follows:

Subsection 1806.5 is amended to read as follows:

1806.5 Companies participating in CAPS-DC shall comply with the following provisions concerning vehicles:

- (a) Each company shall add a vehicle to its fleet which complies with part (b) each time the company completes three thousand (3,000) CAPS-DC trips.

- (b) Each vehicle added pursuant to part (a) shall be a new wheelchair accessible vehicle which has a side or rear entry and a ramp which meets ADA requirements, and has one of the following sources of propulsion:
 - (1) Compressed natural gas (CNG);
 - (2) Gasoline-electric hybrid;
 - (3) Diesel or bio-diesel;
 - (4) Liquid propane; or
 - (5) Ethanol (E85).
- (c) A WMATA van shall not be replaced until on or after October 1, 2015., At the time a WMATA van is eligible to be replaced, it shall be replaced consistent with any additional terms and conditions imposed by the Commission based on total participation in the pilot program during Fiscal Year 2015, on District-wide demand for wheelchair service, on the need for wheelchair accessible vehicles in future programs targeted to serve underserved areas of the District, and on other lawful and appropriate considerations under the Act. A WMATA van eligible for transfer from a company to a third party shall be transferred only in compliance with all terms and conditions of the grant provided by the Office for its acquisition.
- (d) A company that fails to comply with the requirements of paragraphs (a)-(c) shall be subject to suspension or revocation of its CAPS-DC approval, and may be required to refund to the Office any grant provided to the company for the acquisition of WMATA vans.

Subsection 1806.13 is amended to read as follows:

- 1806.13 Each company shall provide service using its WMATA vans in accordance with the following requirements:
- (a) WMATA vans shall be used to provide service in the following descending order of priority to the extent permitted by all applicable laws:
 - (1) A CAPS-DC passenger, for which the fare shall be consistent with § 1806.10;
 - (2) Any passenger requesting a wheelchair accessible vehicle, for which the fare shall be consistent with the provisions of Chapter 8; and
 - (3) Any other passenger, for which the fare shall be consistent with the provisions of Chapter 8.

- (b) When a WMATA van is used to provide a group ride which meets the requirements of § 801.8 from a hotel located in the District to an airport, an additional charge of one dollar (\$1.00) per ride (not per passenger) shall be added to the total fare.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code §§ 47-2853.10(a)(11) and (12) (2012 Repl.)), and Mayor's Order 2000-70, dated May 2, 2000, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, amendments to Chapter 23 (Real Estate Appraisers) of Title 17 (Business, Occupations, and Professions) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking would amend certain education requirements for licensure as an appraiser in the District, amend the eligibility standards for licensees seeking to serve as a supervising appraiser, place restrictions on continuing education credit, and establish a new standard for distance learning.

This rulemaking is necessitated by a notification from the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council that the District must update its real estate appraiser professional license regulations to reflect upcoming changes to industry standards, which take effect on January 1, 2015, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203; H.R. 4173).

The ASC was established to provide oversight of the real estate appraisal process as it relates to federally-related real estate transactions, and it oversees the appraiser regulatory programs established by the states, territories, and the District of Columbia. If the District's appraisal policies and practices were found to be inconsistent with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. §§ 3331-3351), the District's real estate appraisal licensure program could be subject to de-recognition by the ASC. In such an event, the ASC and all agencies, instrumentalities, and federally-recognized entities under FIRREA would be barred from recognizing the District's appraiser certifications and licenses.

Title 17, BUSINESS, OCCUPATIONS, AND PROFESSIONS, Chapter 23, REAL ESTATE APPRAISERS, of the DCMR is amended as follows:

Section 2302, PRELICENSURE EDUCATION REQUIREMENTS, is amended as follows:

Subsections 2302.2, 2302.3, and 2302.4 are amended to read as follows:

2302.2 Applicants for the Licensed Residential Real Property Appraiser classification shall have obtained the following education:

- (a) A two (2)-year associate's degree or higher, or not less than thirty (30) semester credit hours of college-level education, in any field of study,

from an accredited college, junior college, community college, or university; and

- (b) One hundred fifty (150) classroom hours of courses in subjects related to real estate appraisal as specified in § 2302.10; or
- (c) A degree in Real Estate from an accredited college or university whose curriculum has been approved by the Appraisal Qualifications Board (AQB).

2302.3 Applicants for the Certified Residential Real Property Appraiser classification shall have obtained the following education:

- (a) A baccalaureate degree or higher, in any field of study, from an accredited college or university; and
- (b) Two hundred (200) classroom hours in subjects related to real estate appraisal as specified in § 2302.10. The two hundred (200) classroom hours may include the one hundred fifty (150) classroom hour requirement for the Licensed Real Property Appraiser classification; or
- (c) A degree in Real Estate from an accredited college or university whose curriculum has been approved by the AQB.

2302.4 Applicants for the Certified General Real Property Appraiser classification shall have obtained the following education:

- (a) A baccalaureate degree or higher, in any field of study, from an accredited college or university; and
- (b) Three hundred (300) classroom hours of courses in subjects related to real estate appraisal as specified in § 2302.10. The three hundred (300) hours may include the one hundred fifty (150) classroom hours required for the Licensed Residential Appraiser classification or the two hundred (200) classroom hours required for the Certified Residential Real Property Appraiser Classification; or
- (c) A degree in Real Estate from an accredited college or university whose curriculum has been approved by the AQB.

Section 2303, ACCREDITATION AND CERTIFICATION OF PRELICENSURE EDUCATION PROGRAMS, is amended as follows:

Subsection 2303.8 is amended to read as follows:

- 2303.8 Distance learning courses may be acceptable for prelicensure or precertification credit if the course meets the following conditions:
- (a) The course is presented by an accredited college or university, or an organization whose course delivery mechanism has been approved in accordance with AQB criteria;
 - (b) An individual successfully completes a written and proctored examination, which may include computer-based testing;
 - (c) The subject matter is appraisal related, and the course content substantially complies with the AQB's guidelines for curriculum content; and
 - (d) The length of the course is a minimum of fifteen (15) classroom hours, which shall be equivalent to in-class continuous instruction and attendance formats.

Section 2307, ACCREDITATION AND CERTIFICATION OF PRELICENSE EDUCATION PROGRAMS, is amended as follows:

Subsection 2307.2 is amended to read as follows:

- 2307.2 A candidate shall complete the educational and experience requirements prior to sitting for the examination.

Section 2310, ACCREDITATION AND CERTIFICATION OF PRELICENSE EDUCATION PROGRAMS, is amended as follows:

Subsection 2310.3 is amended to read as follows:

- 2310.3 A licensee shall not receive additional credit for his or her completion of any continuing education course that is the same or substantially similar to a course for which he or she has previously received credit during the same license cycle.

Section 2323, APPRAISER TRAINEE, is amended to read as follows:

2323 APPRAISER TRAINEE

- 2323.1 The Board may issue an appraiser trainee license to an applicant who has completed prelicensure education as follows:
- (a) Seventy-five (75) classroom hours of instruction that shall include thirty (30) hours in basic appraisal principles, thirty (30) hours in basic appraisal procedures, and the fifteen (15) hour National USPAP course or its equivalent; and

- (b) A course of instruction, approved by the Board, which covers the requirements and responsibilities of supervisory appraisers and appraiser trainees.

2323.2 The Board shall approve prelicensure education that meets the following requirements:

- (a) The content of the curriculum offered in the courses, seminars, workshops, or conferences used by an applicant to meet the prelicensure education requirements shall follow the guidelines established by the AQB in the publication, "AQB Guide Note 1 (GN-1)."
- (b) A classroom hour is equal to fifty (50) minutes of each sixty (60) minute segment and includes time devoted to tests which are considered to be part of the course;
- (c) The minimum length of the educational offering is fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering;
- (d) All qualifying education shall have been obtained from, and certified by, one or more of the following:
 - (1) Colleges or universities;
 - (2) Community or junior colleges;
 - (3) Real estate appraisal or real estate related organizations;
 - (4) State or federal agencies or commissions;
 - (5) Proprietary schools; or
 - (6) Other providers approved by the Board or the Educational Licensure Commission; and
- (e) All qualifying education shall have been obtained within the five (5)-year period immediately preceding application for licensure.

2323.3 There are no examination or experience requirements for the appraiser trainee classification.

2323.4 Within four (4) years of the issuance of his or her license, the appraiser trainee shall pass one (1) of the following examinations approved by the Board:

- (a) The licensed residential real property appraiser examination;

- (b) Certified residential real property appraiser examination; or
- (c) Certified general real property appraiser examination.

2323.5 The appraiser trainee shall be subject to direct supervision by a supervising appraiser.

2323.6 To be eligible as a supervising appraiser, an individual must meet the following requirements:

- (a) The supervising appraiser shall be licensed as a Certified Residential Real Property Appraiser or a Certified General Real Property Appraiser in the District;
- (b) The supervising appraiser shall have been licensed as a Certified Residential Real Property Appraiser or a Certified General Real Property Appraiser, in the District or another jurisdiction, for at least three (3) years;
- (c) The supervising appraiser shall be in good standing, and shall not have been subject to any disciplinary action that impacted his or her ability to lawfully engage in appraisal practice, in the District or another jurisdiction, within the last three (3) years; and
- (d) The supervising appraiser shall complete a course of instruction, approved by the Board in accordance with AQB guidelines, which covers the requirements and responsibilities of supervisory appraisers and appraiser trainees.

2323.7 The supervising appraiser shall be responsible for the training and supervision of the trainee by:

- (1) Accepting responsibility for appraisal reports prepared by the appraiser trainee by signing and certifying that the report complies with the USPAP;
- (2) Reviewing the appraiser trainee reports; and
- (3) Personally inspecting each appraised property with the appraiser trainee until the supervising appraiser determines that the appraiser trainee is competent in accordance with the competency provision of the USPAP for the property type.

2323.8 The appraiser trainee may have more than one (1) supervising appraiser, but a supervising appraiser may not have more than three (3) appraisal trainees.

- 2323.9 The appraiser trainee shall maintain a separate appraisal log for each supervising appraiser, and each log shall include at least the following information for each appraisal record:
- (a) Type of property;
 - (b) Date of report;
 - (c) Client name and address;
 - (d) Address of appraised property;
 - (e) Description of work performed, scope of review, and supervision of the supervising appraiser;
 - (f) Number of actual work hours; and
 - (g) Signature and license number of the supervising appraiser.
- 2323.10 The supervising appraiser and the appraiser trainee shall be jointly responsible for ensuring that the appraiser log is accurate, current, and in compliance with § 2323.9.
- 2323.11 An applicant for renewal of an appraiser trainee license shall submit proof of having completed all continuing education credits required pursuant to § 2310.2 of this chapter.
- 2323.12 The appraiser trainee shall be entitled to obtain copies of appraisal reports that he or she prepared.
- 2323.13 The supervising appraiser shall keep copies of appraisal reports for a period of at least five (5) years or at least two (2) years after the final disposition of any judicial proceedings in which testimony was given, whichever period expires last.

All persons desiring to comment on these proposed regulations should submit comments in writing to Matt Orlins, Legislative and Public Affairs Officer, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, S.W., 5th Floor, Washington, D.C. 20024, or via e-mail at matt.orlins@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. The agency can be reached by telephone at 202-442-4400. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at dcra.dc.gov by going to the “About DCRA” tab, clicking “News Room”, and clicking on “Rulemaking.”

THE 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, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(11) (2012 Repl. & 2014 Supp.)); and the Fair Student Funding and School-Based Budgeting Amendment Act of 2013, effective February 22, 2014 (D.C. Law 20-87; D.C. Official Code §§ 38-2611 and 38-2612 (2014 Supp.)) hereby gives notice of his intent to adopt a new Chapter 700 (Career and Technical Education Grants) of Subtitle A (Office of the State Superintendent of Education or OSSE) of Title 5 (Education) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of this proposed rule is to establish regulations for the implementation of Career and Technical Education Grants to District of Columbia Public and Public Charter Schools from the Career and Technical Education Grant Program Fund, including promulgating application requirements, grant fund operations, accountability, and reporting requirements for the benefit of eligible grant recipients. The proposed rule will allow the Office of the State Superintendent of Education (OSSE) to award grant funds for Local Education Agencies (LEAs) pursuing one or more of seven (7) strategies to improve career and technical education in the District, as identified in OSSE's 2012 Strategic Plan found at <http://osse.dc.gov/publication/career-and-technical-education-cte-strategic-plan>.

This notice is being circulated throughout the District for a thirty (30) day period, including an opportunity to submit written comments as set forth below.

Title 5, EDUCATION, Subtitle A, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, is amended by adding the following:

CHAPTER 700 CAREER AND TECHNICAL EDUCATION GRANTS**7000 GENERAL PROVISIONS**

7000.1 This chapter establishes regulations governing the Career and Technical Education (CTE) grant program to be administered by the District of Columbia Office of the State Superintendent of Education ("OSSE") pursuant to the Fair Student Funding and School-Based Budgeting Amendment Act of 2013, effective February 22, 2014 (D.C. Law 20-87; D.C. Official Code §§ 38-2611 and 38-2612) (2014 Supp.)).

7000.2 The CTE grant program shall be funded through the CTE Grant Program Fund established by the Act, and, as required by the Act, shall consist of revenue from one or more of the following sources:

- (a) Annual appropriations, if any; and

(b) Grants, gifts, or subsidies from public or private sources.

7000.3 The CTE Grant Program Fund shall be used to provide supplemental funds to DCPS and to District public charter schools to support and enhance CTE programs.

7000.4 For each competitive grant cycle, OSSE shall make available a request for funding application (RFA).

7000.5 To be eligible for a competitive grant from the CTE Grant Program Fund, an applicant must:

(a) Be a District of Columbia Local Educational Agency (LEA);

(b) Provide all assurances required in the RFA, and

(c) Meet any other requirements set forth in the RFA.

7000.6 The maximum CTE grant funding for each competitive grant cycle shall be specified in the RFA.

7000.7 OSSE may award grants from the CTE Program Fund on a non-competitive basis, based on the terms or other requirements of the funding source or as otherwise permitted by applicable law or regulations. To be eligible for a non-competitive grant, the grantee must be a District of Columbia LEA.

7000.8 OSSE shall follow the pre-award and award process set forth in 1 DCMR Chapter 50, as may be amended.

7000.9 Grants awarded through the CTE grant program shall supplement, not supplant, any Formula, federal, or other funds received by a school for career and technical education.

7001 CTE GRANT PROGRAM FUND

7001.1 Revenue in the CTE Grant Program Fund from annual appropriations shall be used to make grants under this Chapter with purposes including, but not limited to, one or more of the following:

(a) Aligning programs of study (POS) with high-demand, high-skill, and high-wage occupations;

(b) Establishing rigorous CTE program quality requirements;

(c) Increasing CTE student concentration and completion rates;

- (d) Implementing a CTE transfer program;
- (e) Affording LEAs flexibility in hiring, scheduling, assessing, and compensating CTE faculty;
- (f) Reengaging disconnected youth and educationally disengaged youth through CTE programs; and
- (g) Supporting and incentivizing CTE course offerings for adult students in alternative educational programs.

7001.2 Revenue in the CTE Grant Program Fund from public or private grants, gifts, or subsidies shall be used under the terms provided by the public or private source, conditional on OSSE approval in alignment with District CTE priorities.

7001.3 OSSE reserves the authority to define the terms of CTE Grants in the RFA for each CTE Grant competition.

7002 APPLICATION REQUIREMENTS

7002.1 Only a designated official of an LEA may submit a grant application on behalf of an applicant school.

7002.2 All required documentation specified in the RFA shall be included with the application. An incomplete application shall be disqualified and will not be reviewed.

7003 GRANT AWARD NOTIFICATION

7003.1 OSSE shall prepare and issue a grant award notification to each LEA for which an application has been approved or for which a sole-source award has been made. The grant award notification shall:

- (a) Incorporate the terms of the RFA by reference, where applicable;
- (b) State the amount of the grant; and
- (c) Indicate the period during which the grantee may obligate grant funds.

7004 ACCOUNTABILITY AND REPORTING REQUIREMENTS

7004.1 A CTE Grant recipient shall submit periodical written reports during the grant period and a final written report after the end of the grant award period. The reporting frequency and the content of the reports will be described in the RFA or the grant award notification.

- 7004.2 A CTE Grant recipient shall:
- (a) Submit a written request and obtain written approval from OSSE before expending CTE Grant funds for a purpose that was not included in the original approved budget;
 - (b) Submit a written request and a modified budget for any proposed spending modification;
 - (c) Maintain accurate and complete records of all activities supported by the grant for three (3) years after the end of the grant period or as otherwise specified;
 - (d) Maintain records that document initial and periodic assessments, initial and periodic plans, and the ongoing progress of program activities; and
 - (e) Ensure confidentiality and prevent unauthorized access to records. Programs shall maintain all records, including required reports, documents and files on-site, in a properly secured cabinet or location. Records shall be accessed by authorized personnel only.

7004.3 OSSE may monitor a CTE Grant recipient during the grant period. OSSE's monitoring may include scheduled and unscheduled visits to the CTE Grant recipient's facility or principal place of business.

7004.4 A CTE Grant recipient shall fully cooperate with authorized representatives of the Government of the District of Columbia, including OSSE, and shall provide them access to facilities, staff, records, and other information related to the grant upon request, to the extent allowed by applicable law.

7005 TERMINATION OR REMEDIAL PROCEDURES

7005.1 If a grantee fails to comply with the terms of the grant award or applicable federal or District of Columbia laws or regulations, OSSE may, after giving reasonable written notice to the grantee, terminate the grant in whole or in part and/or, in its discretion, require the grantee to take remedial action to ensure compliance. In the absence of extenuating circumstances, reasonable notice shall be no less than thirty (30) calendar days.

7005.2 OSSE shall provide to grantee written notice of termination and, if applicable, required remedial action. The notice shall state with specificity the reasons for the termination or required remedial action, the specific remedial action required of the grantee, and the effective date of the termination or implementation of the remedial action.

- 7005.3 OSSE may in its discretion make the termination effective in less than thirty (30) days, if a delayed effective date would be unreasonable under the circumstances, taking into consideration the responsibility to protect the District government's interest.
- 7005.4 A grant that has been terminated may be reinstated if the grantee has taken all required corrective action satisfactory to OSSE by the effective date provided in the written notice of termination, or given satisfactory evidence that all required corrective action will be taken.
- 7005.5 A grantee may request review of a decision by OSSE to terminate the grant or to require remedial action. A request for review must be submitted in writing to OSSE at any time before the effective date of the termination or required remedial action, or within thirty (30) calendar days of the date the grantee received notice of termination, whichever is longer. The written request for review shall include the following:
- (a) A concise statement of facts regarding each specified reason for the termination or required remedial action;
 - (b) The specific basis for contesting each reason;
 - (c) The specific relief requested; and
 - (d) Two (2) copies of all documentary evidence supporting the grantee's positions.
- 7005.6 Review of the grantee's request shall be performed by an OSSE employee selected by the State Superintendent of Education and such person shall not have participated in the award of the grant or the decision to terminate the grant. The decision of the reviewer shall be final.

7099 DEFINITIONS

“Budget” means the financial plan for the project or program approved by OSSE during the award period. The budget may include funding for the project or program other than funds awarded from the CTE Grant Program Fund, as determined by OSSE.

“Career and Technical Education (CTE)” means education that prepares students for a wide range of careers and further educational opportunities. These careers may require varying levels of education—including industry-recognized credentials, postsecondary certificates, and two- and four-year degrees. CTE equips students with core academic skills, employability skills, and job-specific, technical skills related to a specific

career pathway.

“Completion rate” means the percentage of CTE Concentrators who, within four (4) years, have completed a three (3) or four (4) course sequence program of study. A CTE Concentrator is a student who has completed two (2) courses of a three-sequence program of study, or three (3) courses of a four-sequence program of study.

“Concentration rate” means the percentage of CTE Participants who have completed two courses (2) of a three-sequence program of study, or three (3) courses of a four-sequence program of study. A CTE Participant is a student who has completed the first (1st) course, and enrolled in the second (2nd) course of a three or four-sequence program of study.

“CTE transfer program” means a program or partnership across LEAs and/or within multi-campus LEAs that enables students to complete CTE coursework on school campuses other than their own without requiring a change in their full-time enrollment.

“Disconnected youth” means DC residents aged sixteen to twenty-four (16-24) years who are living below two hundred (200%) percent of the federal poverty threshold and who are not in school and not working.

“Educationally disengaged youth” means DC residents aged sixteen to twenty-four (16-24) years who are not enrolled in an educational program and who do not have a high school diploma or its equivalent.

“High-demand occupations” means occupations with a projected ten-year (10) growth rate above that of all occupations AND having at least fifty (50) or more total annual openings (growth and replacement) in the District of Columbia.

“High-skill occupations” means occupations with education or training requirements of: long-term on-the-job training lasting one (1) or more years; work experience in a related occupation; industry recognized certification or credential; postsecondary career and technical training; associate’s degree; bachelor’s degree; master’s degree; doctoral degree; or first professional degree.

“High-wage occupations” means occupations that pay or lead to positions paying at least the median hourly wage or the median annual wage for all occupations in the District of Columbia.

“OSSE” means the Office of the State Superintendent of Education for the District of Columbia.

“Local Educational Agency” or **“LEA”** means a public agency having administrative control and direction of a public elementary or secondary school in the District of Columbia. The terms include the District of Columbia Public Schools (DCPS) and District of Columbia public charter schools.

“Program of study” means a sequence of instruction (based on recommended standards and knowledge and skills) consisting of coursework, co-curricular activities, work-site learning, service learning and other learning experiences. This sequence of instruction provides preparation for a career.

“Subsidy” means monetary resources designated to supplement a project or program or to effect a reduction in the regular cost of goods or services for a project or program.

“Termination” means the end of the award, in whole or in part, at any time prior to the planned end of the period of the award.

Persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing by mail or hand delivery to the Office of the State Superintendent of Education, Attn: Jamai Deuberry re: “Career and Technical Grants”, 810 First Street, NE 9th Floor, Washington, DC 20002 [(202) 727-6436] or to Jamai.Deuberry@dc.gov with subject “Attn: Jamai Deuberry, Career and Technical Grants”, or both, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Additional copies of this rule are available from the above address and on the Office of the State Superintendent of Education website at www.osse.dc.gov.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF or the Department), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes approved December 27, 1967 (81 Stat.774; D.C. Official Code § 1-307.02 (2012 Repl. & 2014 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the intent to amend Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR) by adopting a new Chapter 95, entitled “Medicaid Eligibility.”

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has promulgated Medicaid and the Children’s Health Insurance Program (CHIP) eligibility rules which require the District to adopt new methodologies for determining and renewing Medicaid eligibility. These new methodologies will reorganize the District’s eligibility policies and procedures in accordance with the Patient Protection and Affordable Care Act of 2010, approved March 23, 2010 (Pub. L. No. 111-148, 124 Stat 119), as amended, and supplemented by the Health Care and Education Reconciliation Act of 2010, approved January 5, 2010 (Pub. L. No. 111-152, 124 Stat. 1029) (codified as amended in scattered sections of 42 U.S.C.) (collectively referred to as the Affordable Care Act) (ACA), and related regulations.

Accordingly, these proposed rules shall replace outdated eligibility categories with four (4) primary groups: (1) individuals under age twenty-one (21); (2) pregnant women; (3) parents and other caretaker relatives; and (4) individuals without dependent children (childless adults). In addition, these proposed rules will implement a new income methodology called the Modified Adjusted Gross Income (MAGI) methodology, which shall be used to determine Medicaid eligibility for most individuals who are under age sixty-five (65) with low-incomes. The Medicaid categories exempt from the application of MAGI methodology are those groups of individuals whose eligibility is based on a condition other than income, such as blindness, disability, age, or the need for long-term services and supports. Lastly, these proposed rules will streamline eligibility, renewal, and enrollment processes, and coordinate eligibility procedures with those of the District Health Benefit Exchange Authority.

DHCF is the single state agency for the administration of the State Medicaid program under Title XIX of the Social Security Act and CHIP under Title XXI of the Social Security Act in the District. As the single state agency, DHCF is also responsible for supervising and administering the District of Columbia State Plan (State Plan) for Medical Assistance pursuant to 42 U.S.C. §§ 1396 *et seq.*, and amendments thereto. DHCF shall ensure that the State Plan establishes standards that govern DHCF, or its designee, in the administration of the District’s Medicaid program.

The corresponding amendments to the State Plan require approval by the Council of the District of Columbia (Council) and CMS. The State Plan amendments (SPA) have been approved by the

Council through the Fiscal Year 2013 Budget Support Act of 2013, effective date December 24, 2013, (D.C. Law 20-61; 60 DCR 12472 (September 6, 2013)) and by CMS. A Notice of Proposed Rulemaking, entitled “Application of Affordable Care Act Eligibility Methodologies”, was published in the *D.C. Register* on June 28, 2013 at 60 DCR 009761, but no comments were received and the proposed rulemaking was not finalized.

The Director gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) calendar days from the date of publication of this notice in the *D.C. Register*.

Title 29, PUBLIC WELFARE, of the DCMR is amended as follows:

CHAPTER 95 MEDICAID ELIGIBILITY

9500 GENERAL PROVISIONS

9500.1 This chapter shall govern eligibility determinations for the District of Columbia (District) Medicaid programs authorized under Title XIX and XXI of the Social Security Act (the Act).

9500.2 Pursuant to 42 U.S.C. Section 1396, *et seq.*, and amendments thereto, the Department of Health Care Finance (Department) shall be responsible for supervising and administering the District of Columbia State Plan (the State Plan) for Medical Assistance.

9500.3 The Department may delegate its authority to determine eligibility for non-pregnant individuals, ages twenty-one (21) through sixty-four (64), without dependent children; individuals, ages zero (0) through twenty (20); pregnant women; parents and other caretaker relatives; individuals formerly in foster care, and individuals who are aged, blind, or disabled pursuant to 42 C.F.R. Section 431.10.

9500.4 The Department may delegate its authority to conduct administrative reviews and fair hearings with respect to denials of eligibility pursuant to 42 C.F.R. Section 431.10.

9500.5 The Department shall exercise appropriate oversight over the eligibility determinations and appeal decisions of its designees and incorporate such written delegations in the State Plan.

9500.6 The Department shall apply the following general standards in the administration of its Medicaid programs:

- (a) Information explaining the policies governing eligibility determinations and appeals shall be provided in plain language and in a manner that is accessible and timely to all applicants and beneficiaries, including those with limited or no-English proficiency and those living with disabilities;
- (b) District Medicaid program information shall be provided to applicants and beneficiaries who have limited or no-English proficiency through the provision of language services at no cost to them pursuant to Title VI of the Civil Rights Act of 1964, effective July 2, 1964 (42 U.S.C. §§ 2000d, *et seq.*), the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code §§ 2-1931 *et seq.*) (Language Access Act), and Mayor's Order 2007-127, dated May 31, 2007;
- (c) District Medicaid program information shall be provided to applicants and beneficiaries who are living with disabilities through the provision of auxiliary aids and services at no cost to the individual in accordance with Title II of the Americans with Disabilities Act of 1990, effective July 26, 1990 (42 U.S.C. §§ 12101 *et seq.*), § 504 of the Rehabilitation Act of 1973, effective September 26, 1973 (29 U.S.C. § 794), and the District of Columbia Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code §§ 2-1401.01 *et seq.*);
- (d) Applicants and beneficiaries shall be informed at the time of application, renewal, or redetermination that the Department, shall obtain and use available information to verify income, eligibility, and the correct amount of Medicaid payments, except for aged, blind, or disabled individuals whose eligibility is determined by the U.S. Social Security Administration (SSA) under an agreement between the District and SSA pursuant to Section 1634 of the Act;
- (e) Information obtained by the Department under this section may be exchanged with the District Health Benefit Exchange Authority (DC HBX) and with other District or federal agencies for the purpose of:
 - (1) Verifying eligibility for Medicaid, the DC HBX, or other Insurance Affordability Programs (IAP), defined as one of the following:
 - (i) A State Medicaid program under Title XIX of the Social Security Act;
 - (ii) A State children's health insurance program (CHIP) under Title XXI of the Social Security Act;

- (iii) A State basic health program established under the Affordable Care Act; or
 - (iv) A program that makes coverage available through an Exchange with advance payments of premium tax credits or cost-sharing reductions;
- (2) Establishing the amount of tax credit or cost-sharing reduction due;
 - (3) Improving the provision of services; and
 - (4) Administering IAPs; and
- (f) Income and eligibility information shall be furnished to the appropriate District agencies responsible for the child support enforcement program under part D of Title IV of the Act; and the provision of old age, survivors, and disability benefits under Title II and for Supplemental Security Income (SSI) benefits under Title XVI of the Act.

9500.7 The Department shall establish and maintain policies that govern the types of information about applicants and beneficiaries that are protected against unauthorized disclosure for purposes unrelated to the determination of Medicaid eligibility. Protected information may include, but is not limited to, the following:

- (a) Name and address;
- (b) Phone number;
- (c) Social security number;
- (d) Medical services provided;
- (e) Social and economic conditions or circumstances;
- (f) Department evaluation of personal information;
- (g) Medical data, including diagnosis and past history of disease or disability;
- (h) Any information received for verifying income eligibility and the amount of Medicaid payments; and
- (i) Any information received in connection with the identification of legally liable third party resources pursuant to applicable federal regulations.

9500.8 Protected information, in accordance with Subsection 9500.7, shall not include Medicaid beneficiary identification numbers.

- 9500.9 The Department shall provide notice or other communications concerning an applicant's or beneficiary's eligibility for Medicaid electronically only if the individual has affirmatively elected to receive electronic communications. If the individual elects to receive communications from the agency electronically, the Department shall:
- (a) Confirm by regular mail the individual's election to receive notices electronically;
 - (b) Inform the individual of the right to change such election, at any time, to receive notices through regular mail;
 - (c) Post notices to the individual's electronic account within one (1) business day of notice generation; and
 - (d) Send an email or other electronic communication alerting the individual that a notice has been posted to the individual's account.
- 9500.10 If an electronic communication is undeliverable, a notice shall be sent by regular mail within three (3) business days of the date of the failed electronic communication.
- 9500.11 At the individual's request, the Department shall provide a paper copy of any notice posted to the individual's electronic account.
- 9500.12 The Department shall provide the following information by telephone, mail, in person, or through other commonly available electronic means, as appropriate, to all applicants and other individuals upon request:
- (a) Eligibility requirements;
 - (b) Covered Medicaid services;
 - (c) The rights and responsibilities of applicants and beneficiaries; and
 - (d) Appeals.
- 9500.13 The Department shall consider the following factors in determining eligibility for Medicaid:
- (a) Income at or below the applicable Medicaid program standard;
 - (b) District of Columbia residency;
 - (c) Age;

- (d) Social security number;
- (e) U.S. Citizenship or satisfactory immigration status;
- (f) Household composition;
- (g) Pregnancy, where applicable; and
- (h) Any other applicable non-financial eligibility factors under federal or District law, such as disability, blindness, or need for long-term services or supports.

9500.14 The Department shall use MAGI-based methodologies and non-MAGI-based methodologies in eligibility determinations for enrollment in and receipt of benefits from the District Medicaid program, in accordance with the requirements of this chapter, and any subsequent amendments thereto.

9500.15 MAGI-based income methodologies, under the provisions of this chapter, shall apply to the following groups:

- (a) Non-pregnant individuals, ages twenty-one (21) through sixty-four (64), without dependent children;
- (b) Individuals, ages zero (0) through twenty (20);
- (c) Pregnant women; and
- (d) Parents and other caretaker relatives. For purposes of this section a caretaker relative is a relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care (as may, but is not required to, be indicated by claiming the child as a tax dependent for Federal income tax purposes), and who is one of the following:
 - (1) The child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece;
 - (2) The spouse of such parent or relative, even after the marriage is terminated by death or divorce; or
 - (3) Another relative of the child based on blood (including those of half-blood), adoption, or marriage.

9500.16 No resource (assets) test shall apply to eligibility groups identified in Subsections 9500.15(a) through 9500.15(d).

- 9500.17 MAGI-based income methodologies, under the provisions of this chapter and 42 C.F.R. Section 435.603, shall not apply to the following groups:
- (a) Individuals who are under the age of eighteen (18) for whom an adoption assistance agreement under Title IV-E of the Act is in effect and individuals who receive Title IV-E foster care maintenance payments;
 - (b) Individuals who are under the age of twenty-one (21) in foster care under the responsibility of the District and individuals receiving adoption subsidy payments;
 - (c) Individuals who are under the age of twenty-six (26) and were on District Medicaid and in foster care under the responsibility of the District at the time they reached the age of eighteen (18) or have aged out of foster care;
 - (d) Individuals who are age sixty-five (65) or older when age is a condition of eligibility;
 - (e) Individuals whose eligibility is being determined on the basis of being blind or disabled or on the basis of being treated as being blind or disabled, including but not limited to, individuals eligible under 42 C.F.R. Section 435.121, Section 435.232, Section 435.234, or under Section 1902(e)(3) of the Act;
 - (f) Individuals who request coverage for long-term services and supports for the purpose of being evaluated for an eligibility group under which long-term services and supports are covered;
 - (g) Individuals who are being evaluated for eligibility for Medicare cost sharing assistance under Section 1902(a)(10)(e) of the Act and 42 C.F.R. Section 435.603;
 - (h) Individuals who are being evaluated for coverage as medically needy; and
 - (j) Other individuals whose eligibility for Medicaid does not require a determination of income by the Department.
- 9500.18 For an applicant or beneficiary found not eligible based on MAGI methodology and who has been identified on the application or renewal form as potentially eligible on a non-MAGI basis, an eligibility determination shall be made on such basis.
- 9500.19 The meaning of foster care under this chapter shall be consistent with the definition of foster family home under 45 C.F.R Section 1355.20.

9500.20 The Department shall issue and maintain all policies relevant to Medicaid eligibility determinations. The Department shall make its policies available at www.dhcf.dc.gov and shall provide updates as necessary.

9501 APPLICATION, REDETERMINATION, AND RENEWAL

9501.1 An individual may apply for Medicaid or other Insurance Affordability Programs (IAPs) using a single, streamlined application described at 42 C.F.R. Sections 435.907(b) and (c). The application and any required verification may be submitted:

- (a) Over the Internet;
- (b) By telephone;
- (c) By mail;
- (d) In person; and
- (e) Through other commonly available electronic means.

9501.2 The application and any required verification may be submitted by:

- (a) The applicant;
- (b) An adult who is in the applicant's household or family;
- (c) An authorized representative of the applicant, pursuant to Subsection 9501.33; or
- (d) An individual acting responsibly on behalf of the applicant, if the applicant is a minor or incapacitated.

9501.3 Where the Department requires additional information to determine eligibility, the Department shall provide written notice that includes a statement of the specific information needed to determine eligibility; and the date by which an applicant or beneficiary shall provide the required information.

9501.4 The Department shall determine whether an applicant meets the eligibility factors for Medicaid based upon receipt of:

- (a) A complete, signed, and dated application for Medicaid and other IAPs; and

- (b) Required verifications as described in the District Verification Plan pursuant to 42 C.F.R. Sections 435.940 through 435.965 and Section 457.380.

9501.5 An application shall be considered complete and submitted if all of the following requirements are met:

- (a) All information, including but not limited to demographic information, citizenship/nationality or satisfactory immigration status, household composition, residency, and income, to determine eligibility is provided within the time frame established at Subsection 9501.9;
- (b) The application is signed and dated, under penalty of perjury; and
- (c) The application is received by the Department.

9501.6 The Department shall accept handwritten, telephonically recorded, and electronic signatures that conform to the requirements of federal and District law.

9501.7 The Department may not require an in-person interview as part of the application process for Medicaid eligibility determinations.

9501.8 The Department shall use the application filing date to determine the earliest date for which Medicaid can be effective. The filing date shall be the date that a complete application is received by the Department.

9501.9 Application timeliness standards shall be as follows:

- (a) For an initial eligibility determination based on a disability, the Department shall inform the applicant of timeliness standards and determine eligibility within sixty (60) calendar days of the date that a complete application is submitted.
- (b) For an initial eligibility determination for all other applicants, the Department shall inform the applicant of timeliness standards and determine eligibility within forty-five (45) calendar days of the date that a complete application is submitted.
- (c) The Department may extend the sixty (60) day and forty-five (45) day periods pursuant to DC Official Code Section 4-205.26 and described in Subsections 9501.9(a) through (b) when a delay is caused by unusual circumstances such as:

- (1) Circumstances wholly within the applicant's control;

- (2) Circumstances beyond the applicant's control such as hospitalization or imprisonment; or
 - (3) An administrative or other emergency that could not be reasonably controlled by the Department.
- 9501.10 Eligibility for Medicaid shall begin three (3) months before the month of application if the individual was eligible and received covered services during that period.
- 9501.11 The earliest possible date for retroactive eligibility shall be the first day of the third month preceding the month of application.
- 9501.12 Retroactive eligibility, pursuant to Subsections 9501.10 and 9501.11, shall not apply to:
 - (a) Qualified Medicare Beneficiaries (QMB);
 - (b) Individuals without dependent children eligible for Medicaid under Section 1115 of the Social Security Act on or before December 31, 2014;
 - (c) Individuals determined presumptively eligible by qualified hospitals; and
 - (d) Individuals determined presumptively eligible based on pregnancy.
- 9501.13 An applicant or an individual acting on an applicant's behalf may withdraw an application upon request and prior to an eligibility determination through any means identified at Subsection 9501.1.
- 9501.14 The Department shall renew eligibility every twelve (12) months for all beneficiaries, except for beneficiaries deemed eligible for less than one (1) year.
- 9501.15 A beneficiary shall immediately notify the Department of any change in circumstances that directly affects the beneficiary's eligibility to receive Medicaid, or affects the type of Medicaid for which the beneficiary is eligible.
- 9501.16 The Department shall redetermine eligibility for beneficiaries identified at Subsection 9501.15 at the time the change is reported.
- 9501.17 When renewing or redetermining eligibility, the Department shall, where possible, determine eligibility using available electronic information.
- 9501.18 Where the Department can renew eligibility based on available electronic information, the Department shall issue written notice of the determination to renew eligibility and its basis to the beneficiary no later than sixty (60) days

before the end of the certification period. The Department shall then renew eligibility for twelve (12) months.

- 9501.19 A beneficiary shall not be required to sign and return the written notice identified at Subsection 9501.18 if the information provided in the notice is accurate.
- 9501.20 Where the information in the written notice identified at Subsection 9501.18 is inaccurate, the beneficiary shall provide the Department with correct information, along with any necessary supplemental information through any means allowed under Subsection 9501.1.
- 9501.21 A beneficiary may provide correct information and any necessary supplemental information pursuant Subsection 9501.20 without signature.
- 9501.22 Where the Department cannot determine eligibility using available information, the Department shall provide a pre-populated renewal form with information available to the Department; a statement of the additional information needed to renew eligibility; and the date by which the beneficiary shall provide the requested information.
- 9501.23 Where the Department provides a beneficiary with a pre-populated renewal form, to complete the renewal process, the beneficiary shall:
- (a) Complete and sign the form in accordance with Subsection 9501.6;
 - (b) Submit the form via the Internet, telephone, mail, in person, or through other commonly available electronic means; and
 - (c) Provide required information to the Department before the end of the beneficiary's certification period.
- 9501.24 The pre-populated renewal form shall be complete if it meets the requirements identified in Subsection 9501.5.
- 9501.25 Where a beneficiary fails to return the pre-populated renewal form and the information necessary to renew eligibility, the Department shall issue a written notice of termination thirty (30) days preceding the end of a beneficiary's certification period.
- 9501.26 The Department shall terminate Medicaid eligibility when:
- (a) A beneficiary fails to submit the pre-populated renewal form and the necessary information by the end of certification period; or
 - (b) The beneficiary no longer meets all eligibility factors.

- 9501.27 For an individual who is terminated for failure to submit the pre-populated renewal form and necessary information, the Department shall determine eligibility without requiring a new application if the individual subsequently submits the pre-populated renewal form and necessary information within ninety (90) days after the date of termination.
- 9501.28 The Department shall terminate eligibility upon a beneficiary's request.
- 9501.29 Upon receipt of a written request for termination of Medicaid eligibility by the beneficiary, the Department shall terminate the beneficiary's eligibility on:
- (a) The last day of the month in which the Department receives the request where there are fifteen (15) or more days remaining in the month;
 - (b) The last day of the following month in which the Department receives the request where there are fewer than fifteen (15) days remaining in the month; or
 - (c) A date earlier than those referenced in Subsections 9501.29 (a) through (b), upon request by the beneficiary.
- 9501.30 A request to terminate Medicaid eligibility shall be complete if all of the following requirements are met:
- (a) The request is submitted by Internet, telephone, mail, in-person, or through other commonly available electronic means;
 - (b) The request is signed and dated, under penalty of perjury, in accordance with Subsection 9501.6; and
 - (c) The request includes all information necessary to determine the identity of the individual seeking termination.
- 9501.31 The Department shall provide written notice of termination no later than fifteen (15) calendar days prior to termination, except as stated under Subsection 9508.5 through Subsection 9508.7.
- 9501.32 An applicant or beneficiary determined to be ineligible for Medicaid shall receive an eligibility determination for other IAPs.
- 9501.33 An individual may designate another individual or organization to be an authorized representative to act on their behalf to assist with an application, a redetermination of eligibility, and other on-going communications with the Department. The Department shall require the following:

- (a) The designation of an authorized representative shall be in writing and signed, pursuant to Subsection 9501.6, by the individual seeking representation. In the alternative, legal documentation of authority to act on behalf of an individual under District law, including a court order establishing legal guardianship or power of attorney, may serve in the place of a written authorization;
- (b) The authority of an authorized representative shall be valid until the represented individual or authorized representative notifies the Department that the representative is no longer authorized to act on the individual's behalf; or there is a change in the legal document of authority to act on the individual's behalf;
- (c) An authorized representative may be authorized to:
 - (1) Sign an application on behalf of an applicant;
 - (2) Receive copies of notices and other communications from the Department;
 - (3) Act on behalf of an individual in all other matters with the Department; and
 - (4) Complete and submit redetermination forms; and
- (d) An authorized representative shall agree to maintain, or be legally bound to maintain, the confidentiality of any information regarding the represented individual provided by the Department.

9502 RESIDENCY

- 9502.1 An individual shall be a resident of the District as a condition of Medicaid eligibility.
- 9502.2 An individual shall be considered incapable of stating intent to reside in the District if one of the following applies to the individual:
- (a) Individual has an I.Q. of forty-nine (49) or less or a mental age of seven (7) or less, based on tests acceptable to the District Department on Disability Services;
 - (b) Individual is judged legally incompetent; or
 - (c) Individual is found incapable of indicating intent by a physician, psychologist, or other similarly individual licensed in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective

March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl..)).

- 9502.3 A resident of the District shall be any individual who:
- (a) Meets the conditions of Subsections 9502.4 through 9502.19; or
 - (b) Meets the criteria specified in an interstate agreement under Subsection 9502.23.
- 9502.4 Subject to the exceptions identified in Subsections 9502.6, 9502.11, 9502.12, 9502.14, and 9502.15 below, an individual under age nineteen (19) who lives in the District shall be considered a resident of the District.
- 9502.5 Subject to the exceptions identified in Subsections 9502.6, 9502.11, 9502.12, 9502.14, and 9502.15 below, the state of residence of an individual who is age nineteen (19) through twenty (20) shall be where the individual resides or the state of residency of the parent or caretaker relative with whom the individual resides.
- 9502.6 An individual who is under the age of twenty-one (21), who is capable of stating intent to reside; who is married or emancipated, and who does not reside in an institution, shall follow the residency rules applicable to individuals who are the age of twenty-one (21) and older.
- 9502.7 An individual, who is the age of twenty-one (21) or older and who does not live in an institution, shall be considered a resident of the District if the individual is living in the District voluntarily and not for a temporary purpose; that is, an individual with no intention of presently leaving including individuals without a fixed address or who have entered the District with a job commitment or seeking employment, whether or not currently employed.
- 9502.8 Temporary absence from the District, with subsequent returns to the District, or intent to return when the purposes of the absence have been accomplished, shall not interrupt continuity of residence.
- 9502.9 Residence as defined for eligibility purposes shall not depend upon the reason for which the individual entered the District, except insofar as it may bear on whether the individual is there for a temporary purpose.
- 9502.10 Unless an exception applies, the State of residence for an individual who is age twenty-one (21) and over, and who is not living in an institution, but who is incapable of stating intent to reside, shall be the State where the individual lives.
- 9502.11 Where a District agency or designee arranges or makes an out-of-state placement for any individual aged eighteen (18) and older receiving diagnostic, treatment, or

rehabilitative services related to intellectual or developmental disabilities, the District shall be the State of residence.

- 9502.12 The State of residence for an individual placed by the District in an out-of-District institution shall be determined as follows:
- (a) An individual who is placed in an institution in another State by a District agency or designee is a District resident;
 - (b) If a District agency or designee arranges or makes the placement, the District is considered as the individual's State of residence, regardless of the individual's intent or ability to indicate intent;
 - (c) Where a placement is initiated by a District agency or designee because the District lacks a sufficient number of appropriate facilities to provide services to its residents, the District, as the State making the placement is the individual's State of residence.
- 9502.13 Any action by a District agency or designee beyond providing information to the individual and the individual's family constitutes arranging, or making, an out-of-District placement in an institution.
- 9502.14 The State of residence for an individual of any age who receives a State supplementary payment (SSP) shall be the State paying the SSP.
- 9502.15 The State of residence for individuals who is under the age of twenty-one (21) receiving adoption assistance, foster care, or guardianship care under title IV-E of the Social Security Act (the Act) shall be the State where such individuals actually live even if adoption assistance, foster care, or guardianship payments originate from the District.
- 9502.16 The State of residence for an institutionalized individual under the age of twenty-one (21), who is neither married nor emancipated, shall be the following:
- (a) The parent's or legal guardian's State of residence at the time of placement;
 - (b) The current State of residence of the parent or legal guardian who files the application if the individual is institutionalized in that same State; or
 - (c) If the individual has been abandoned by his or her parents and has no legal guardian, the State of residence of the individual who files an application.
- 9502.17 For any institutionalized individual who became incapable of indicating intent before age twenty-one (21), the State of residence shall be:

- (a) That of the parent applying for Medicaid on the individual's behalf, if the parents reside in separate States (if a legal guardian has been appointed and parental rights are terminated, the State of residence of the guardian is used instead of the parent's);
- (b) The parent's or legal guardian's State of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the State of residence of the guardian is used instead of the parent's);
- (c) The current State of residence of the parent or legal guardian who files the application if the individual is institutionalized in that State (if a legal guardian has been appointed and parental rights are terminated, the State of residence of the guardian is used instead of the parent's); or
- (d) The State of residence of the individual or party who files an application is used if the individual has been abandoned by his or her parent(s), does not have a legal guardian and is institutionalized in that State.

9502.18 For any institutionalized individual (regardless of any type of guardianship) who became incapable of indicating intent at or after age twenty-one (21), the State of residence is the State in which the individual is physically present, except where another State makes a placement.

9502.19 For any other institutionalized individual, the State of residence shall be the State where the individual is living and intends to reside.

9502.20 The Department shall not deny eligibility for Medicaid because an individual has not resided in the District for a specified period.

9502.21 The Department shall not deny eligibility for Medicaid to an individual in an institution, who satisfies the residency rules set forth in this section on the grounds that the individual did not establish residence in the District before entering the institution.

9502.22 The Department shall not deny or terminate an individual's eligibility for Medicaid because of the individual's temporary absence from the District if the individual intends to return when the purpose of the absence has been accomplished, unless another State has determined that the individual is a resident there for purposes of Medicaid.

9502.23 The District may extend eligibility for Medicaid to individuals who would traditionally be considered residents of a State other than the District under an interstate agreement.

9502.24 Where two or more States cannot resolve which State is the State of residence, and in the absence of an interstate agreement between the District and another

State governing disputed residency, the State where the individual is physically located shall be the State of residence.

9503 CITIZENSHIP OR SATISFACTORY IMMIGRATION STATUS

9503.1 An individual shall meet applicable citizenship or satisfactory immigration status requirements as a condition of Medicaid eligibility.

9503.2 The following groups of individuals satisfy citizenship or satisfactory immigration status requirements:

- (a) A U.S. citizen or national as described in Subsection 9503.8, including children born to a non-citizen in the U.S;
- (b) Lawful Permanent Residents (LPRs) pursuant to the Immigration and Nationality Act (INA);
- (c) Refugees admitted under Section 207 of INA including Afghan and Iraqi Special Immigrants (SIV's) as permitted under PL 111-118;
- (d) Aliens granted Asylum under Section 208 of INA;
- (e) Cuban or Haitian entrants as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;
- (f) Aliens granted conditional entry prior to April 1, 1980;
- (g) Aliens who have been paroled into the U.S. in accordance with 8 U.S.C. 1182(d)(5) for less than one (1) year;
- (h) Certain battered spouses, battered children or parents, or children of a battered individual with a petition approved or pending under Section 204(a)(1)(A) or (B) or Section 244(a)(3) of the INA;
- (i) An individual who has been granted withholding of Deportation;
- (j) American entrants pursuant to Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988 (as contained in Section 101(e) of PL 100-202 and amended by the 9th provision under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988, PL 100-461 as amended);
- (k) American Indians born outside the U.S. who were born in Canada and are at least fifty percent (50%) American Indian blood and to whom the provisions of Section 289 of the INA apply; and are members of a

federally recognized tribe as defined in Section 4(e) of the Indian Self-Determination and Education Act; and

- (1) Lawfully residing aliens who are under the age of twenty-one (21) and pregnant women pursuant to Section 1903(v)(4) of the Social Security Act, including the following individuals who are:
 - (1) Defined as qualified aliens in 8 U.S.C. Section 1641(b) and (c);
 - (2) In a valid nonimmigrant status, as defined in 8 U.S.C. Section 1101(a)(15) or otherwise under the immigration laws (as defined in 8 U.S.C. Section 1101(a)(17))(includes worker visas, student visas, and citizens of Micronesia, the Marshall Islands, and Palau);
 - (3) Paroled into the U.S. in accordance with 8 U.S.C. Section 1182(d)(5) for less than one (1) year, except for individuals paroled for prosecution, for deferred inspection or pending removal proceedings;
 - (4) Granted temporary resident status in accordance with 8 U.S.C. Section 1160 or Section 1255a, respectively;
 - (5) Granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. §1254a, and individuals with pending applications for TPS who have been granted employment authorization;
 - (6) Granted employment authorization under 8 C.F.R Section 274a.12(c);
 - (7) Family Unity beneficiaries in accordance with Section 301 of Pub. L. 101-649, as amended;
 - (8) Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;
 - (9) Granted Deferred Action status;
 - (10) Granted an administrative stay of removal under 8 C.F.R Section 241 (issued by the Department of Homeland Security);
 - (11) The recipient of an approved visa petition or who has a pending application for adjustment to lawful permanent resident status;
 - (12) The recipient of a pending application for asylum under 8 U.S.C. Section 1158, or for withholding of removal under 8 U.S.C. Section 1231, or under the Convention Against Torture who have

been granted employment authorization; or are under the age of fourteen (14) and have had an application pending for at least one-hundred eighty (180) days;

- (13) Granted withholding of Deportation;
- (14) Children who have a pending application for Special Immigrant Juvenile status as described in 8 U.S.C. Section 1101(a)(27)(J);
- (15) Lawfully present in American Samoa under the immigration laws of American Samoa; or
- (16) Victims of severe trafficking in persons, in accordance with the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, as amended (22 U.S.C. Section 7105(b).

9503.3 Individuals with deferred action under the U.S. Department of Homeland Security's Deferred Action for Childhood Arrivals (DACA) process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, shall not meet citizenship or satisfactory immigration status requirements under Subsections 9503.2(c) through (l).

9503.4 Unless exempt under 8 U.S.C. Section 1613(b), qualified aliens who are age nineteen (19) or older and entered the U.S. on or after August 22, 1996 shall be subject to a five (5) year period during which they are ineligible for full Medicaid.

9503.5 The five (5) year period, described in 8 U.S.C. Section 1613, shall begin on the date the qualified alien entered the U.S., or the date a previously unqualified alien attained qualified alien status.

9503.6 An alien who does not meet the citizenship or satisfactory immigration status requirements identified at Subsections 9503.1 through 9503.5 may be eligible to receive emergency services that are not related to an organ transplant procedure if:

- (a) The alien has a medical condition, including labor and delivery, manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:
 - (1) Placing health in serious jeopardy;
 - (2) Serious impairment to bodily functions; or
 - (3) Serious dysfunction of a bodily organ or part.

(b) The alien meets all other eligibility requirements for Medicaid except the requirements concerning furnishing social security numbers and verification of alien status; and

(c) The alien's need for the emergency service continues.

9503.7 The Department shall discontinue Emergency Medicaid for aliens described at Subsection 9503.6 once the alien's medical condition has been stabilized.

9503.8 An individual shall qualify as a U.S. citizen if the individual was born in the fifty (50) states or the District of Columbia, Puerto Rico, Guam, U.S. Virgin Islands or Northern Mariana Islands. Nationals from American Samoa or Swain's Island are regarded as U.S. citizens for purposes of Medicaid eligibility. A child of a U.S. citizen born outside the U.S. may automatically be eligible for a Certificate of Citizenship.

9504 SOCIAL SECURITY NUMBER

9504.1 An individual, except as otherwise provided in this section, shall provide his or her SSN as a condition of Medicaid eligibility pursuant to 42 C.F.R. Section 435.910.

9504.2 An individual who cannot provide his or her SSN shall provide proof of an application for an SSN with the U.S. Social Security Administration (SSA).

9504.3 The Department shall take the following actions when an individual cannot recall his or her SSN or has not been issued an SSN:

(a) Assist with the completion of an application for an SSN;

(b) Obtain evidence required under SSA regulations to establish the age, the citizenship or alien status, and the true identity of the individual; and

(c) Send the application to SSA, or request SSA to furnish the number, if there is evidence that the individual has previously been issued a SSN.

9504.4 The Department shall not deny or delay services to an otherwise eligible individual pending issuance or verification of the individual's SSN by the SSA.

9504.5 Individuals identified in Subsection 9504.3 shall be eligible for Medicaid on a temporary basis for ninety (90) days.

9504.6 The Department shall verify each SSN of each individual with SSA, as prescribed by the U.S. Commissioner of Social Security, to ensure that each SSN furnished was issued to that individual, and to determine whether any others were issued.

9504.7 The requirement to furnish an SSN shall not apply to the following individuals:

- (a) An individual who is applying for Medicaid due to the presence of an emergency medical condition defined at 42 C.F.R Section 440.255;
- (b) An individual who does not have an SSN and may only be issued an SSN for a valid non-work reason;
- (c) An individual who refuses to obtain an SSN because of well-established religious objections;
- (d) An individual who is an infant under the age of one (1);
- (e) An authorized representative;
- (f) Adult who is applying for Medicaid on a minor’s behalf; or
- (g) Any other individual member of an applicant or beneficiary’s household who is not applying for Medicaid.

9504.8 The Department may give a Medicaid identification number to an individual who, because of well-established religious objections, refuses to obtain an SSN. The identification number may be either an SSN obtained by the District on an individual's behalf or another unique identifier.

9504.9 The Department shall advise an individual of the uses the Department will make of each SSN, including its use for verifying income, eligibility, and amount of Medicaid payments.

9505 VERIFICATION OF NON-FINANCIAL ELIGIBILITY FACTORS

9505.1 The Department shall verify the non-financial eligibility factors necessary for a MAGI-based Medicaid eligibility determination at the time of application, at each renewal of eligibility, and at each redetermination of eligibility in accordance with the District Verification Plan pursuant to 42 C.F.R. Sections 435.940 through 435.965 and Section 457.380.

9505.2 An applicant, adult who is in a minor applicant’s household, or an authorized representative, as identified in Subsection 9501.33, of an applicant shall attest to the following non-financial eligibility factors:

- (a) Household composition;
- (b) Residency;
- (c) Age;

- (d) SSN;
- (e) U.S. citizenship, nationality or satisfactory immigration status;
- (f) Pregnancy status;
- (g) Relationship of a caretaker relative to an applicant or eligible child; and
- (h) Eligibility for Medicare.

9505.3 The Department shall accept attestation without verification, unless the attestation is not reasonably compatible with information available to the Department, for the following eligibility factors:

- (a) Household composition;
- (b) Residency for individuals age eighteen (18) and under;
- (c) Age eighteen (18) and under;
- (c) Pregnancy (includes attestation of multiple gestation pregnancies, *i.e.*, a woman pregnant with twins would be counted as three people);
- (d) Relationship of a caretaker relative to an applicant, beneficiary, or eligible child;
- (e) Homelessness; and
- (f) Eligibility for Medicare.

9505.4 The Department shall require verification through one (1) or more federal and State electronic data sources for the following eligibility factors:

- (a) Age nineteen (19) and over;
- (b) Residency for individuals age nineteen (19) and older;
- (c) SSN;
- (d) U.S. citizenship/nationality or satisfactory immigration status; and
- (e) Eligibility for Medicare.

- 9505.5 The Department shall not require verification of U.S. citizenship or nationality and satisfactory immigration status pursuant to Subsection 9505.4(d) for the following:
- (a) Individuals receiving SSI;
 - (b) Individuals receiving Social Security Disability (SSDI) based on their own disability;
 - (c) Individuals who are entitled to or enrolled in Medicare;
 - (d) Individuals who are eligible for Medicaid as a deemed newborn; and
 - (e) Children in foster care or receiving adoption assistance payments.
- 9505.6 The Department shall use a reasonable compatibility standard to match information obtained from federal and State electronic or other data sources with attested application information as further described in Subsection 9505.7 below.
- 9505.7 Attestation and information from electronic or other data sources shall be considered reasonably compatible by the Department where the data sources match or do not significantly differ from attestation. Only discrepancies that affect eligibility shall be considered significant.
- 9505.8 The Department may require individuals to provide supplemental information where electronic data is unavailable or application information is not reasonably compatible with information obtained from an electronic or other data source.
- 9505.9 The Department may accept supplemental information in the following forms:
- (a) Paper, electronic, or telephonic documentation; or
 - (b) If other documentation is not available, a statement which explains the discrepancy.
- 9505.10 The Department shall provide one (lifetime) ninety (90) day period to provide supplementary information to verify SSN, U.S. citizenship or nationality, and satisfactory immigration status. Medicaid coverage may be provided during this period.
- 9505.11 An applicant who makes a good faith effort to obtain the requested documentation may receive an additional one (lifetime) ninety (90) day period to produce the documentation necessary to verify citizenship or immigration status.

- 9505.12 Excepting citizenship, nationality, and satisfactory immigration status, the Department may waive its verification requirements for exceptional circumstances.
- 9505.13 In accordance with the District Verification Plan, exceptional circumstances shall include:
- (a) Homelessness;
 - (b) Domestic violence;
 - (c) Instances where a noncustodial parent refuses to release documentation germane to verification of one (1) or more eligibility factors; and
 - (d) Other circumstances as identified on a case-by-case basis and approved by the Department.

9506 MODIFIED ADJUSTED GROSS INCOME (MAGI) ELIGIBILITY

- 9506.1 This section shall establish the factors of District Medicaid eligibility for modified adjusted gross income (MAGI) eligibility groups, as identified in Section 9500.
- 9506.2 To be determined eligible for Medicaid as a parent or other caretaker relative, an individual shall:
- (a) Be a parent or other caretaker relative of a dependent child;
 - (b) Have a household income that does not exceed two hundred sixteen percent (216%) of the Federal Poverty Level (FPL) as determined in accordance with this section; and
 - (c) Meet all other applicable non-financial eligibility factors identified at Subsection 9506.9.
- 9506.3 To be determined eligible for Medicaid as a pregnant woman, an individual shall:
- (a) Be pregnant or in the post-partum period;
 - (b) Have household income that does not exceed three hundred nineteen percent (319%) of the FPL as determined in accordance with this Section;
 - (c) Not otherwise eligible or enrolled under the following mandatory groups:
 - (1) Supplemental Security Income (SSI) and related groups,
 - (2) Parent or Other Caretaker Relatives,

- (3) Infants and Children, or
 - (4) Title IV-E Foster Children;
 - (d) Not entitled to or enrolled in Medicare; and
 - (e) Meet all other applicable non-financial eligibility factors identified at Subsection 9506.9.
- 9506.4 The Department shall not require a pregnant woman to cooperate in establishing paternity in order to receive Medicaid.
- 9506.5 A pregnant woman who is determined eligible for Medicaid shall retain eligibility throughout the pregnancy and the post-partum period regardless of changes in household income.
- 9506.6 To be determined eligible for Medicaid as an infant and child under age nineteen (19), an individual shall:
- (a) Be age zero (0) through eighteen (18);
 - (b) Have a household income that does not exceed three hundred nineteen percent (319%) of the FPL as determined in accordance with this Section; and
 - (c) Meet all other applicable non-financial eligibility factors identified at Subsection 9506.9.
- 9506.7 To be determined eligible for Medicaid as a child age nineteen (19) or twenty (20), an individual shall:
- (a) Be age nineteen (19) or twenty (20);
 - (b) Have household income that does not exceed two hundred sixteen percent (216%) of the FPL as determined in accordance with this section; and
 - (c) Meet all other applicable non-financial eligibility factors identified at Subsection 9506.9.
- 9506.8 To be eligible as an individual without a dependent child (childless adult), an individual shall:
- (a) Be age twenty-one (21) through sixty-four (64);

- (b) Have a household income that does not exceed hundred thirty-three percent (133%) of the FPL as determined in accordance with this section;
- (c) Without dependent children;
- (d) Not otherwise eligible or enrolled under the following mandatory groups:
 - (1) SSI and related groups,
 - (2) Parent or Caretaker Relative,
 - (3) Pregnant Woman,
 - (4) Former Foster Child, or
- (e) Not entitled to or enrolled in Medicare Part A or Part B; and
- (f) Meets all other applicable non-financial eligibility requirements identified at Subsection 9506.9.

9506.9 All individuals applying for Medicaid, regardless of eligibility group, shall meet the following non-financial eligibility factors:

- (a) Be a District resident pursuant to 42 C.F.R. Section 435.403;
- (b) Provide an SSN or be exempt pursuant to 42 C.F.R. Section 435.910 and Subsection 9504.7; and
- (c) Be a U.S. citizen or national, or be in a satisfactory immigration status.

9506.10 The Department shall employ MAGI methodologies (based on federal income tax rules) to determine household composition, family size, and how income is counted during eligibility determinations for MAGI eligibility groups.

9506.11 For individuals who expect to file a federal income tax return or who expect to be claimed as a tax dependent by another tax filer for the taxable year in which an eligibility determination is made, household composition shall be determined as follows:

- (a) The household of an individual who expects to be a tax filer consists of the tax filer and all of the tax dependents the tax filer expects to claim;
- (b) The household of a tax dependent, except individuals identified at Subsection 9506.14, consists of the tax filer claiming the tax dependent and all other tax dependents expected to be claimed by that tax filer;

- (c) The household of a married individual who lives with their spouse consists of both spouses regardless of whether they expect to file a joint federal tax return or whether one (1) or both spouses expect to be claimed as a tax dependent by another tax filer; and
- (d) The household of a pregnant woman which consists of the pregnant woman plus the number of children she is expected to deliver. In the case of determining the family size of other individuals who have a pregnant woman in their household, the pregnant woman is counted herself plus the number of children she is expected to deliver.

9506.12 The Department shall consider an individual who expects to be both a tax filer and a tax dependent to be a tax dependent.

9506.13 For individuals who do not expect to file a federal income tax return or be claimed as a tax dependent for the taxable year in which an eligibility determination is made, household composition shall be determined as follows:

- (a) The household of an individual who expects to be a non-filer consists of the non-filer and, if living with the non-filer:
 - (1) The non-filer's spouse;
 - (2) The non-filer's children under age nineteen (19); and
 - (3) If the non-filer is under age nineteen (19), the non-filer's parents and any siblings who are also under age nineteen (19).

9506.14 Household composition shall be determined under Subsection 9506.13 for the following:

- (a) Individuals who expect to be claimed as a tax dependent by a tax filer who is not their spouse or biological, adoptive, or step parent, regardless of the individual's age;
- (b) Individuals who are under age nineteen (19) living with both parents who do not expect to file a joint federal tax return, and who expect to be claimed as a tax dependent by one of their parents; or
- (c) Individuals who are under age nineteen (19) and expect to be claimed by a non-custodial parent.

9506.15 MAGI-based income shall be determined using federal income tax rules for determining adjusted gross income except as otherwise provided in this Section. Countable income shall include the following:

- (a) Wages, salaries, tips, and other forms of earned income;
- (b) Taxable and tax-exempt interest;
- (c) Ordinary dividends;
- (d) Qualified dividends;
- (e) Taxable refunds, credits, or offsets of state and local income taxes;
- (f) Alimony received;
- (g) Business income or losses;
- (h) Capital gains or losses;
- (i) Other taxable gains or losses;
- (j) Taxable Individual Retirement Account (IRA) distributions;
- (k) Taxable pensions and annuities – taxable amount;
- (l) Rental real estate, royalties, income from partnerships, S corporations, trusts, etc.;
- (m) Farm income or losses;
- (n) Unemployment compensation;
- (o) Taxable and tax-exempt Social Security benefits except as provided in Subsection 9506.16(q) below;
- (p) Lump sum payments (in the month received), including back pay, a retroactive benefit payment, State tax refund, or an insurance settlement; and
- (q) Any other income reported on the Internal Revenue Service (IRS) Form 1040.

9506.16 Countable income shall exclude the following:

- (a) Income scholarships, awards, or fellowship grants used for education purposes and not for living expenses;
- (b) American Indian/Alaska Native income as defined in 42 C.F.R Section 435.603(e);

- (c) Educator expenses;
- (d) Certain business expenses of reservists, performing artists, and fee-based government officials;
- (e) Health savings account deduction;
- (f) Moving expenses;
- (g) Deductible part of self-employment tax;
- (h) Self-employed Simplified Employee Pension (SEP), Savings Incentive Match Plan for Employees (SIMPLE), and qualified plans;
- (i) Self-employed health insurance deduction;
- (j) Penalty on early withdrawal of savings;
- (k) Alimony paid;
- (l) Individual Retirement Account (IRA) deduction;
- (m) Student loan interest deduction;
- (n) Tuition and fees;
- (o) Public assistance benefits;
- (p) Domestic production activities deduction; and
- (q) SSI benefits under Title XVI of the Act.

9506.17 Household income shall include the MAGI-based income of all individuals in a household except that:

- (a) The MAGI-based income of an individual who is included in the household of his or her natural, adopted, or step parent and is not expected to be required to file a federal tax return for the taxable year of an eligibility determination, shall not be included in household income, whether or not the individual files a federal tax return; and
- (b) The MAGI-based income of a tax dependent, other than a spouse or child under age nineteen (19), who is not expected to be required to file a separate federal tax return for the taxable year of an eligibility

determination, is not included in the household income of the tax filer who expects to claim the tax dependent, whether or not such tax dependent files a federal tax return.

- 9506.18 An amount equivalent to five percent (5%) of the Federal Poverty Level (FPL) for the applicable family size shall be deducted from household income only when determining the financial eligibility of an individual under the highest income standard available for an individual.
- 9506.19 The Department shall base current financial eligibility for Medicaid on current monthly income.
- 9506.20 Current monthly income shall be calculated as follows:
- (a) Income received on a yearly basis or less often than monthly, that is predictable in both amount and frequency, shall be converted to a monthly amount or prorated;
 - (b) If the amount or frequency of regularly received income is known, the Department shall average the income over the period between payments; or
 - (c) If neither the amount nor the frequency is predictable, the Department shall not average the income but count income only for the month in which it is received.
- 9506.21 The Department shall verify financial eligibility for Medicaid at the time of application, at each renewal of eligibility, and at each redetermination of eligibility in accordance with the District Verification Plan, submitted to CMS pursuant to 42 C.F.R. Sections 435.940-435.965 and Section 457.380.
- 9506.22 An applicant adult who is in a minor applicant's household or family, or an authorized representative of an applicant, as identified in 42 C.F.R. Section 435.923, shall attest to household income.
- 9506.23 The Department shall verify financial eligibility through one (1) or more federal and State electronic data sources.
- 9506.24 The Department shall use a reasonable compatibility standard to match financial information obtained from federal and State electronic data sources with attested application information.
- 9506.25 The reasonable compatibility standard for financial information shall be met when:

- (a) The attestation and data sources are both above the District Medicaid program's applicable income standard;
- (b) The attestation and data sources are both below the District Medicaid program's applicable income standard;
- (c) The attestation is below the District Medicaid program's applicable income standard and the data sources are above the applicable income standard, when the difference between them is less than ten percent (10%) of the amount given by data sources; and
- (d) The attestation is zero (0) income and no income data is available from electronic data sources.

9506.26 The Department may require supplemental information where electronic data is unavailable or application information is not reasonably compatible with information obtained from an electronic data source.

9506.27 The Department may accept supplemental information reflecting current monthly income in the following forms:

- (a) Paystubs;
- (b) Completed employer verification form;
- (c) Statement showing retirement income, disability income, Workers Compensation income, or a pension statement;
- (d) Bank and checking account statement;
- (e) Paper, electronic, or telephonic documentation; or
- (f) If other documentation is not available, a statement which explains the discrepancy.

9506.28 The Department shall provide a forty-five (45) day period to provide supplementary information to verify financial eligibility.

9506.29 The Department may waive the verification required under this section for exceptional circumstances.

9506.30 In accordance with the District Verification Plan, exceptional circumstances shall include:

- (a) Homelessness;

- (b) Domestic violence;
- (c) Employer moved to another state or country;
- (d) Business closed;
- (e) Employer will not release information;
- (f) Self-employed individuals who cannot produce documentation of income;
or
- (g) Other circumstances as identified on a case-by-case basis and approved by the Department.

9507 NON-MAGI ELIGIBILITY GROUP: DEEMED NEWBORNS

- 9507.1 To be determined eligible for Medicaid as a deemed newborn, an individual shall be born to a woman eligible for and receiving Medicaid from the District at the time of birth.
- 9507.2 The Department shall not require an application or income test for deemed newborns.
- 9507.3 The Department shall not require deemed newborns to provide or apply for a SSN until age one (1).
- 9507.4 The Department shall not require verification of U.S. citizenship/nationality or satisfactory immigration status for deemed newborns.
- 9507.5 A deemed newborn who is determined eligible for Medicaid shall retain eligibility from date of birth until the end of the month in which the newborn turns age one (1) regardless of changes in household income or the mother’s eligibility for Medicaid; and provided the newborn remains a resident of the District.

9508 NOTICE AND FAIR HEARING RIGHTS

- 9508.1 The Department shall provide timely and adequate notice of eligibility and enrollment determinations and the right to appeal to Medicaid applicants and beneficiaries consistent with the requirements set forth in Federal and District law and rules.
- 9508.2 The Department shall provide timely and adequate notice to Medicaid applicants and beneficiaries in cases of intended adverse action such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid services.
- 9508.3 An adequate notice shall include:

- (a) A statement of what action(s) are intended;
- (b) The reason(s) for the intended action(s);
- (c) Specific law and regulations supporting the action, or the change in federal or District law that requires the action(s);
- (d) An explanation of an applicant or beneficiary's right to request an administrative or fair hearing; and
- (e) The circumstances under which Medicaid is provided during the pendency of a hearing.

9508.4 A timely notice shall be postmarked at least fifteen (15) calendar days before the date an action would become effective, except as permitted under Subsection 9508.5.

9508.5 The Department may dispense with timely notice, but shall send adequate notice under the following circumstances:

- (a) The Department has factual information confirming the death of a beneficiary;
- (b) The Department receives a written and signed statement from a beneficiary:
 - (1) Stating that Medicaid is no longer required; or
 - (2) Providing information which requires termination or reduction of Medicaid and indicating, in writing, that a beneficiary understands the consequence of supplying the information;
- (c) A beneficiary has been admitted or committed to an institution, and no longer qualifies for Medicaid;
- (d) A beneficiary's whereabouts are unknown and Department mailings, directed to the beneficiary, has been returned by the post office indicating no known forwarding address;
- (e) A beneficiary has been deemed eligible for Medicaid in another state and that fact has been established;
- (f) A change in level of medical care has been prescribed by a physician;

- (g) Presumptive eligibility granted for a specific period is terminated and the beneficiary has been informed in writing at the time of application that the eligibility automatically terminates at the end of the specified period;
- (h) The notice involves an adverse determination made with regard to the preadmission screening requirements of Section 1919(e)(7) of the Act; or
- (i) The date of action will occur in less than ten (10) days, in accordance with 42 C.F.R. Section 483.12(a)(5)(ii), which provides exceptions to the thirty (30) day notice requirements of 42 C.F.R. Section 483.12(a)(5)(i).

9508.6 Under the circumstances identified in Subsection 9508.5, the Department shall issue notice no later than the effective date of action.

9508.7 The Department may issue a notice no later than five (5) calendar days before the date of action if the Department has facts related to probable fraud by the beneficiary; and those facts have been verified, if possible, through secondary sources.

9508.8 Applicants and beneficiaries may request, through any of the means described at Subsection 9508.12, an administrative review of an adverse action from the Department of Human Services, Economic Security Administration before requesting a fair hearing. A request for an administrative review shall not affect the right to request a fair hearing.

9508.9 The Department shall grant an opportunity for a fair hearing when:

- (a) An application for Medicaid is denied;
- (b) Eligibility for Medicaid is suspended;
- (c) Eligibility for Medicaid is terminated;
- (d) An applicant or beneficiary believes the Department has taken an action which affects the receipt, termination, amount, kind, or conditions of Medicaid in error;
- (e) A beneficiary, who is a resident of a skilled nursing facility, believes the Department has wrongly determined that a transfer or discharge from the facility is required;
- (f) A beneficiary believes the Department made a wrong determination with regard to the preadmission and annual resident review requirements of Section 1919(e)(7) of the Social Security Act (the Act);

- (g) A beneficiary, who is an enrollee in a Managed Care Organization (MCO) or Pre-paid Inpatient Health Plan (PIHP), was denied coverage of or payment for medical services;
 - (h) A beneficiary who is dissatisfied with the District's determination that disenrollment from a MCO, PIHP, Pre-paid Ambulatory Health Plan, or Primary Care Case Management is appropriate; or
 - (i) A Medicaid claim was denied or not acted upon with reasonable promptness pursuant to D.C. Official Code Section 4-210.02 and Subsection 9501.9.
- 9508.10 The Department shall not be required to grant a hearing if the sole issue is a federal or District law requiring an automatic change that adversely affects some or all beneficiaries.
- 9508.11 The Department may deny or dismiss a request for a fair hearing if:
- (a) The applicant or beneficiary withdraws the request in writing; or
 - (b) The applicant or beneficiary fails to appear at a scheduled hearing without good cause.
- 9508.12 An individual, an adult who is in the individual's household, or an authorized representative shall submit a fair hearing request via:
- (a) Internet;
 - (b) Telephone;
 - (c) Mail;
 - (d) In person; or
 - (e) Through other commonly available electronic means.
- 9508.13 An applicant or beneficiary seeking a fair hearing shall submit a fair hearing request no later than ninety (90) days following the date the notice of adverse action is mailed.
- 9508.14 Where the Department provides notice as required under Subsections 9508.3 through 9508.7, and the beneficiary requests a fair hearing before the date of adverse action, the Department may not terminate or reduce services until a hearing decision is rendered unless:

- (a) It is determined at the hearing that the sole issue is one of Federal or District law or policy; and
 - (b) The Department promptly informs the beneficiary in writing that Medicaid services will be terminated or reduced pending the hearing decision.
- 9508.15 The Department may reinstate Medicaid services if a beneficiary requests a hearing not more than ten (10) days after the date of action.
- 9508.16 Reinstated services shall continue until a hearing decision is reached unless, the hearing has determined that the sole issue is one of federal or District law or policy.
- 9508.17 The Department shall reinstate and continue services until a decision is rendered after a hearing if:
- (a) Action is taken without the advance notice required under Subsections 9508.5 through 9508.7;
 - (b) The beneficiary requests a hearing within ten (10) days from the date that the individual receives the notice of action. The date on which the notice is received is considered to be five (5) days after the date on the notice, unless the beneficiary shows that notice was not received within the 5-day period; or
 - (c) The Department determines that the action resulted from other than the application of federal or District law or policy.
- 9508.18 If a beneficiary's whereabouts are determined to be unknown, discontinued services shall be reinstated if the beneficiary's whereabouts become known during the time the beneficiary is eligible for services.
- 9508.19 The Department shall allow an applicant or beneficiary who requests a fair hearing decision no later than fifteen (15) days of the date that notice is mailed to decline receipt of Medicaid pending a fair hearing decision.
- 9508.20 An appeal to the District Health Benefits Exchange Authority of a determination of eligibility for advanced payments of the premium tax credit or cost-sharing reduction shall trigger a request for a fair hearing under this section.
- 9508.21 Fair hearings and appeals for the District Medicaid program shall be administered through the Office of Administrative Hearings in accordance with 42 C.F.R. Section 431.10(d) and 42 C.F.R. Section 431.200 *et seq.*, and amendments thereto, 1 DCMR Section 2970 through 1 DCMR Section 2978, and amendments thereto, and D.C. Official Code Section 4-210.01 *et seq.*, and amendments thereto.

9508.22 This section shall apply to all eligibility determinations for Medicaid programs administered by the Department of Health Care Finance under Title XIX and Title XXI of the Act.

9509 RESERVED

9510 RESERVED

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9512 RESERVED

9513 RESERVED

9500.99 DEFINITIONS

For the purposes of this chapter, the following terms shall have the meanings ascribed:

Alien - An individual who is not a Citizen or National of the United States pursuant to 8 U.S.C.A. § 1641 and § 101(a) of the Immigration and Nationality Act, 8 U.S.C.A. § 1101(a).

Applicant - An individual who is seeking an eligibility determination for Medicaid through an application submission or a transfer from another insurance affordability program.

Application - The single streamlined form that is used by the District of Columbia in accordance with 42 C.F.R. § 435.907(b) or an application described in § 435.907(c)(2) of this chapter submitted on behalf of an individual.

Authorized Representative - Legally authorized individual or entity able to consent on behalf of a prospective applicant.

Beneficiary - An individual who has been determined eligible and is currently receiving Medicaid.

Budget Period - The monthly or annual period in which financial eligibility for Medicaid is determined.

Certification Period - Medicaid eligibility is determined for a twelve-month period. This period is called a certification period.

Cost Sharing - When patients pay out-of-pocket for a portion of health care costs not covered by health insurance, including but are not limited to, copays, deductibles, and coinsurance.

Custodial Parent - A court order or binding separation, divorce, or custody agreement establishing physical custody controls; or if there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights pursuant to 42 C.F.R §435.603 (iii)(A)-(B).

Deemed Newborn - A child under the age of one (1) who is automatically eligible for Medicaid pursuant to 42 C.F.R. § 435.117.

Deferred Action for Childhood Arrivals (DACA) - Certain individuals who were brought to the U.S. as children are as described pursuant to the Memorandum from Janet Napolitano, Secretary of Homeland Security, to David V. Aguliar, Acting Commissioner, U.S. Customs and Border Protection; Alejandro Mayorkas, Director, U.S., Citizenship and Immigration Services; John Mortan, Director, U.S. Immigration and Customs Enforcement (June 15, 2012) (on file with the U.S. Department of Homeland Security).

Department - For the purposes of this chapter, the term “the Department” shall refer to the Department of Health Care Finance (DHCF) or its designee.

Dependent Child - A natural or biological, adopted or step-child who is under the age of eighteen (18), or is age eighteen (18) and a full-time student in secondary school (or equivalent vocational or technical training).

Eligibility determination - An approval or denial of eligibility in accordance with 42 C.F.R. § 435.911 as well as a renewal or termination of eligibility in accordance with 42 C.F.R. § 435.916.

Emergency medical condition - A medical condition, including emergency labor and delivery, manifesting itself by acute symptoms of sufficient severity including severe pain so that the absence of immediate medical attention could reasonably be expected to result in one of the following: (1) placing the patient's health in serious jeopardy, (2) serious impairment to bodily functions, (3) serious dysfunction of a bodily organ or part.

Fair Hearings - an administrative procedure that gives applicants and beneficiaries the opportunity to contest adverse decisions regarding eligibility and benefit determinations.

Family - The individuals for whom a tax filer claims a deduction for a personal exemption under § 151 of the Code for the taxable year, which may

include the tax filer, the tax filer's spouse, and dependents. 26 U.S.C. § 36B(d)(1)(2012).

Family size - The number of persons counted as members of an individual's household for purposes of MAGI Medicaid eligibility. When counting a household that includes a pregnant woman, the pregnant woman is counted as herself plus the number of children she is expected to deliver.

Federal Poverty Level (FPL) - A measure of income levels updated periodically in the Federal Register by the Secretary of Health and Human Services under the authority of 42 U.S.C. Section 9902(2), as in effect for the applicable budget period used to determine an individual's eligibility in accordance with 42 C.F.R. § 435.603(h).

Household Composition - Determined by individuals living together and their relationships to one another. The composition of the household determines an individual's family size.

Household Income - The MAGI-based income of every individual included in an applicant or beneficiary's household.

Indian - Means any individual who is a member of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. §§ 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Institution - Means Institution and Medical institution, as defined in 42 C.F.R. § 435.1010.

Lawfully Present - Aliens described at 42 C.F.R. Section 152.2 (1),(3)-(7); aliens in a valid nonimmigrant status, as defined in 8 U.S.C. § 1101(a)(15) or otherwise under the immigration laws (as defined in 8 U.S.C. § 1101(a)(17)); aliens granted an administrative stay of removal under 8 C.F.R. Section 241; aliens lawfully present in American Samoa under the immigration laws of American Samoa; and aliens who are victims of severe trafficking in persons, in accordance with the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, as amended (22 U.S.C. § 7105(b)).

Limited or no-English proficiency - As defined by D.C. Official Code § 2-193 (2012 Repl.) as the inability to adequately understand or to express oneself in the spoken or written English language.

Long-term services and supports - Nursing facility services, a level of care in any institution equivalent to nursing facility services; home and community-based services furnished under a waiver or State plan under Sections 1915 or 1115 of the Act; home health services as described in § 1905(a)(7) of the Act and personal care services described in § 1905(a)(24) of the Act.

Lawful Permanent Resident (LPR) - One who was lawfully admitted for permanent residence in accordance with the immigration laws of the United States, such status not having changed since admission. A legalized alien under IRCA whose status has been adjusted from LTR to LPR by INS.

Medicaid - Means the program established under Title XIX and Title XXI of the Social Security Act, 42 U.S.C. §§ 1396 *et seq.* and Title 29 DCMR, Chapter 9.

Medically Needy - Individuals, as described in 42 U.S.C. § 1396a(a)(10)(A)(ii), who meet non-financial eligibility determination factors but who have incomes over the Medicaid threshold.

Modified adjusted gross income (MAGI) - Income calculated using the financial methodologies used to determine modified adjusted gross income as defined in 26 U.S.C. § 36B(d)(2)(B) and 42 C.F.R. § 435.603.

U.S. National - A person who is a citizen of the U.S. or a person who, though not a citizen of the U.S., owes permanent allegiance to the U.S.

Non-MAGI - Eligibility Groups described at 42 C.F.R. § 435.603 for which MAGI-based methods do not apply.

Parent - A person who has a natural or biological, adopted, or step-child.

Pregnant woman - A female during pregnancy and the post-partum period, which begins on the date the pregnancy ends, extends 60 calendar days, and then ends on the last day of the month in which the 60-day period ends.

Qualified Alien - An alien described in Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. § 1641, as amended (PRWORA), and non-citizens required to be eligible by § 402(b) of the PRWORA, as amended, and non-citizens not prohibited by § 403 of PRWORA, as amended including qualified non-citizens subject to the five (5) year bar identified in 8 U.S.C. § 1613.

Qualified Plan - Profit-sharing, money purchase, defined benefit plans, 401K, and other retirement plans that allow a tax-favored way to save for retirement. Employers may deduct contributions made to the plan on behalf of their employees. Earnings on these contributions are generally tax free until distributed at retirement.

Renewal - Annual review to evaluate continued eligibility for Medicaid.

Satisfactory Immigration Status - An immigration status which does not make the alien ineligible for benefits under the applicable program (See § 121(d)(1)(B)(i)(III) of IRCA, 42 U.S.C.A. § 1320b-7, note).

Self-employed Simplified Employee Pension (SEP) - A written plan that allows individuals to make contributions toward their own retirement and their employees' retirement without getting involved in a more complex qualified plan.

Sibling - Each of two or more children or offspring having one or both natural, biological, adopted, or step-parents in common.

SIMPLE - An employer sponsored retirement plan offered for small businesses that have 100 employees or less.

State - Includes any of the 50 constituent political entities of the United States and the District of Columbia.

Tax dependent - Tax dependent has the same meaning as the term "dependent" under Section 152 of the Internal Revenue Code, as an individual for whom another individual claims a deduction for a personal exemption under § 151 of the Internal Revenue Code for a taxable year.

Verification plan - the plan describing the verification policies and procedures adopted by the Department in accordance with 42 C.F.R. §§ 435.940-435.965, and § 457.380.

Well-established religious objections - The applicant is a member of a recognized religious sect or division of the sect and adheres to the tenets or teachings of the sect or division and for that reason is conscientiously opposed to applying for or using a national identification number.

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, JD, Interim Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900S, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rule may be obtained from the above address.

OFFICE OF THE MAYOR

NOTICE OF SECOND PROPOSED RULEMAKING

The Mayor of the District of Columbia, pursuant to the Sign Regulation Authorization Amendment Act of 2012 (Act), effective April 27, 2013 (D.C. Law 19-289; 60 DCR 2328 (March 1, 2013)); Section 1 of An Act To regulate the erection, hanging, placing, painting, display, and maintenance of outdoor signs and other forms of exterior advertising within the District of Columbia, approved March 3, 1931 (46 Stat. 1486; D.C. Official Code §§ 1-303.21 *et seq.* (2012 Repl.)); Mayor's Order 2011-181, dated October 31, 2011; and Sections 8 and 10 of the Litter Control Administration Act of 1985 (Litter Control Act), effective March 25, 1986 (D.C. Law 6-100; D.C. Official Code §§ 8-807 and 8-810 (2013 Repl.)); hereby gives notice of his intent to adopt amendments to Section 108 (Signs, Posters, and Placards) of Chapter 1 (Occupation and Use of Public Space), and Section 1380 (Schedule of Fines for Violations of the Litter Control Administration Act) of Chapter 13 (Civil Fines Under D.C. Law 6-100), of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR).

The amendments clarify that signs, aside from those otherwise authorized by law, shall not be displayed or projected on public space, buildings, or property owned or controlled by the Mayor, and that violations of this prohibition shall be enforceable under the Litter Control Act by the Director of the District Department of Transportation. The amendments also establish a civil infraction for the display or projection of these signs and civil penalties for violations.

This rulemaking is based on an ongoing need to control the projection of commercial images on public buildings in the District. In the past, a private party projected a large advertising image on the façade of the Reeves Center. The projection of this unauthorized advertisement detracted from the Reeves Center's image as a major location for District government activity. It could also have conveyed the impression to members of the public that the District endorsed the product advertised or has made it a practice to sell space on public buildings for commercial messages, thereby undermining public confidence in the District government. The District's current sign rules do not clearly prohibit the projection of such images and do not contain an enforcement mechanism adequate to deter this type of activity. Action is therefore necessary to prevent a repetition of this unauthorized use of public property.

This Notice of Proposed Rulemaking was previously published in the *D.C. Register* on June 13, 2014 at 61 DCR 5999. The proposed rulemaking has been changed in response to comments received following its publication. This republication reflects those changes. Because the changes to the original rulemaking are minor, there is good cause to shorten the period for public comment on the revised rules to ten (10) days.

The Mayor also gives notice of his intent to take final rulemaking action to adopt these amendments in not less than ten (10) days after the date of publication of this notice in the *D.C. Register*. Section 2(a) of the Act requires the Mayor to submit the proposed rulemaking to the Council for a forty-five (45) day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. The proposed rules shall not become effective until the rulemaking

is approved or deemed approved by the Council and a Notice of Final Rulemaking is published in the *D.C. Register*.

Chapter 1, OCCUPATION AND USE OF PUBLIC SPACE, of Title 24 DCMR, PUBLIC SPACE AND SAFETY, is amended as follows:

Section 108, SIGNS, POSTERS, AND PLACARDS, is amended by adding a new Subsection 108.14 to read as follows:

108.14 Except as otherwise authorized by this section, by other applicable District law, or by the express written consent of the Mayor or the independent agency or instrumentality with jurisdiction over the public building or other public property, it shall be unlawful for a private party to display or project on public space, a public building, or any other property owned or controlled by the District any structure, standard, or image used as a sign, bulletin, or advertisement, or to convey a message. Violation of this subsection shall be enforceable under the Litter Control Administration Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Official Code §§ 8-801 *et seq.*), by the Director of the District Department of Transportation.

**Chapter 13, CIVIL FINES UNDER D.C. LAW 6-100, is amended as follows:
Section 1380, SCHEDULE OF FINES FOR VIOLATIONS OF THE LITTER CONTROL ADMINISTRATION ACT, amends Subsection 1380.3 by adding a new infraction after the existing infraction for “Signs or posters on public space”, to read as follows:**

Signs on public on public space, buildings, or property (24 DCMR 108.14)	Yes	1 st violation within 60-day period \$ 150 2 nd violation within 60-day period \$ 300 3 rd violation within 60-day period \$ 600 4 th violation within 60-day period \$ 2000
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All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing no later than ten (10) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Laurie A. Ensworth, Senior Assistant Attorney General, Office of the Attorney General for the District of Columbia, 1350 Pennsylvania Avenue, N.W., Suite 409, Washington, D.C. 20014, or laurie.ensworth@dc.gov. Copies of these proposed rules may be obtained at the same address.

OFFICE OF OPEN GOVERNMENT

NOTICE OF PROPOSED RULEMAKING

The Director of the Office of Open Government, pursuant to the authority set forth in § 503(a)(4) of the District of Columbia Administrative Procedure Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-593 (2012 Repl.)), hereby gives notice of the intent to adopt new rules under Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The proposed rulemaking creates a new Chapter 104, entitled “Office of Open Government”, that establishes procedures for enforcing the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code §§ 2-571 *et seq.* (2012 Repl. & 2014 Supp.)).¹

The Director gives notice of her intent to take final rulemaking action to adopt these rules as final not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Title 3, ELECTIONS AND ETHICS, of the DCMR is amended as follows:**A new Chapter 104 is added to read as follows:****CHAPTER 104 OFFICE OF OPEN GOVERNMENT****10400 FILING AND PRESENTATION OF COMPLAINTS**

- 10400.1 Any person who does not receive proper notice of any meeting and or records of meetings of a public body in accordance with the provisions of the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code §§ 2-571 *et seq.* (2012 Repl. & 2014 Supp.)), may submit a complaint under the provisions of this chapter. A public body shall be presumed to have given proper notice of any meeting, if a meeting is timely published and posted at set forth in the Open Meeting Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code §§ 2-571 *et seq.* (2012 Repl. & 2014 Supp.)).
- 10400.2 A complaint shall be submitted by the complainant to the Director within sixty (60) days following the date that the complainant knew or reasonably should have known of the alleged violation.
- 10400.3 A complaint that a Public Body has violated the Open Meetings Act in a past meeting (or, in a Prospective Complaint, may do so at a future meeting) may be submitted to the Director. A complaint may refer to one or more meetings.
- 10400.4 Complaints may be submitted in writing or in person at the Office of Open Government, Board of Ethics and Government Accountability at 441 4th Street,

¹ D.C. Official Code §§ 2-574(3)(F) *et seq.* (2012 Repl.)) excludes Advisory Neighborhood Commissions as Public Bodies.

NW, Suite 830 South, Washington D.C. 20001; by U.S. Postal; or by electronic means. Complaints submitted by mail should be marked on the outside envelope “Open Meetings Complaint.” Complaints may be submitted by email at opengovoffice@dc.gov, and should state “Open Meetings Complaint” in the subject line or heading of the communication. A complaint form may be accessed and submitted on the Office of Open Government Website at: OPEN-DC.gov. The submission of complaints via the Office of Open Government Website is encouraged so that information is complete, but is not required.

10400.5 Complaints should include the complainant’s name, and at least one of the following: mailing address, email address, or phone number.

10400.6 Complaints should include details of the meeting complained of, including the Public Body, the date, and to the extent possible the specific provision(s) of the Open Meetings Act alleged to have been violated. If record(s) could substantiate the complaint, the complaint should identify the supporting record(s); including the location of the record(s). Audio and video records should be accompanied by relevant timestamp information.

10400.7 The Director will confirm receipt of a complaint within five (5) businesses days upon receipt of the complaint.

10401 PROCESSING OF COMPLAINTS

10401.1 The Director will review a complaint within fourteen (14) business days and take one or more of the following actions:

- (a) Request additional information from the complainant or Public Body;
- (b) Dismiss the complaint;
- (c) Issue an Advisory Opinion;
- (d) Attempt to conciliate the complaint.

10401.2 A complainant may request at any time prior to any of the above actions being taken by the Director, that his/her request be withdrawn from further review. Any such request to withdraw the complaint must be made in writing with “Open Meetings Complaint Withdrawal” on the envelope or in the subject line or heading of electronic correspondence sent to opengovoffice@dc.gov.

10402 DISMISSAL OF COMPLAINTS

10402.1 The Director may dismiss a complaint on one or more of the following grounds:

- (a) The complaint does not raise issues within the Director’s authority under the Open Meetings Act;
- (b) The action complained of does not violate the Open Meetings Act;
- (c) The complainant declined to provide information the Director reasonably believed necessary to evaluate the complaint (or failed to respond in thirty (30) days to such a request);
- (d) The complaint becomes moot due to action taken by the Public Body.

10402.2 The Director will return a dismissed complaint to the requestor with an explanation of the reason(s) for dismissal.

10403 REVIEW OF COMPLAINTS

10403.1 In making findings and determinations under this chapter, the Director, or designee, shall consider the alleged violation; and including, but not limited to the following factors:

- (a) The nature, content, language or subject matter of the complaint;
- (b) The nature, content, language or subject matter of prior or contemporaneous complaints by the person making the complaint; and
- (c) The nature, content, language or subject matter of other verbal and written communications to any Public Body or any official of a Public Body from the person making the complaint.

10403.2 Upon review of the complaint, the Director may confirm the action of the public body, and settle the complaint without issuing a written advisory opinion if after construing all allegations most favorably to the complainant, that (a) the Public Body has not violated the Open Meetings Act; or (b) the Public Body has committed a technical violation of the Open Meetings Act that constitutes a harmless error that does not infringe the complainant’s rights under the Open Meetings Act.

10404 CONCILIATION OF COMPLAINTS

10404.1 Upon receipt of complaint, the Director will first seek to resolve disputes through conciliation.

10404.2 The goal of conciliation is to arrive at an acceptable resolution of the complaint through discussion and exchange of views. The Director will not issue an Advisory Opinion on a complaint resolved through conciliation.

10404.3 In the conciliation discussion, the Director (or the Director's designee) serves as facilitator.

10404.4 If conciliation is not successful, the Director may dismiss the complaint, investigate further, issue an Advisory Opinion or take any other step permitted in these regulations.

10405 INVESTIGATION OF COMPLAINTS

10405.1 The Director will complete the investigation of a complaint as quickly as possible.

10405.2 The Director may transmit a complaint to the Public Body complained of. The Public Body shall, in good faith, make every effort to respond within thirty (30) days. If the Public Body does not respond within thirty (30) days, the Director may issue an Advisory Opinion based on the information available from the complaint and any other relevant sources. In the case of Prospective Complaints, the Director may request a reasonable earlier deadline for a response from the Public Body.

10405.3 The Director may grant the Public Body one extension of up to five (5) business days in which to respond to the complaint. Any subsequent extensions may only be granted with the agreement of the complainant.

10405.4 The response from the Public Body must address the complaint and any other questions raised by the Director. A response that denies one or more violations of the Open Meetings Act should include an explanation. A response that admits one or more violations of the Open Meetings Act should include a plan of corrective action. The response must be signed by an individual (officer, counsel, staff) authorized to represent the Public Body.

10405.5 The Director will maintain the confidentiality of records of a closed meeting of a Public Body, providing they are submitted with clear markings of the portions to be kept sealed.

10405.6 The Public Body must provide a copy of its response at the same time to the Director and the complainant. The complainant's copy may omit records of a closed meeting.

10405.7 The Director may request further information from either the Public Body or the complainant, to be provided within a reasonable time, and in no event less than five (5) business days. The Director may request representatives of the Public Body and the complainant to attend an informal conference to discuss the complaint.

10405.8 The Director may dismiss a complaint for lack of cooperation in the investigation of the complaint by the complainant.

10406 ADVISORY OPINIONS

- 10406.1 Based on results of investigation, the Director will issue an Advisory Opinion addressing the complaint that a Public Body violated the Open Meetings Act. An Advisory Opinion explains the Director's findings of fact and understanding of the law. Where the Director concludes there was a violation, the Advisory Opinion will explain corrective actions completed or a schedule for completion. The advisory opinion is binding.
- 10406.2 The Director will issue an Advisory Opinion within thirty (30) days of the later of the following: receipt of the response from the Public Body; the last due date for any additional information requested; or the date of any informal conference.
- 10406.3 The Director will send the Advisory Opinion to the complainant and the Public Body, and will make it available to the public by posting on the Office of Open Government Website.
- 10406.4 If it is determined after investigation that a Public Body has willfully disregarded the provisions of the Open Meetings Act and or the requirements of this chapter, the Director shall bring suit in the Superior Court of the District of Columbia as provided under D.C. Official Code § 2-579 (2012 Repl.).

10407 PROSPECTIVE COMPLAINT PROCEDURES

- 10407.1 The Director may accept a complaint that a Public Body appears likely to take an action that will violate the Open Meetings Act.
- 10407.2 Prospective Complaints should be submitted in the same manner as indicated in Section 10400, and will be processed in general in the same manner as, other complaints, with reasonable modifications of deadlines so as to provide a timely response.
- 10407.3 The Director will take reasonable steps to reach prompt conclusions that may resolve the complaint and minimize future violations of the Open Meetings Act.

10408 PUBLIC BODY REQUESTS FOR ADVISORY OPINIONS

- 10408.1 The Director may issue an Advisory Opinion on the application of the Open Meetings Act at the request of a Public Body, as provided in D.C. Official Code § 2-579(g) (2012 Repl.).
- 10408.2 A request for an Advisory Opinion by a Public Body or member may be submitted in writing to the Office of Open Government, Board of Ethics and Government Accountability at 441 4th Street, NW, Suite 830 South, Washington D.C. 20001; by U.S. Postal; or by electronic means. Requests for Advisory

Opinions submitted by mail should be marked on the outside envelope “Advisory Opinion Request”. Requests may be submitted by email at opengovoffice@dc.gov, and should state “Advisory Opinion Request” in the subject line or heading of the communication.

10408.3 The Director will issue a written Advisory Opinion, and may upon approval of the requesting Public Body, post the opinion with the appropriate redactions to ensure confidentiality.

10408.4 The Director will review requests from Public Bodies as promptly as possible, and issue Advisory Opinions within thirty (30) days.

10409 TRAINING

10409.1 The Office of Boards and Commissions shall refer all Public Body members and administrative points of contact for public bodies to the Office of Open Government for annual mandatory training on the requirements of the Open Meetings Act and related regulations.

10409.2 As required by D.C. Official Code § 2-580 (2012 Repl.), the Director, together with the Office of Boards and Commissions, shall implement processes to ensure Public Bodies and staff complete annual training.

10409.3 The Director will establish procedures for assuring completion of training by members of Public Bodies and assigned staff subject to the Open Meetings Act within 60 (sixty) days of initially assuming relevant responsibilities.

10499 DEFINITIONS

“**Advisory Opinion**” means (i) an opinion issued by the Director upon investigation of a complaint alleging violation of the Open Meetings Act or (ii) an opinion issued by the Director following a request from a Public Body regarding its compliance with the Open Meetings Act.

“**Director**” means the head of the Office of Open Government as provided in D.C. Official Code § 2-594.

“**Prospective Complaint**” means a complaint about a future action of a Public Body that appears, to a complainant, likely to violate the Open Meetings Act.

“**Public Body**” has the meaning given in D.C. Official Code § 2-574(3).

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in

the *D.C. Register*, with Traci Hughes, Director of the Office of Open Government, Board of Ethics and Government Accountability, One Judiciary Square 441 4th Street, N.W., 830 South, Washington, DC 20001. Comments may also be sent electronically to bega@dc.gov. Please include "RULEMAKING COMMENT" in the subject line.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2012 Repl. & 2013 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption on an emergency basis of an amendment to Section 1929, entitled “Residential Habilitation Services”, of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules establish standards governing reimbursement of residential habilitation services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, for a five-year period beginning November 20, 2012. Residential habilitation services provide essential supports whereby groups of individuals share a home managed by a provider agency. These rules amend the previously published final rules by (1) increasing the rates, using the approved rate methodology, to reflect the increase in the D.C. Living Wage to ensure compliance with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)); and (2) changing the acronym for a Group Home for Persons with Intellectual Disabilities from GHMRP to GHPID to use people first respectful language.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of residential habilitation services. The ID/DD Waiver serves some of the District’s most vulnerable residents. The rate increase is necessary to ensure a stable workforce and provider base. In order to ensure that the residents’ health, safety, and welfare are not threatened, it is necessary that that these rules be published on an emergency basis.

The emergency rulemaking was adopted on September 16, 2014 and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days until January 16, 2015, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Section 1929, RESIDENTIAL HABILITATION, of Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, Title 29, PUBLIC WELFARE, of the DCMR is amended to read as follows:

1929 RESIDENTIAL HABILITATION SERVICES

- 1929.1 The purpose of this section is to establish standards governing Medicaid eligibility for residential habilitation services under the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver) and to establish conditions of participation for providers of residential habilitation services.
- 1929.2 Residential habilitation services are supports provided in a home shared by at least four (4), but no more than six (6) persons, to assist each person in acquiring, retaining, and improving self-care, daily living, adaptive and other skills needed to reside successfully in a shared home within the community.
- 1929.3 In order to be eligible for Medicaid reimbursement, residential habilitation services shall be:
- (a) Provided to a person with a demonstrated need for continuous training, assistance, and supervision; and
 - (b) Authorized in accordance with each person's Individual Support Plan (ISP) and Plan of Care.
- 1929.4 In order to be eligible for Medicaid reimbursement, the Waiver provider shall:
- (a) Use observation, conversation, and other interactions, guided by the person-centered thinking process, to develop a functional assessment of the person's capabilities within the first month of the person residing in the home;
 - (b) Participate in the development of the ISP and Plan of Care to ensure that the ISP goals are clearly defined;
 - (c) Assist in the coordination of all services that a person may receive by ensuring that all recommended and accepted modifications to the ISP are included in the current ISP;
 - (d) Develop a support plan with measurable outcomes using the functional analysis, the ISP, Plan of Care, and other information as appropriate, to enable the person to safely reside in the community and maintain their health;

- (e) Propose modifications to the ISP and Plan of Care, as appropriate;
- (f) Review the person's ISP and Plan of Care goals, objectives, and activities at least quarterly and more often, as necessary, and submit the results of these reviews to the DDS Service Coordinator within seven (7) business days of the end of each quarter; and
- (g) Keep daily progress notes as described under Subsection 1929.15(h).

1929.5

In order to be eligible for Medicaid reimbursement, each provider of residential habilitation services shall ensure that each person receives hands-on support, habilitation, and other supports, when appropriate, which shall include, but not be limited to, the following categories of support:

- (a) Eating and food preparation;
- (b) Personal hygiene;
- (c) Dressing;
- (d) Monitoring health and physical conditions;
- (e) Assistance with the administration of medication;
- (f) Communications;
- (g) Interpersonal and social skills;
- (h) Household chores;
- (i) Mobility;
- (j) Financial management;
- (k) Motor and perceptual skills;
- (l) Problem-solving and decision-making;
- (m) Human sexuality;
- (n) Opportunities for social, recreational, and religious activities utilizing community resources; and
- (o) Appropriate and functioning adaptive equipment.

- 1929.6 In order to be eligible for Medicaid reimbursement, each provider of residential habilitation services shall ensure that each person receives the professional services required to meet his or her goals as identified in the person's ISP and Plan of Care. Professional services may include, but are not limited to, the following disciplines:
- (a) Medicine;
 - (b) Dentistry;
 - (c) Education;
 - (d) Nutrition;
 - (e) Nursing;
 - (f) Occupational therapy;
 - (g) Physical therapy;
 - (h) Psychology;
 - (i) Social work;
 - (j) Speech, hearing and language therapy; and
 - (k) Recreation.
- 1929.7 In order to be eligible for Medicaid reimbursement, each Waiver provider shall ensure that transportation services are provided in accordance with Section 1904 (Provider Qualifications) of Chapter 19 of Title 29 DCMR.
- 1929.8 In order to be eligible for Medicaid reimbursement, each Waiver provider of residential habilitation services shall:
- (a) Comply with Sections 1904 (Provider Qualifications) and 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 of the DCMR;
 - (b) Provide verification of passing the Department on Disability Services (DDS), Provider Certification Review (PCR) for In-Home Supports or Respite for the last three (3) years. For providers with less than three (3) years of PCR certification, provide verification of a minimum of one (1) year of experience providing residential or respite services to the ID/DD population and evidence of PCR certification for each year that the provider was enrolled as a waiver provider in the District of Columbia;

- (c) Ensure that each residence is accessible to public transportation and emergency vehicles;
- (d) Have an executed, signed, current Human Care Agreement with DDS, if required by DDS; and
- (e) Be licensed as a Group Home for a Person with an Intellectual Disability (also known as Group Home for Mentally Retarded Persons [hereinafter GHPID]) in the District of Columbia or a similarly licensed group home in other states.

1929.9 In order to be eligible for Medicaid reimbursement, the Waiver provider shall demonstrate that a satisfactory rating was received pursuant to the DDS PCR process described under § 1929.8, unless waived by the Director or Deputy Director of DDS.

1929.10 In order to be eligible for Medicaid reimbursement, each GHPID located in the District of Columbia shall provide services to at least four (4), but no more than six (6) persons and shall meet the following requirements:

- (a) Be licensed pursuant to the Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*), no later than sixty (60) days after approval as a Medicaid provider; and
- (b) Comply with the requirements set forth in Chapter 35 of Title 22B of the District of Columbia Municipal Regulations (DCMR).

1929.11 In order to be eligible for Medicaid reimbursement, each out-of-state group home shall serve at least four (4), but no more than six (6) persons. Each group home located out-of-state shall be licensed or certified in accordance with the host state's laws and regulations, consistent with the terms and conditions set forth in an agreement between the District of Columbia and the host state. Each out-of-state provider shall comply with the following additional requirements:

- (a) Submit to DDS a certificate of registration to transact business within the District of Columbia issued pursuant to D.C. Official Code §§ 29-105.3 *et seq.*;
- (b) Remain in good standing in the jurisdiction where the program is located;
- (c) Submit to DDS a copy of the annual certification or survey performed by the host state and provider's corrective action plan, if applicable; and

- (d) Allow authorized agents of the District of Columbia government, federal government, and governmental officials of the host state, full access to all sites and records for audits and other reviews.

1929.12 In order to be eligible for Medicaid reimbursement, each Direct Support Professional (DSP) providing residential habilitation services as an agent or employee of a provider shall meet all of the requirements in Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 of the DCMR.

1929.13 An acuity evaluation to set support levels shall be recommended by the Support Team and approved by the DDS Waiver Unit. DDS shall review current staffing levels, available health and behavioral records, and any available standardized acuity instrument results to determine if a person has a health or behavioral acuity that requires increased supports. A person may be assessed at a support level that is consistent with their current staffing level, if other acuity indicators are not in place.

1929.14 The minimum daily ratio of on-duty direct care staff to persons enrolled in the Waiver and present in each GHPID that serves persons who are not determined by DDS to require a higher acuity level, shall not be less than the following:

- (a) 1:6 during the waking hours of the day, approximately 6:00 a.m. to 2:00 p.m., when persons remain in the GHPID during the day;
- (b) 1:4 during the period of approximately 2:00 p.m. to 10:00 p.m.; and
- (c) 1:6 during the sleeping hours of the night, approximately 10:00 p.m. to 6:00 a.m.

1929.15 In order to be eligible for Medicaid reimbursement, each provider of residential habilitation services shall maintain the following documents for monitoring and audit reviews:

- (a) A current written staffing plan;
- (b) A written explanation of staffing responsibilities when back-up staff is unavailable and the lack of immediate care poses a serious threat to the person's health and welfare;
- (c) Daily attendance rosters;
- (d) The financial documents required pursuant to the DDS Personal Funds policy available at <http://dds.dc.gov>;

- (e) The records of any nursing care provided pursuant to physician ordered protocols and procedures, charting, and other supports indicated in the physician's orders relating to development and management of the Health Management Care Plan;
 - (f) Any documents required to be maintained pursuant to the DDS Health and Wellness Standard Policy available at [http:// dds.dc.gov](http://dds.dc.gov);
 - (g) The daily progress notes, containing the following information:
 - (1) A written record of visitors and the person's participation in the visit;
 - (2) A list of all community activities attended by the person and the response to those activities;
 - (3) A list of the start and end time of any services received by the person residing in the residential habilitation facility including the DSP's signature; and
 - (4) A list of any matter requiring follow-up on the part of the service provider or DDS.
 - (h) Any documents required to be maintained under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 of the DCMR.
- 1929.16 Each provider shall comply with the requirements described under Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 of the DCMR.
- 1929.17 Residential habilitation services shall not be billed concurrently with the following Waiver services:
- (a) Environmental Accessibility Adaptation;
 - (b) Vehicle Modifications;
 - (c) Supported Living;
 - (d) Respite;
 - (e) Host Home;
 - (f) Shared Living;

- (c) In-Home Supports;
 - (h) Personal Emergency Response System; and
 - (i) Skilled Nursing.
- 1929.18 Residential habilitation services shall not be reimbursed when provided by a member of the person's family.
- 1929.19 Reimbursement for residential habilitation services shall not include:
- (a) Cost of room and board;
 - (b) Cost of facility maintenance, upkeep, and improvement;
 - (c) Activities for which payment is made by a source other than Medicaid;
 - (d) Time when the person is in school or employed; and
 - (e) Time when the person is hospitalized, on vacation, and not in the care of the residential habilitation provider, or any period when the person is not residing at the GHPID, and not in the care of the residential habilitation provider, except during an emergency situation when the person is temporarily residing in a hotel or other facility.
- 1929.20 The reimbursement rate for residential habilitation services shall only include time when staff is awake and on duty and shall include:
- (a) All supervision provided by the direct support staff;
 - (b) All nursing provided in the residence for medication administration, physician ordered protocols and procedures, charting, other supports as per physician's orders, and maintenance of Health Management Care Plan;
 - (c) Transportation;
 - (d) Programmatic supplies and fees;
 - (e) Quality assurance costs, such as Incident Management Systems and staff development; and
 - (f) General administrative fees for Waiver services.
- 1929.21 The reimbursement rate for residential habilitation services shall be a daily rate.

1929.22 The reimbursement rate for residential habilitation services for a GHPID with four (4) persons shall be as follows:

- (a) The Basic Support Level 1 daily rate shall be two hundred and forty-four dollars and forty-one cents (\$244.41) for a direct care staff support ratio of 1:4 for all awake and overnight hours;
- (b) The Moderate Support Level 2 daily rate shall be three hundred ninety dollars and twenty-three cents (\$390.23.) for a direct care staff support ratio of 1:4 for awake overnight and 2:4 during all awake hours when persons are in the home and adjusted for increased absenteeism;
- (c) The Enhanced Moderate Support Level 3 daily rate shall be four hundred and thirty-five dollars and thirty-seven cents (\$435.37) for a direct care staff support ratio of 2:4 staff awake overnight and 2:4 during all awake hours when persons are in the home and adjusted for increased absenteeism;
- (d) The Intensive Support daily rate shall be five hundred and sixty three dollars and fifty-seven cents (\$563.57) for a direct care staff support ratio of 2:4 staff awake overnight and 3:4 during all awake hours when persons are in the home and adjusted for increased absenteeism; and
- (e) The Intensive Support daily rate shall be six hundred and seventeen dollars and seventy-six cents (\$617.76) for twenty-four (24) hour licensed practical nursing services.

1929.23 The reimbursement rate for residential habilitation services for a GHPID with five (5) to six (6) persons shall be as follows:

- (a) The Basic Support Level 1 daily rate shall be three hundred and one dollars and ninety-five cents (\$301.95) for a direct care staff support ratio of 1:5 or 1:6 staff awake overnight and 2:5 or 2:6 during all awake hours when persons are in the home;
- (b) The Moderate Support Level 2 daily rate shall be three hundred forty-eight dollars and seventy-eight cents (\$348.78) for a direct care staff support ratio of 2:5 or 2:6 staff awake overnight and 2:5 or 2:6 during all awake hours when persons are in the home and adjusted for increased absenteeism;
- (c) The Enhanced Moderate Support Level 3 daily rate shall be four hundred eleven dollars and seventy-six cents (\$411.76) for a staff support ratio of 2:5 or 2:6 staff awake overnight and 3:5 or 3:6 during all awake hours when persons are in the home and adjusted for increased absenteeism;

- (d) The Intensive Support daily rate shall be five hundred twenty-one dollars and twenty-one cents (\$521.21) for increased direct care staff support for sleep hours to 2:5 or 2:6 for staff awake overnight support and 4:5 or 4:6 during all awake hours when persons are in the home and adjusted for increased absenteeism; and
- (e) The Intensive Support daily rate shall be five hundred and seventy-five dollars and ninety-eight cents (\$575.98) for twenty-four (24) hour licensed practical nursing services.

1929.24 The reimbursement rates assume a ninety-three (93) percent annual occupancy, and unanticipated absence from day/vocational services or employment due to illness, and planned absence for holidays.

1929.25 Daily activities may include but are not limited to day habilitation, employment readiness, individualized day supports, supported employment or employment.

Section 1999 (DEFINITIONS) is amended by adding the following:

Group Home for a Person with an Intellectual Disability (GHPID) - A community residence facility, other than an intermediate care facility for persons with intellectual or developmental disabilities, that provides a homelike environment for at least four (4) but no more than six (6) related or unrelated persons with intellectual disabilities who require specialized living arrangements and maintains necessary staff, programs, support services, and equipment for their care and habilitation.

Comments on the emergency and proposed rule shall be submitted, in writing, to Claudia Schlosberg, Acting Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, 9th Floor, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED 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 (2012 Repl.)), and the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption on an emergency basis, of an amendment to Section 1934, entitled “Supported Living Services,” of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules establish standards governing reimbursement of supported living services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia and renewed by the U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services, for a five-year period beginning November 20th, 2012. Supported living services are provided to persons with an assessed need for assistance with acquisition, retention, or improvement in skills related to activities of daily living, and the social and adaptive skills necessary to enable persons enrolled in the Waiver to reside and successfully participate in the community. These rules amend the previously published final rules by increasing the rates, using the approved rate methodology, to reflect the increase in the D.C. Living Wage to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)).

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of supported living services. The ID/DD Waiver serves some of the District’s most vulnerable residents. The rate increase is necessary to ensure a stable workforce and provider base. In order to ensure that the residents’ health, safety, and welfare are not threatened, it is necessary that that these rules be published on an emergency basis.

The emergency rulemaking was adopted on September 16, 2014 and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until January 14, 2015 unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Section 1934, SUPPORTED LIVING SERVICES, of Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29, PUBLIC WELFARE, of the DCMR is amended to read as follows:

1934 SUPPORTED LIVING SERVICES

- 1934.1 The purpose of this section is to establish standards governing Medicaid eligibility for supported living services under the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver) and to establish conditions of participation for providers of supported living services for Medicaid reimbursement.
- 1934.2 Supported living services are provided to persons enrolled in the Waiver who have limited informal supports and have an assessed need for assistance with acquisition, retention, or improvement in skills related to activities of daily living, and who require assistance with the development of social and adaptive skills that are necessary to enable the person to reside in the community and successfully participate in community activities.
- 1934.3 To be eligible for all Medicaid reimbursable supported living services, each person shall:
- (a) Have a documented need for assistance with acquisition, retention or improvement in skills related to activities of daily living;
 - (b) Require assistance with the development of social and adaptive skills necessary to enable the person to reside in the community and successfully participate in community activities; and
 - (c) Have an Individual Support Plan (ISP) and Plan of Care that identifies the need for supported living services.
- 1934.4 To be eligible for Medicaid reimbursement, twenty-four (24) hour one-to-one supported living services in a single occupancy supported living residence (SLR), each person shall:
- (a) Have a history of challenging behaviors that may put others at risk;
 - (b) Require intensive supports as determined by a psychological assessment which is updated annually or pursuant to a court order; and
 - (c) Have a behavior support plan (BSP) that identifies the challenging behaviors and the need for one-to-one supervision that was approved by the Department on Disability Services (DDS).

- 1934.5 Persons eligible for Medicaid reimbursable twenty-four (24) hour supported living services with skilled nursing must have a circulatory, respiratory, gastrointestinal, or neurological condition or any other serious medical condition that requires frequent monitoring or at least hourly care.
- 1934.6 To be eligible for Medicaid reimbursable twenty-four (24) hour supported living with skilled nursing services, the following documents shall be required:
- (a) A physician's order or an advanced practice registered nurse's (APRN) order documenting the scope, frequency, and duration of skilled nursing services; and
 - (b) A concise statement which sets forth the presenting problem that requires supported living with skilled nursing services and includes the responsibilities of the nurse.
- 1934.7 In order to be eligible for Medicaid reimbursable supported living periodic services in a supported living residence (SLR), each person shall:
- (a) Demonstrate a need for the acquisition, and improvement of skills related to activities of daily living and the social and adaptive skills necessary for community residence, as indicated in the ISP; and
 - (b) Be willing to be supported in their own home or SLR's without twenty four (24) hour supports and supervision.
- 1934.8 Medicaid reimbursable supported living services shall be provided in one of the following types of residence:
- (a) An SLR owned or leased by a Waiver provider; or
 - (b) A home owned or leased by the person receiving supported living services.
- 1934.9 In order to be eligible for Medicaid reimbursement, each provider, including an out-of-state provider of supported living services, shall be a Waiver provider agency and meet the following requirements:
- (a) Comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 of the DCMR;
 - (b) Provide verification of passing the DDS Provider Certification Review; and
 - (c) Have at least three (3) years of experience providing in-home supports services or respite services, unless waived by DDS, when applicable.

- 1934.10 In addition to the requirements described under § 1934.9, each out-of-state provider shall comply with the following additional requirements to receive Medicaid reimbursement:
- (a) Remain in good standing in the jurisdiction where the program is located, if licensed or certified by the host state;
 - (b) Submit a copy of the annual certification or survey performed by the host state and provider's corrective action, if applicable, to DDS; and
 - (c) Allow authorized agents of the District of Columbia government, federal government, and governmental officials of the host state full access to all sites and records for audits and other reviews.
- 1934.11 Medicaid reimbursable supported living services may be provided with or without transportation. Each Medicaid provider shall comply with the requirements set forth in Subsection 1904.5 of Title 29 DCMR, if transportation services are provided to enable persons to gain access to Waiver services and other community services and activities in a safe and efficient manner.
- 1934.12 If transportation services are provided by the Direct Support Professional (DSP), such that the DSP drives the person in the vehicle provided by the provider, the DSP shall meet the requirements governing transportation services set forth in Subsections 1904.5(j) and (k) (Provider Qualifications) of Chapter 19 of Title 29 of the DCMR.
- 1934.13 When Medicaid reimbursable supported living services are provided in a SLR, the SLR shall serve one (1) to three (3) related or unrelated persons. With the exception of couples who chose to share a bedroom, the number of persons in the SLR shall not exceed the number of bedrooms in the residence unless written approval from DDS is obtained.
- 1934.14 In order to receive Medicaid reimbursement, the Waiver provider shall include the person living in the residence in the lease, when the SLR is owned or leased by the Waiver provider, unless the person does not meet the leasing eligibility criteria.
- 1934.15 In order to be eligible for Medicaid reimbursement, each SLR located out-of-state shall be licensed or certified in accordance with the host state's laws and regulations and consistent with the terms and conditions set forth in an agreement between the District of Columbia and the host state.
- 1934.16 Each DSP shall meet all of the requirements set forth in Section 1906 (Requirements for Persons Providing Direct Services) of Chapter 19 of Title 29 of the DCMR.

1934.17 Each provider of Medicaid reimbursable supported living services shall assist persons in the acquisition, retention, and improvement of skills related to activities of daily living, and other social and adaptive skills necessary to enable the person to become a fully integrated member of their community. To accomplish these goals, the provider shall:

- (a) Use observation, conversation, and other interactions guided by a person-centered planning process to develop a functional assessment of the person's capabilities within the person's first month of service;
- (b) Develop a support plan with measurable outcomes using the functional assessment that was developed using a person-centered planning process, the ISP and Plan of Care, and other available information;
- (c) Develop and submit a quarterly report to the person, guardian, other members of the Support Team, and the DDS Service Coordinator describing the activities and support provided to help the person achieve identified outcomes and include progress to date; and
- (d) Develop and implement the Health Management Care Plan, when necessary.

1934.18 Each provider of Medicaid reimbursable supported living services shall ensure that each person receives the level of support he/she needs for habilitation and other supports, when appropriate, which shall include, but not be limited to, support for the following categories:

- (a) Eating and food preparation;
- (b) Personal hygiene;
- (c) Dressing;
- (d) Monitoring medication administration and healthcare needs;
- (e) Communications;
- (f) Interpersonal and social skills;
- (g) Household chores;
- (h) Mobility;
- (i) Financial management;
- (j) Motor and perceptual skills;

- (k) Problem-solving and decision-making;
- (l) Human sexuality;
- (m) Opportunity for individual social, recreational, and religious activities utilizing community resources based on the person's interests, beliefs, culture, and preferences; and
- (n) Ensuring that adaptive equipment is appropriate, functioning and well maintained.

1934.19 Each provider of Medicaid reimbursable supported living services shall ensure that staff delivering day habilitation, employment readiness, or supported employment services shall receive training about the person's health care needs as identified by the nurse, and are informed about any needs identified in the person's Health Management Care Plan and BSP.

1934.20 Each provider of Medicaid reimbursable supported living services shall ensure that each person enrolled in the Waiver receives the professional services required to meet his or her goals as identified in the person's ISP and Plan of Care. Professional services may include, but are not limited to, the following disciplines:

- (a) Medicine;
- (b) Dentistry;
- (c) Education;
- (d) Nutrition;
- (e) Nursing;
- (f) Occupational therapy;
- (g) Physical therapy;
- (h) Psychology;
- (i) Social work; and
- (j) Speech, hearing, and language therapy.

1934.21 Each provider of Medicaid reimbursable twenty-four (24) hour supported living services with skilled nursing shall:

- (a) Provide skilled nursing services and supports to the person living in the SLR;
- (b) Complete any skilled nursing assessment and document hourly nursing interventions and treatments; and
- (c) Provide as appropriate, all of the supported living activities listed in Subsections 1934.18 and 1934.19, and Subsection 1934.20.

1934.22

In order to be eligible for Medicaid reimbursement, the duties of a registered nurse delivering twenty-four (24) hour supported living services with skilled nursing shall be consistent with the scope of practice standards for registered nurses set forth in § 5414 of Title 17 of the DCMR. At a minimum, they may include the following duties:

- (a) Prepare an initial routine physical assessment, including an individualized service nursing plan and evaluation;
- (b) Assist in the development of the Health Management Care Plan;
- (c) Coordinate the person's care and referrals;
- (d) Administer medications and treatment as prescribed by a legally authorized healthcare professional licensed in the District of Columbia or consistent with the requirements of the appropriate jurisdiction;
- (e) Provide oversight of non-licensed medication administration personnel;
- (f) Provide wound care, tube feeding, diabetic care, and other treatment regimens prescribed by the physician, as needed;
- (g) Provide oversight and supervision to a licensed practical nurse, when delegating and assigning nursing interventions;
- (h) Record progress notes during each visit and complete quarterly reports; and
- (i) Provide training to the day habilitation, employment readiness, and supported employment staff on the person's healthcare needs by the nurse, including needs identified in the Health Management Care Plan, if applicable.

1934.23

In order to be eligible for Medicaid reimbursement, the duties of a licensed practical nurse delivering twenty-four (24) hour supported living services with skilled nursing, shall be consistent with the scope of practice standards for a

licensed practical nurse set forth in Chapter 55 of Title 17 of the DCMR. At a minimum, they may include the following duties:

- (a) Record progress notes during each visit and quarterly reports;
- (b) Report immediately, any changes in the person's condition, to the supervising registered nurse;
- (c) Provide wound care, tube feeding, diabetic care, and other treatment regimens prescribed by the physician; and
- (d) Administer medications and treatment as prescribed by a legally authorized healthcare professional licensed in the District of Columbia or consistent with the requirements of the jurisdiction in which the healthcare professional is licensed.

1934.24 Medicaid reimbursable supported living one-to-one services in a single occupancy means services provided to one person exclusively by a supported living service provider who has been trained in all general requirements and possesses all training required to implement the person's specific behavioral and/or clinical protocols and support plans for a pre-authorized length of time.

1934.25 Medicaid reimbursable supported living one-to-one services in a single-occupancy SLR shall only be permitted with prior annual approval by the DDS Human Rights Committee and Restrictive Control Review Committee, or a medical treatment plan signed by the person's physician. Providers delivering one-to-one services shall require the person to have a BSP that reflects the need for one-to-one supervision.

1934.26 The BSP shall be developed according to the requirements set forth in the DDA/DDS Behavioral Supports Policy and Procedure available at: <http://dds.dc.gov/page/policies-and-procedures-dda>.

1934.27 If providers of Medicaid reimbursable supported living services are delivering one-to-one supported living services pursuant to a BSP, the assessment shall be updated on an annual basis to determine if the services are necessary.

1934.28 If one-to-one supported living services are delivered pursuant to a court order, the order shall be verified on an annual basis, to determine if the services are necessary.

1934.29 Services shall only be authorized for Medicaid reimbursement in accordance with the following provider requirement procedures:

- (a) DDS shall provide a written service authorization before the commencement of services;

- (b) The service name and Waiver provider delivering services must be identified in the ISP and Plan of Care;
- (c) The ISP, Plan of Care, and Summary of Supports and Services must document the amount and frequency of services to be received; and
- (d) The services to be provided shall not conflict with the service limitations described under Subsection 1934.33.

1934.30 Each provider of Medicaid reimbursable supported living services shall maintain the records as prescribed under Section 1909 of Chapter 29 DCMR for monitoring and audit purposes for each person receiving services and shall also maintain the following documents:

- (a) If providing twenty-four (24) hour supported living services in a single occupancy or one-to-one supports, a copy of the annual BSP or court order;
- (b) A daily log of scheduled activities to include those activities participated in by the person and a schedule of when the person is in his or her home;
- (c) The records of any nursing care, procedures, and other supports related to the development and management of the Health Management Care Plan;
- (d) A record of monitoring and maintenance of adaptive equipment, if applicable;
- (e) A copy of the physician's order or an APRN's order specifying the type, frequency, scope, and duration of the skilled nursing services, if applicable;
- (f) A copy of the job description detailing the duties of the nurse delivering the service, if applicable; and
- (g) A copy of each assessment that the nurse has conducted and documentation of the hourly nursing interventions and treatments, if applicable.

1934.31 Each provider of Medicaid reimbursable supported living services shall meet the requirements described under Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.

1934.32 Each provider of Medicaid reimbursable supported living services shall comply with the following requirements:

- (a) Provide access and information as requested for service coordination visits and reviews;
- (b) Review the person's ISP and Plan of Care goals, objectives, and activities at least quarterly and more often, as necessary and submit the results of these reviews to the DDS Service Coordinator no later than seven (7) business days after the end of the first quarter, and each subsequent quarter thereafter;
- (c) Submit a quarterly report to the person, guardian, other members of the Support Team, and the DDS Service Coordinator describing the activities and support provided to help the person achieve his/her identified outcomes and his/her progress to date;
- (d) Propose modifications to the ISP and Plan of Care, as appropriate;
- (e) Participate in ISP and Plan of Care development;
- (f) Assist in the coordination of all services that a person may receive by ensuring that all recommended and accepted modifications to the ISP are amended to the current ISP; and
- (g) Coordinate the delivery of necessary behavioral support services, skilled nursing services, and other services, such as occupational therapy, physical therapy, from approved Waiver providers of those services based on the requirements of the ISP and Plan of Care.

1934.33 Reimbursement for Medicaid reimbursable supported living services shall not include:

- (a) Cost of room and board;
- (b) Cost of facility maintenance, upkeep and improvement, modifications or adaptations to a SLR or home to meet the requirements of the applicable life safety code;
- (c) Safety monitoring as a stand-alone task;
- (d) Activities for which payment is made by a source other than Medicaid;
- (e) Time when the person is in school or employed; and
- (f) Time when the person is hospitalized, on vacation independently, or any other time in which the person is not receiving direct care staff support from a provider.

- 1934.34 Medicaid reimbursable supported living services shall not include services delivered by the person's relative.
- 1934.35 Medicaid reimbursable supported living skilled nursing services shall not include custodial care.
- 1934.36 Medicaid reimbursable supported living services shall not be authorized concurrently with the following Waiver services:
- (a) Residential Habilitation;
 - (b) Respite;
 - (c) Host Home;
 - (d) Shared Living;
 - (e) In-Home Supports; and
 - (f) Transportation, when the provider chooses to provide supported living services with transportation services.
- 1934.37 The reimbursement rate for Medicaid reimbursable supported living services shall be calculated based on the staff on duty and shall include:
- (a) All supervision of the Direct Support Professional;
 - (b) All nursing provided in the residence for medication administration, physician ordered protocols and procedures, charting, other supports as per physician's orders, and maintenance of a Health Management Care Plan;
 - (c) All transportation, if applicable;
 - (d) Programmatic supplies and fees;
 - (e) Functioning adaptive equipment as ordered by a clinician;
 - (f) Quality assurance costs, such as incident management systems and staff development; and
 - (g) General administrative fees for Waiver services.
- 1934.38 Supported living services shall be Medicaid reimbursable for emergency situations when the person is not physically residing at the SLR or home, but is

temporarily residing in a hotel or other facility and continues to receive support from the provider.

- 1934.39 An acuity evaluation to set levels of support shall be determined by the Support Team and approved by the DDS Waiver Unit through review of current staffing levels; available health and behavioral records; and any available standardized acuity instrument results to determine if a person has a health or behavioral acuity that requires increased supports. A person may be assessed at a support level that is consistent with their current staffing level if other acuity indicators are not in place.
- 1934.40 Skilled nursing that is incorporated into the supported living Medicaid reimbursement rate is for routine physical assessment, the development of the Health Management Care Plan, nursing assessment, oversight of adaptive equipment, assistance with medication administration by non-licensed personnel, or actual administration of medication.
- 1934.41 The Medicaid reimbursement rate for supported living services without transportation shall be as follows:
- (a) Basic Support Level 1: Provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 during all hours when individuals are awake and receiving services. The reimbursement rate shall be two hundred fifty-six dollars and three cents (\$256.03) per day;
 - (b) Basic Support Level 2: Provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 1:3 during all awake hours when the residents are receiving services. The reimbursement rate shall be two hundred seventy-four dollars and eighteen cents (\$274.18) per day;
 - (c) Moderate Support Level 1: Provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during the remaining awake hours, and 1:3 staff asleep overnight coverage. The reimbursement rate shall be three hundred twenty dollars and ninety one cents (\$320.91) per day;
 - (d) Moderate Support Level 2: Provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during remaining awake hours, and 1:3 staff awake coverage overnight. The reimbursement rate shall be three hundred thirty-nine dollars and six cents (\$339.06) per day;
 - (e) Intensive Support Level 1: Provides support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake

overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be three hundred seventy-eight dollars and seventy-four cents (\$378.74) per day;

- (f) Intensive Support Level 2: Provides support for a home with three (3) residents and a direct care staff support ratio of 2:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be four hundred thirty-eight dollars and ninety-five cents (\$438.95) per day;
- (g) Basic Support Level 1: Provides asleep overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 during all hours when individuals are awake and receiving services. The reimbursement rate shall be three hundred and nineteen dollars and nine cents (\$319.09) per day;
- (h) Basic Support Level 2: Provides awake overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 1:2 during all awake hours when the residents are receiving services. The reimbursement rate shall be three hundred and forty-six dollars and four cents (\$346.04) per day;
- (i) Moderate Support Level 1: Provides awake overnight support for a home with two (2) residents and a direct care staff support ratio of 2:2 for four (4) hours a day, 1:2 during remaining awake hours and 1:2 staff awake coverage over night. The reimbursement rate shall be four hundred and ten dollars and forty-one cents (\$410.41) per day;
- (j) Moderate Support Level 2: Provides support in a SLR with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for eight (8) hours a day, 1:2 during remaining awake hours when residents are in the home and adjusted for increased absenteeism. The rate shall be four hundred and ninety-five dollars and seventy-one cents (\$495.71) per day;
- (k) Intensive Support Level 1: Provides support in a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for all awake hours when residents are in the home and adjusted for increased absenteeism. The rate shall be five hundred and thirty-four dollars (\$534.00) per day;
- (l) Supported living periodic services, as described under Section 1934.6, shall be authorized up to sixteen (16) hours per day without transportation. The hourly rate shall be twenty-three dollars and seventy-six cents

(\$23.76) billable in quarter hour units (fifteen minutes) of five dollars and ninety-four cents (\$5.94) per billable unit;

- (m) There shall be a specialized service rate for supported living with skilled nursing services, described under Subsection 1934.5. The rate shall be six hundred and two dollars and fifty-four cents (\$602.54) per day without transportation, when there are at least three (3) people living in the SLR or residing in a home that require skilled nursing services and demonstrate extraordinary medical needs; and
- (n) There shall be a specialized service rate for twenty-four hour one-to-one supported living service for a person living in a single occupancy SLR, described under Subsection 1934.4. The rate shall be five hundred sixty-three dollars and twenty cents (\$563.20) for asleep overnight staff and six hundred and twenty-four dollars (\$624.29) for one-to-one awake overnight staff.

1934.42 The Medicaid reimbursement rate for supported living services with transportation shall be as follows:

- (a) Basic Support Level 1: Provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 during all hours. The reimbursement rate shall be two hundred seventy-six dollars and thirty-seven cents (\$276.37) per day;
- (b) Basic Support Level 2: Provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 1:3 during all awake hours. The reimbursement rate shall be two hundred and ninety-four dollars and fifty-two cents (\$294.52) per day;
- (c) Moderate Support Level 1: Provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during the remaining awake hours, and 1:3 staff asleep overnight coverage. The reimbursement rate shall be three hundred and forty-one dollars and twenty-five cents (\$341.25) per day;
- (d) Moderate Support Level 2: Provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during remaining awake hours, and 1:3 staff awake coverage overnight. The reimbursement rate shall be three hundred and fifty nine dollars and forty cents (\$359.40) per day;
- (e) Intensive Support Level 1: Provides support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving

services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be three hundred and ninety-nine dollars and eight cents (\$399.08) per day;

- (f) Intensive Support Level 2: Provides support for a home with three (3) residents and a direct care staff support ratio of 2:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be four hundred and fifty-nine dollars and twenty-nine cents (\$459.29) per day;
- (g) Basic Support Level 1: Provides asleep overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 staff asleep overnight coverage and 1:2 staff awake coverage when residents are receiving services. The reimbursement rate shall be three hundred and thirty-nine dollars and forty-three cents (\$339.43) per day;
- (h) Basic Support Level 2: Provides overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 1:2 during all awake hours when the resident is receiving services. The reimbursement rate shall be three hundred and sixty six dollars and thirty-eight cents (\$366.38) per day;
- (i) Moderate Support Level 1: Provides awake overnight daily rate for a home with two (2) residents and a direct care staff support ratio of 2:2 for four (4) hours a day, 1:2 during remaining awake hours and 1:2 staff awake coverage overnight shall be four hundred and thirty dollars and seventy-five cents (\$430.75) per day;
- (j) Moderate Support Level 2: Provides support in a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for eight (8) hours a day, 1:2 during remaining awake hours when residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be five hundred and sixteen dollars and five cents (\$516.05) per day;
- (k) Intensive Support Level 1: Provides support in a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for all awake hours when residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be five hundred and fifty four dollars and thirty-four cents (\$554.34) per day;
- (l) Supported Living periodic services, described under Section 1934.6, shall be authorized up to sixteen (16) hours per day. The hourly rate shall be twenty six dollars and thirty two cents (\$26.32) per hour billable in quarter

hour units of six dollars and fifty-eight cents (\$6.58) per fifteen (15) minute unit; and

- (m) There shall be a specialized service rate for supported living with skilled nursing services, described under Section 1934.5. The reimbursement rate is six hundred and twenty-two dollars and eighty-eight cents (\$622.88) per day, when there are at least three (3) people living in the SLR or home that require Skilled Nursing Services and demonstrate extraordinary medical needs.
- (n) There shall be a specialized service rate for twenty-four hour one-to-one supported living service for a person living in a single occupancy SLR, described under Section 1934.4. The reimbursement rate is five hundred and eighty-three dollars and fifty-four cents (\$583.54) for asleep overnight staff and six hundred and forty-four dollars and sixty-three cents (\$644.63) for one-to-one awake overnight staff.

1934.43 For purposes of staffing and determining the Medicaid reimbursement rates for supported living services, awake hours of the day with absence from day program, weekend, or holiday shall be the time period between 6:00 a.m. to 10:00 p.m., and for purposes of awake hours for all other days shall be the time period from 6:00 a.m. to 10:00 a.m. and 2:00 p.m. to 10:00 p.m.

1934.44 For purposes of staffing and determining the Medicaid reimbursement rates for supported living services, the overnight period shall be the time period between 10:00 p.m. to 6:00 a.m.

1934.45 The billable unit of service for Medicaid reimbursable supported living services excluding periodic supported living services, shall be one (1) day (*i.e.* twenty-four (24) hours.)

1934.46 The Medicaid reimbursement rate assumes a ninety-three (93%) annual occupancy and includes any unanticipated absences due to illness from any day/vocational services.

1934.47 Each provider of Medicaid reimbursable supported living services shall maintain the staffing ratio, described under Subsections 1934.40 and 1934.41, associated with the approved acuity rate for the residence. The DDA Service Coordinator shall generate an incident report if it is discovered that the staffing ratio is not maintained during DDA's quarterly visits to the SLR.

1934.48 The Medicaid provider shall notify the DDS Service Coordinator to schedule a meeting to address the cause of any unanticipated absences that may result in a less than 93% occupancy rate or a reduced staffing ratio.

- 1934.49 Daily activities including participation in day programs such as day habilitation services, individualized day supports services, employment readiness or supported employment services, and are typically scheduled for five (5) hours per day, five (5) days per week. The reimbursement rate for Medicaid reimbursable supported living periodic services shall not include any period of time during which the person is enrolled in a day program.
- 1934.50 Medicaid reimbursable supported living periodic services are calculated based on the time the person is scheduled to be in their place of residence, except the provider may include the time the person is being transported by the provider to day programs, employment, professional appointments, community activities, and events.

Section 1999, DEFINITIONS, is amended by adding the following:

Couples - A couple refers to those married or unmarried persons in a relationship, including same-sex relationships.

Health Management Care Plan- A written document designed to evaluate a person's health care status and to provide recommendations regarding the treatment and amelioration of health care issues by identifying types of risk, interventions to manage identified risks, persons responsible for carrying out interventions, and persons responsible for providing an evaluation of outcomes and timeframes.

Person – An individual enrolled in the Home and Community Based Services Waiver for Individuals with Intellectual and Developmental Disabilities.

Supported Living Residence (SLR) - A residence owned or leased by the provider or a residence owned or leased by the person receiving services.

Comments on the emergency and proposed rule shall be submitted, in writing, to Claudia Schlosberg, Acting Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, 9th Floor, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 4 of the Immunization of School Students Act of 1979, effective September 28, 1979 (D.C. Law 3-20; D.C. Official Code § 38-503 (2012 Repl.)); Mayor's Order 2006-117, dated September 5, 2006; § 1 of An Act to authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939 (53 Stat. 1408, ch. 601, § 1; D.C. Official Code § 7-131 (vol.)); and § 2 of Mayor's Order 98-141, dated August 20, 1998; hereby gives notice of the adoption, on an emergency basis, of the following amendments to Chapter 1 (Protection of Public Health) of Title 22 (Health), Subtitle B (Public Health and Medicine), of the District of Columbia Municipal Regulations (DCMR).

These rules will clarify that religious exemptions and HPV opt-outs must be filed for each year they are claimed. The rule will also expand HPV immunization to include boys and all children from grade six (6) through grade twelve (12). Presently, only children through age 16 are required to be immunized.

Emergency action is necessary to ensure that the largest number of students may be immunized before the school year begins. The Emergency and Proposed Rules were adopted September 22, 2014, became effective immediately on that date, and shall continue in effect for 120 days, until January 21, 2015, unless superseded by a Notice of Final Rulemaking published in the *D.C. Register*.

The Director also gives notice of his intent to take final rulemaking action to adopt the rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 1, PROTECTION OF PUBLIC HEALTH, of Title 22, HEALTH, Subtitle B, PUBLIC HEALTH AND MEDICINE, is amended as follows:

Section 129, IMMUNIZATION: REPORTS AND GENERAL PROVISIONS, is amended by adding a new Subsection 129.8 to read as follows:

129.8 A person claiming religious exemption from immunization for a child shall file the form at the beginning of each school year for each child for which the exemption is claimed. A person electing to opt-out of immunization with the HPV vaccination for a child shall file the form at the beginning of each school year for each child for which there is an opt-out to be filed.

Section 146, HUMAN PAPILOMAVIRUS (HPV), is amended as follows:

Subsection 146.1 is amended to read as follows:

146.1 Beginning with the 2014/2015 school year, a student enrolling in grade six (6) shall receive the first dose of HPV vaccine at age eleven (11). Students enrolling in grades seven (7) through twelve (12) who have not previously been immunized for HPV shall receive the vaccine before enrollment or provide an opt-out form, as provided in § 146.4.

Subsection 146.4 is amended to read as follows:

146.4 The parent or legal guardian of a student required to receive a vaccine under this section may opt out of the vaccination for any reason by signing a form provided by the Department that states that the parent or legal guardian has been informed of the HPV vaccination requirement and has elected not to participate. A student eighteen (18) years of age or older may opt out on his or her own behalf by signing a form provided by the Department that states that the student has been informed of the HPV vaccination requirement and has elected not to participate.

Comments on the proposed rules should be sent in writing to the Department of Health, Office of the General Counsel, 5th Floor, 899 North Capitol Street, NE, Washington, DC 20002, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained Monday through Friday, except holidays, between the hours of 8:15 A.M. and 4:45 P.M. at the same address. Questions concerning the rulemaking should be directed to Angli Black, Administrative Assistant, at Angli.Black@dc.gov or (202) 442-5977.

METROPOLITAN POLICE DEPARTMENT**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Chief of the Metropolitan Police Department (Chief), pursuant to the authority under Section 910 of the Firearms Regulations Control Act of 1975 (Act), effective October 9, 2014 (D.C. Act 20-0447; 61 DCR 10765 (October 17, 2014)), and any substantially similar emergency, temporary, or permanent versions of this legislation, hereby gives notice of the adoption on an emergency basis of amendments to Chapter 23 (Guns and Other Weapons) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR).

Emergency rulemaking action is necessary to establish procedures for licensing by the Metropolitan Police Department (MPD) of persons to carry concealed firearms for self-defense. A recent court decision has determined that such a licensing scheme must be in place before the District of Columbia can enforce its criminal provisions against carrying firearms openly or concealed. As a result of the injunction issued in that decision, there is an immediate need to protect the health, safety, security, and welfare of District residents by having a licensing scheme immediately implemented, as further described in the License to Carry a Pistol Emergency Declaration Resolution, effective September 23, 2014 (Res. 20-615; 61 DCR 10491 (October 10, 2014)).

This emergency rulemaking was adopted on October 22, 2014, became effective immediately, and will remain in effect for up to one hundred twenty (120) days from the date of its adoption, until February 19, 2015, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*.

In addition, the Chief gives notice of the intent to take final rulemaking action to adopt these amendments in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

SUMMARY OF LICENSING SCHEME

The Act delegates rulemaking authority to the Chief to implement the concealed carry licensing scheme re-instituted by the Act. The Act permits the Chief to issue a concealed pistol carry license to a person who: 1) a) demonstrates: good reason to fear injury to his or her person or property; or b) has any other proper reason for carrying a pistol; and 2) is a suitable person to be so licensed. This rulemaking establishes standards by which the Chief will exercise the discretion the Act vests in him or her for each of the above requirements. The rulemaking also establishes application and investigation procedures. The rulemaking does not cover all regulations required by the Act for the licensing of concealed pistols. Future rulemakings will establish renewal procedures and a separate rulemaking issued by the Mayor will establish procedures for the Concealed Pistol Licensing Review Board.

Some of the standards the Chief will use to consider license applications were established in the Act by the Council of the District of Columbia (Council). The Council derived the standards found in similar “may issue” handgun licensing or permitting schemes in the States of Maryland

(good and substantial reason standard), New Jersey (justifiable need standard), and New York (proper cause standard). All of these schemes have been sustained as constitutional by U.S. Courts of Appeals. Additionally, some of the standards in these regulations have been adapted from the above states and earlier MPD regulations. Many of the application and investigation procedures were adapted from Maryland regulations. Key portions of the rulemaking include:

Good Reason To Fear Injury To Person Or Property

These regulations include the Act's standards for "good reasons to fear injury to person or property" which includes "showing a special need for self-protection distinguishable from the general community as supported by evidence of specific threats or previous attacks which demonstrate a special danger to the applicant's life."

The requirement of "showing a special need for self-protection distinguishable from the general community as supported by evidence of specific threats or previous attacks" includes language from New Jersey regulations defining the term "justifiable need" as well as New York City's regulations defining the term "proper cause". The requirement that the threats or attacks "demonstrate a special danger to applicant's life" includes language contained in New Jersey regulations defining "justifiable need."

The standard that a high crime area by itself does not establish good cause is language that appeared in the District's prior concealed carry regulations and also appears in New York regulations.

Other Proper Reason for Carrying a Pistol

These regulations establish standards for "other proper reasons for carrying a pistol." One standard is employment of a type that requires the handling of large amounts of cash or other highly valuable objects that must be transported upon the applicant's person." This standard, in some form, is found in the laws or regulations of Maryland, New Jersey, and New York City. Another standard is "the need for a parent, son, daughter, sibling or other adult member of the immediate family to provide protection of a family member who is physically or mentally incapacitated to a point where he or she cannot act in defense of himself or herself, or his or her property." That standard was adapted from a similar standard that appeared in MPD's prior regulations.

Suitability To Obtain A Concealed Carry License

These regulations establish standards for suitability to obtain a concealed carry license, which include completion of a firearms safety and proficiency training course. Firearms safety and proficiency training courses are required by Maryland, New Jersey, Illinois, and many other states. The suitability standard excludes applicants who are addicts or habitual users of alcohol or controlled substances, exhibit a propensity for violence or instability, or suffer from mental illness of a type that should prevent the carrying of a pistol. All of these standards are present and applied in Maryland, New Jersey, and New York. They were also part of MPD's prior regulations. The Council has narrowed the mental health standard that was present in the prior

regulations. The prior regulations required a showing of a “sound mind.” Indications of an unsound mind included suffering from “any mental disorder” occurring during the previous five (5) years. The Act and this rulemaking limit the mental health determination to a mental illness, or condition that creates a substantial risk that an applicant is a danger to himself or others. The consideration of mental health issues creating a danger to self or others is found in some form in both Maryland and New York. Additionally, the Chief adapted language in the prior regulations to provide that an applicant with a mental health history that would otherwise render an applicant ineligible can submit a notarized report under oath from a registered psychologist or psychiatrist. The applicant must have a bona fide patient relationship with the psychologist or psychiatrist, have been examined within six (6) months prior to submitting the statement, and have been found that he or she is no longer suffering from any mental disorder, illness, or condition that creates a substantial risk that he or she is a danger to himself or herself or others.

Preliminary Approval Option

These regulations establish three (3) methods for an applicant to satisfy the firearms training requirements established by the Act. An applicant may first obtain a certificate of completion for the required firearms training and submit the certificate as part of an application. The Act also provides certain circumstances under which an applicant may also submit a request for an exemption from the firearms training as part of the application. Lastly, the applicant may submit a statement of intent to complete firearms training after the Chief considers all other matters contained in the application and issues a preliminary approval. The last method was designed to allow an applicant to receive a determination of eligibility for a conceal carry license before he or she would have to expend time and money to complete the required firearms training.

Chapter 23, GUNS AND OTHER WEAPONS, of Title 24, PUBLIC SPACE AND SAFETY, of the DCMR is amended as follows:

Section 2331, FEES, is amended to read as follows:

2331 FEES

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

- (a) Accident reports – \$3.00;
- (b) Arrest records – \$7.00;
- (c) Fingerprints – \$35.00;
- (d) Firearm registration – \$13.00;
- (e) Firearms training instructor certification – \$400.00;
- (f) Transcript of records – \$3.00; and

- (g) License to carry a pistol – \$75.00.

New Sections 2332 through 2346 are added to read as follows:

2332 LICENSES FOR CONCEALED PISTOLS

2332.1 A person is eligible for issuance of a license to carry a concealed pistol (concealed carry license) only if the person:

- (a) Is twenty-one (21) years of age;
- (b) Meets all of the requirements for a person registering a firearm pursuant to the Firearms Control Regulations Act of 1975 (the Act), effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code §§ 7-2501.01 *et seq.* (2012 Repl. & 2014 Supp.));
- (c) Possesses a pistol registered pursuant to the Act;
- (d) Does not currently suffer nor has suffered in the previous five (5) years from any mental illness or condition that creates a substantial risk that he or she is a danger to himself or herself or others; provided that if the person no longer suffers such mental illness or condition, and that person has provided satisfactory documentation required under § 2337.3, then the Chief may determine that this requirement has been met;
- (e) Has completed a firearms training course, or combination of courses, conducted by an instructor (or instructors) certified by the Chief;
- (f) Has a bona fide residence or place of business:
 - (1) Within the District of Columbia;
 - (2) Within the United States and a license to carry a pistol concealed upon his or her person issued by the lawful authorities of any State or subdivision of the United States; or
 - (3) Within the United States and meets all registration and licensing requirements pursuant to the Act;
- (g) Has demonstrated to the Chief good reason to fear injury to his or her person or property or has any other proper reason for carrying a pistol; and
- (h) Is a suitable person to be so licensed.

2333 GOOD REASON TO FEAR INJURY TO PERSON OR PROPERTY

- 2333.1 A person shall demonstrate a good reason to fear injury to his or her person by showing a special need for self-protection distinguishable from the general community as supported by evidence of specific threats or previous attacks which demonstrate a special danger to the applicant's life.
- 2333.2 For the purposes of satisfying the specifications of § 2333.1, a person shall allege, in writing, serious threats of death or serious bodily harm, any attacks on his or her person, or any theft of property from his or her person. The person shall also allege that the threats are of a nature that the legal possession of a pistol is necessary as a reasonable precaution against the apprehended danger.
- 2333.3 The person shall provide all evidence of contemporaneous reports to the police of such threats or attacks, and disclose whether or not the applicant has made a sworn complaint to the police or the courts of the District of Columbia concerning any threat or attack.
- 2333.4 The fact that a person resides in or is employed in a high crime area shall not by itself establish a good reason to fear injury to person or property for the issuance of a concealed carry license.

2334 OTHER PROPER REASON FOR CONCEALED CARRY LICENSE

- 2334.1 A person may allege any other proper reason that the Chief may accept for obtaining a concealed carry license which may include:
- (a) Employment of a type that requires the handling of large amounts of cash or other highly valuable objects that must be transported upon the applicant's person; or
 - (b) The need for a parent, son, daughter, sibling, or other adult member of the immediate family to provide protection of a family member who is physically or mentally incapacitated to a point where he or she cannot act in defense of himself or herself, or his or her property.

2335 SUITABILITY TO OBTAIN A CONCEALED CARRY LICENSE

- 2335.1 A person is suitable to obtain a concealed carry license if he or she:
- (a) Meets all of the requirements for a person registering a firearm pursuant to the Act;
 - (b) Has completed a firearms training course, or combination of courses, conducted by an instructor (or instructors) certified by the Chief;

- (c) Is not presently an alcoholic, addict, or habitual user of a controlled dangerous substance, unless the habitual use of a controlled dangerous substance is under licensed medical direction;
- (d) Has not exhibited a propensity for violence or instability that may reasonably render the person's possession of a concealed pistol a danger to the person or another; and
- (e) Does not currently suffer nor has suffered in the previous five (5) years from any mental disorder, illness or condition that creates a substantial risk that he or she is a danger to himself or herself or others, or if the Chief has determined that the person is suitable based upon documentation provided by the person pursuant to § 2337.3.

2336 FIREARMS TRAINING COURSE REQUIREMENTS

2336.1 To satisfy the firearms training eligibility requirement of § 2332.1(e), a person shall obtain a certificate of completion from an instructor (or instructors) certified by the Chief that includes at least sixteen (16) hours of training, and covers the following:

- (a) Firearm safety, including firearm safety in the home, a discussion of prevention of access by minors, locking and storing of firearms, and use of safety devices such as secure lock boxes;
- (b) Firearm nomenclature;
- (c) The basic principles of marksmanship;
- (d) The care, cleaning, maintenance, loading, unloading, and storage of pistols;
- (e) Situational awareness, conflict management, and moral and ethical decisions on the use of deadly force;
- (f) Defensive pistol and ammunition selection; and
- (g) All applicable District and federal firearms laws, including the requirements of the Act, An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 650; D.C. Official Code §§ 22-4501 *et seq.*), and District law pertaining to self-defense.

2336.2 In addition to the requirements of § 2336.1, a person shall complete at least two (2) hours of range training, including shooting a qualification course of fifty (50)

rounds of ammunition from a maximum distance of fifteen (15) yards (forty-five (45) feet), and receiving a qualifying score of seventy percent (70%) as certified by the instructor.

2336.3 The Chief may, on a case by case basis, exempt a person from the requirements of §§ 2336.1 and 2336.2 if the person submits evidence that he or she has received firearms training in the U.S. military or has otherwise completed firearms training conducted by a firearms instructor that, as determined by the Chief, is equal to or greater than that required by the Act.

2336.4 An applicant may submit to the Chief the application required under § 2337 without including the certificate of completion of training required by this section; provided that if the Chief preliminarily approves the application pursuant to § 2339, the applicant has forty-five (45) days to submit the certificate of completion and successfully complete the range training.

2337 CONCEALED CARRY APPLICATIONS

2337.1 A complete concealed carry license application shall be submitted to the Firearms Registration Section in the format and on forms prescribed by the Chief.

2337.2 The application shall include:

- (a) The applicant's name, address, driver's license number or other government issued photo identification number, place and date of birth, height, weight, race, sex, eye and hair color, occupation, and home and work telephone numbers, and email (optional);
- (b) If applying as a District resident or business owner, proof of a bona fide District residence or place of business;
- (c) Evidence of completion or intent to complete the firearms training requirements in § 2336 by:
 - (1) Proof of the applicant's completion of a firearm training course within the past two (2) years in the manner prescribed by the Chief in § 2336;
 - (2) Support for the applicant's request for an exemption from the firearm training course requirement as permitted by the Act; or
 - (3) If the applicant chooses to seek a preliminary approval pursuant to § 2339, then the applicant shall certify that he or she will provide proof of completion of the firearms training requirements within forty-five (45) days of the Chief's provisional approval of the application pursuant to § 2339;

- (d) A complete set of the applicant's fingerprints, taken and submitted in the manner prescribed by the Chief on the application;
- (e) A declaration by the applicant as to whether or he or she currently suffers or has suffered in the previous five (5) years from any mental disorder, illness, or condition that creates a substantial risk that he or she is a danger to himself or herself or others. If the applicant attests to suffering from any mental disorder, illness, or condition, the applicant shall sign an authorization to disclose any treatment records related to those circumstances;
- (f) An authorization by the applicant to the Department of Behavioral Health, or any other similar agency or department of another state to disclose to the Chief information as to whether the applicant:
 - (1) Suffers from a mental illness or condition and has a history of violence; or
 - (2) Has been voluntarily or involuntarily committed to a mental health facility or an institution that provides treatment or services for individuals with a mental illness or condition;
- (g) Proof, including any documents, statements of third parties taken under oath and before a notary, or personal statements of the applicant to demonstrate to the Chief that the person has good reason to fear injury to his or her person or property or has any other proper reason for carrying a pistol;
- (h) Any information reasonably required by the Chief, as part of the application form or materials, to complete an investigation required by § 2338;
- (i) A declaration by the applicant that the applicant is not prohibited under federal or District law, or state law of the applicant's residence, from possessing a handgun;
- (j) A declaration by the applicant, under the penalty of perjury, that all information in the application is true and accurate; and
- (k) A declaration by the applicant acknowledging that the applicant shall be responsible for compliance with all federal and District laws, rules, regulations, and procedures that are applicable to this license.

2337.3

The Chief may find the applicant has satisfied the requirements of § 2331.1(d) if the applicant submits a notarized report under oath from a registered psychologist

or psychiatrist, with which the applicant has bona fide patient relationship, stating that the psychologist or psychiatrist has examined the applicant within six (6) months prior to submitting the statement and found the applicant to no longer to be suffering from any mental illness or condition that creates a substantial risk that he or she is a danger to himself or herself or others.

2337.4 The application must be accompanied by the fees for Fingerprints and License to carry a pistol listed in §§ 2331.1(c) and (g), respectively.

2337.5 The Chief may waive some or the entire application fee for good cause shown on the application.

2337.6 Any knowing material omission or false statement made by or provided by the applicant may be considered grounds for denial of a conceal carry license, or revocation for a license falsely obtained, and may subject the person to criminal prosecution for perjury.

2338 INVESTIGATION OF APPLICATION

2338.1 The Chief shall conduct an investigation of every applicant within a reasonable period of time after receipt of a completed application.

2338.2 The following areas shall be a part of the investigation of every applicant and shall be considered by the Chief in determining whether a concealed carry license shall be issued:

- (a) Age of the applicant;
- (b) Occupation, profession, or employment of the applicant;
- (c) Verification of the applicant's eligibility, including a firearms training course completion certificate from a certified trainer;
- (d) Verification of the information supplied by the applicant in the application;
- (e) Information received from personal references and other persons interviewed;
- (f) Information received from business or employment references as may be necessary in the discretion of the investigator;
- (g) Criminal record of applicant, including any juvenile record.
- (h) Medical or mental health history of applicant as it may pertain to the applicant's fitness to carry, wear, or transport a handgun;

- (i) Psychiatric or psychological background of the applicant as it may pertain to the applicant's fitness to carry, wear, or transport a handgun;
- (j) The applicant's propensity for violence or instability that could reasonably render the applicant's wearing, carrying, or transporting of a handgun a danger to the applicant or to others;
- (k) The applicant's use of intoxicating beverages or drugs;
- (l) The reasons given by the applicant for carrying, wearing, or transporting a handgun, and whether those reasons demonstrate good cause;
- (m) Whether the permit is necessary as a reasonable precaution for the applicant against apprehended danger; and
- (n) Any other areas the Chief determines are reasonably necessary to determine if the applicant is eligible to obtain a concealed carry license.

2339 PRELIMINARY APPROVAL

- 2339.1 The Chief shall issue a preliminary approval to carry a concealed pistol or provide a written denial of the application within a reasonable time after receiving an application containing all required supporting documents, with the exception of proof of completion of the firearms training requirements. A reasonable period of time shall normally be within ninety (90) days; however, the time may be extended by the Chief for an additional ninety (90) days where there is good cause for additional time to complete the investigation and the applicant is so notified in writing.
- 2339.2 After completing the investigation of the application, the Chief shall either:
- (a) Deny the application pursuant to § 2340; or
 - (b) Issue a preliminary approval of the application.
- 2339.3 If the Chief issues a preliminary approval of the application, it shall:
- (a) Be in writing;
 - (b) Notify the applicant that he or she has forty-five (45) days from the date of the preliminary approval to provide proof of completion of the firearms training course requirements in §§ 2336.1 and 2336.2; and

- (c) Notify the applicant that the Chief may deny the application pursuant to § 2340 if the applicant fails to provide the documentation required under subsection (b) within the allotted time.

2339.4 If the applicant provides the information required under § 2339.3(b), the application shall be deemed complete and the Chief shall issue the license pursuant to § 2340.

2340 ISSUANCE OR DENIAL

2340.1 The Chief shall issue a license to carry a concealed pistol or provide a written denial of the application within a reasonable time after receiving a completed application. A reasonable period of time shall normally be within ninety (90) days; however, the time may be extended by the Chief for an additional ninety (90) days where there is good cause for additional time to complete the investigation and the applicant is so notified in writing.

2340.2 A completed application shall satisfy all the requirements prescribed by the Chief including evidence that applicant has satisfied the firearms training requirements in § 2336.

2340.3 A written denial provided by the Chief shall contain the reasons the application was denied and a statement of the applicant's appeal rights.

2340.4 The Chief may limit the geographic area, circumstances, or times of the day, week, month, or year in which a license is valid or effective.

2340.5 Unless otherwise limited by the Chief, a concealed carry license expires two (2) years from the date of issuance.

2341 REVOCATION

2341.1 The Chief may revoke a concealed carry license on a finding that the licensee:

- (1) No longer satisfies one or more of the concealed carry license qualifications set forth in the Act or any regulation authorized by the Act; or
- (2) Failed to comply with one or more requirements or duties imposed upon the licensee by the Act or any regulation authorized by the Act.

2341.2 The Chief shall provide written notification to a person whose license is revoked.

2341.3 A written notice of revocation shall contain the reasons the license was revoked and a statement of the licensee's appeal rights.

2341.4 A person whose license is revoked shall return the license to the Firearms Registration Section within ten (10) days after receipt of the notice of revocation.

2342 APPEAL

2342.1 A person whose original or renewal permit application is denied or whose permit is revoked or limited may submit a written request to the Concealed Pistol Licensing Review Board (Board) to review the decision of the Chief within fifteen (15) days after receipt of the notice of denial, revocation, or limitation.

2343 AMMUNITION CARRIED BY LICENSEE

2343.1 A person issued a concealed carry license by the Chief, while carrying the pistol, shall not carry more ammunition than is required to render the pistol fully loaded, and in no event shall that amount be greater than ten (10) rounds of ammunition.

2343.2 A person issued a concealed carry license by the Chief may not carry any restricted pistol bullet as that term is defined in the Act.

2344 PISTOL CARRY METHODS

2344.1 A person issued a concealed carry license by the Chief shall carry any pistol in a manner that it is entirely hidden from view of the public when carried on or about a person, or when in a vehicle in such a way as it is entirely hidden from view of the public.

2344.2 A person issued a concealed carry license by the Chief shall carry any pistol in a holster on their person in a firmly secure manner that is reasonably designed to prevent loss, theft, or accidental discharge of the pistol.

2345 NON-RESIDENT APPLICATIONS FOR CONCEALED CARRY LICENSE

2345.1 A non-resident of the District, as defined by the Act, may apply to the Firearms Registration Section for a concealed carry license upon a showing that the applicant meets all of the eligibility requirements of § 2332.

2345.2 A non-resident may satisfy some or all of the firearms training requirements in § 2336 by providing proof of completion of a firearms training course in another state or subdivision of the United States.

2345.3 A non-resident shall obtain a certification from a firearms trainer that the applicant has received and completed training in District firearms law and the District law of self-defense.

2345.4 A non-resident must demonstrate to the Chief that he or she has a good reason to fear injury to his or her person or property, as defined by the Act and these

regulations, by showing that the fear is from a cause that will likely be present in the District and is not a cause that is likely to be present only in another jurisdiction.

2345.5 A non-resident must demonstrate to the Chief that he or she has any other proper reason for carrying a pistol, as defined by the Act and these regulations, by showing that the other proper reason exists in the District.

2346 SIGNAGE TO PREVENT ENTRANCE BY CONCEALED CARRY LICENSEE ONTO NON-RESIDENTIAL PRIVATE PROPERTY

2346.1 Signs stating that the carrying of firearms is prohibited on any private property shall be clearly and conspicuously posted at any entrance, open to the public, of a building, premises, or real property.

2346.2 A sign shall be considered conspicuous if it is at least eight (8) inches by ten (10) inches in size and contains writing in dark ink using not less than thirty-six (36) point type.

New Section 2348 is added to read as follows:

2348 SAFE STORAGE OF FIREARMS AT A PLACE OF BUSINESS

2348.1 No registrant shall store or keep any firearm on any premises under his or her control if he or she knows or reasonably should know that a minor or a person prohibited from possessing a firearm under D.C. Official Code § 22-4503 can gain access to the firearm.

2348.2 When not in storage, each registrant shall carry the firearm on his or her person or within such close proximity that he or she can readily retrieve or use it as if he or she carried it on his or her person; provided, that the firearm is entirely hidden from view of the public.

2348.3 If the firearm is stored at a place of business, it shall be stored in a gun safe, locked box, or other secure device affixed to the property.

Section 2399, DEFINITIONS, is amended by adding the following definitions:

2399 DEFINITIONS

Place of business – means a business that is located in an immovable structure at a fixed location, as documented by a business license or certificate of occupancy, and that is operated and owned entirely, or in substantial part, by a firearm registrant.

Bona fide patient relationship – means a relationship between a psychiatrist or psychologist and a patient in which:

- (a) A complete assessment of the patient’s mental health history, current mental health condition, and a current mental health examination has taken place; and
- (b) Where the psychiatrist or psychologist has responsibility for the ongoing care and mental health treatment of the patient.

Bona fide residence – means a dwelling place of a person that is documented by two (2) or more of the following:

- (a) Voter registration indicating the address of the dwelling place;
- (b) Motor vehicle registration indicating the address of the dwelling place;
- (c) Motor vehicle driver permit indicating the address of the dwelling place;
- (d) Withholding and payment of individual income taxes indicating the address of the dwelling place including:
 - (1) Copies of certified District or state income tax returns; and
 - (2) Copies of certified federal tax returns filed with the U.S. Internal Revenue Service;
- (e) Certified deed or lease or rental agreement for real property indicating the address of the dwelling place;
- (f) Cancelled checks or receipts for mortgage or rental payments;
- (g) Utility bills and payment receipts indicating the address of the dwelling place;
- (h) A copy of a bank account statement in the name of the applicant at the address of the dwelling place;
- (i) Copies of credit card or brokerage account statements mailed to the applicant at the address of the dwelling place; or
- (j) Copies of automobile insurance statements mailed to the applicant at the address of the dwelling place.

Section 2399, DEFINITIONS, is amended by amending the definition of Chief to read as follows:

Chief – means the Chief of the Metropolitan Police Department or his or her designee.

All persons interested in commenting on these proposed rulemaking action may submit comments in writing to Kelly O'Meara, Executive Director, Strategic Change, Metropolitan Police Department, 300 Indiana Avenue, NW, Suite 5117, Washington, DC 20001, or via e-mail at Gun.Regulations@dc.gov. Comments must be received no later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. Copies of this proposal may be obtained, at cost, by writing to the above address.

METROPOLITAN POLICE DEPARTMENT**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Chief of the Metropolitan Police Department (Chief), pursuant to the authority under Section 910 of the Firearms Regulations Control Act of 1975 (Act), signed October 9, 2014 (D.C. Act 20-0447; 61 DCR 10765 (October 17, 2014)), and any substantially similar emergency, temporary, or permanent versions of this legislation, hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 23 (Guns and Other Weapons) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR).

Emergency rulemaking action is necessary to establish procedures for firearms training instructors to obtain a certification from the Chief, for the purpose of providing firearms safety training to potential applicants for a license to carry a concealed pistol, pursuant to the Act. A recent court decision has determined that such a licensing scheme must be in place before the District can enforce its criminal provisions against carrying firearms openly or concealed. As a result of the injunction issued in that decision, there is an immediate need to protect the health, safety, security, and welfare of District residents by having a firearms training instructor certification procedure as part of the licensing scheme authorized by the Act, as further described in the License to Carry a Pistol Emergency Declaration Resolution, effective September 23, 2014 (Res. 20-615; 61 DCR 10491 (October 10, 2014)).

This emergency rulemaking was adopted on October 20, 2014, became effective immediately, and will remain in effect for up to one hundred twenty (120) days from the date of its adoption, until February 17, 2015, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*.

In addition, the Chief gives notice of the intent to take final rulemaking action to adopt these amendments in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 23, GUNS AND OTHER WEAPONS, of Title 24, PUBLIC SPACE AND SAFETY, of the DCMR is amended as follows:**Section 2331, FEES, is amended to read as follows:****2331 FEES**

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

- (a) Accident reports – \$ 3.00;
- (b) Arrest records – \$7.00;
- (c) Fingerprints – \$35.00;

- (d) Firearm registration – \$13.00;
- (e) Firearms training instructor certification – \$400.00; and
- (f) Transcript of records – \$3.00.

New Section 2347 is added to read as follows:

2347 FIREARMS TRAINING INSTRUCTOR CERTIFICATION

- 2347.1 Any person providing firearms training to an applicant for a concealed carry license shall obtain a valid certification issued by the Chief in accordance with this section.
- 2347.2 A certified firearms training instructor shall obtain proof of certification from the Chief before providing instruction to an applicant for a concealed carry license.
- 2347.3 Upon a person's satisfactory completion of a required firearms training course, a certified firearms training instructor shall:
- (a) Provide the person a firearms training certificate that includes:
 - (1) The person's name and date of birth;
 - (2) The instructor's name;
 - (3) The length in hours of the course;
 - (4) The date of course completion;
 - (5) The location of the training;
 - (6) A declaration certifying that the course met the minimum standards prescribed by the Act and the Chief; and
 - (7) A declaration certifying that the person completed the course; and
 - (b) Submit the requisite information to the Firearms Registration Section.
- 2347.4 A certified firearms training instructor application shall be submitted to the Security Officers Management Branch in the format prescribed by the Chief.
- 2347.5 The certified firearms training instructor application shall:

- (a) Meet, with the exception of Section 203(a)(13)(A) (D.C. Official Code § 7-2502.03(a)(13)(A) (2014 Supp.)), all of the requirements for a person registering a firearm pursuant to the Firearms Control Regulations Act of 1975 (the Act), effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code §§ 7-2501.01 *et seq.* (2012 Repl. & 2014 Supp.));
- (b) Include the applicant's name, address, driver's license or other government issued photographic identification, place and date of birth, home address and telephone number, work address and telephone number, email address, name and location of firing range to be used to provide training, and business website address (optional);
- (c) Include proof of the applicant's formal training in the care, safety, and use of firearms, which may be satisfied pursuant to the conditions stated in Section 902(c) of the Act;
- (d) Include proof of the applicant's minimum of one (1) year of experience in instruction in the care, safety, and use of handguns; and
- (e) Include a detailed syllabus describing the methods and materials the trainer will use to conduct the firearms training for a concealed carry license.

2347.6 Any person licensed by the Chief as of the effective date of the Act to provide firearms instruction training to special police officers and who is seeking to be certified under this section shall not be required to pay the fees listed under § 2331.1; provided, that he or she shall pay the fees upon renewal of his or her firearms instructor license in March 2015.

2347.7 Upon receipt of a properly completed application, the Chief shall issue a certification or denial to the applicant within a reasonable time.

2347.8 A certified firearms training instructor license expires two (2) years from the date of issuance.

Section 2399, DEFINITIONS, is amended by adding the following definition:

2399 DEFINITIONS

Security Officers Management Branch – a part of the Police Business Services Division of the Metropolitan Police Department, located at 2000 14th Street, N.W., Washington, D.C. 20009.

All persons interested in commenting on these proposed rulemaking action may submit comments in writing to Kelly O'Meara, Executive Director, Strategic Change, Metropolitan Police Department, 300 Indiana Avenue, NW, Suite 5117, Washington, DC 20001, or via e-mail

at Gun.Regulations@dc.gov. Comments must be received no later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. Copies of this proposal may be obtained, at cost, by writing to the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2014-240
October 23, 2014

SUBJECT: Reappointment – District of Columbia Commission on Human Rights


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Repl.), and pursuant to Title IV, section 2(b) of the Commission on Human Rights Establishment Amendment Act of 2004, effective December 7, 2004, D.C. Law 15-216, D.C. Official Code § 2-1404.03 (2012 Repl.), it is hereby **ORDERED** that:

1. **MOTOKO AIZAWA**, who was nominated by the Mayor on June 27, 2014, and whose nomination was approved by the Council of the District of Columbia on September 23, 2014 pursuant to Resolution 20-0601, is reappointed as a member of the District of Columbia Commission on Human Rights, for a term to end December 31, 2016.
2. **EFFECTIVE DATE:** This Order shall be effective immediately.



 VINCENT C. GRAY
 MAYOR

ATTEST: 

 CYNTHIA BROCK-SMITH
 SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2014-241
October 23, 2014

SUBJECT: Reappointments and Appointments – District of Columbia Commission for National and Community Service

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) and (11) (2012 Repl.), pursuant to Mayor's Order 2013-171, dated September 19, 2013, and in accordance with the provisions of the National and Community Service Trust Act of 1993, approved September 21, 1993, 107 Stat. 785, Pub. L. 103-82, it is hereby **ORDERED** that:

1. **TONI LYNN MILES-MALONEY** is reappointed, as a member, and as a representative of business entities, of the District of Columbia Commission for National and Community Service ("Commission"), to complete the remainder of an unexpired term to end July 31, 2017.
2. **JOSHUA DAVID JOHNSON** is reappointed, as a member, and as a local educator, of the Commission, to complete the remainder of an unexpired term to end July 31, 2017.
3. **GAIL OLIVER** is reappointed, as a member, and as an individual with expertise in promoting the involvement of older adults (age 55 and older) in service and volunteerism, of the Commission, to complete the remainder of an unexpired term to end July 31, 2017.
4. **DY BROWN** is reappointed, as a member, and as a representative of a community-based agency or community-based organization within the District of Columbia, of the Commission, to complete the remainder of an unexpired term to end July 31, 2017.
5. **DWIGHT D. DENEAL** is appointed, as a member, and as a representative of a community-based agency or community-based organization within the District of Columbia, of the Commission, to complete the remainder of an unexpired term to end July 31, 2017.

- 6. **LARS ETZKORN** is appointed, as a member, and as a representative of the volunteer sector, of the Commission, to complete the remainder of an unexpired term to end July 31, 2017.
- 7. **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 2014-242
October 23, 2014

SUBJECT: Amendment and Appointment – Saint Elizabeths Redevelopment
Initiative Advisory Board

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) and (11) (2014 Repl), and in accordance with Mayor's Order 2012-21, dated February 9, 2012, it is hereby **ORDERED** that:

1. Section IV(A)(3) of Mayor's Order 2012-21, dated February 9, 2012, is amended to read as follows:
 - “3. In addition to the four (4) private sector Vice Chairpersons, eight (8) public members who shall have a demonstrated knowledge of the neighborhood adjacent to East Campus, or have demonstrated knowledge and competence in business or entrepreneurial development, historical or environmental issues, job creation, innovation issues, security, commercial or residential development, real estate finance or management, community-based redevelopment policies or activities, municipal finance or law, banking, or finance and not have any conflict of interests with the District government in connection with the Saint Elizabeths redevelopment.”
2. **SHEILA BUNN** is appointed as a public member of the Saint Elizabeths Redevelopment Initiative Advisory Board for a term to end August 31, 2015.

3. **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 2014-243
October 23, 2014

SUBJECT: Appointments – United Planning Organization Board of Directors


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) and (11) (2014 Repl.), and in accordance with the Economic Opportunity Act of 1964, approved August 20, 1964, Pub. L. 88-452, 78 Stat. 516, and the By-Laws of the United Planning Organization, as amended on July 17, 2014, it is hereby **ORDERED** that:

1. **DIDIER SINISTERRA** is appointed as a member of the United Planning Organization Board of Directors ("Board"), for a term to end three years from the effective date of this order.
2. **GABRIELA MOSSI** is appointed as a member of the Board, for a term to end three years from the effective date of this order.
3. **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

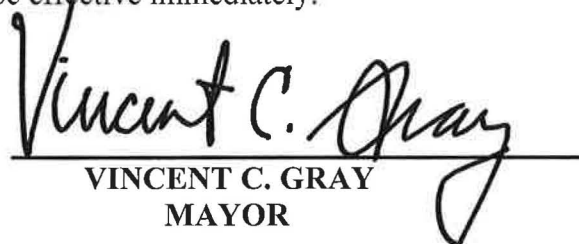
Mayor's Order 2014-244
October 23, 2014

SUBJECT: Reappointments – Science Advisory Board


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and section 12 of the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011, D.C. Law 19-18, D.C. Official Code § 5-1501.11 (2012 Repl.), which established the Science Advisory Board (“Board”), it is hereby **ORDERED** that:

1. **DR. WILLIAM GROSSHANDLER**, who was nominated by the Mayor on June 3, 2014 and deemed approved by the Council of the District of Columbia pursuant to Proposed Resolution 20-0829 on October 4, 2014, is reappointed as a scientist member to the Board, for a term to end November 25, 2017.
2. **PETER M. MARONE**, who was nominated by the Mayor on June 3, 2014, and deemed approved by the Council of the District of Columbia pursuant to Proposed Resolution 20-0830 on October 4, 2014, is reappointed as a forensic scientist member to the Board, for a term to end November 25, 2017.
3. **DR. CHARLOTTE WORD**, who was nominated by the Mayor on June 3, 2014, and deemed approved by the Council of the District of Columbia pursuant to Proposed Resolution 20-0831 on October 4, 2014, is reappointed as a forensic scientist member to the Board, for a term to end November 25, 2017.
4. **EFFECTIVE DATE:** This Order shall be effective immediately.



 VINCENT C. GRAY
 MAYOR

ATTEST: 

 CYNTHIA BROCK-SMITH
 SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2014-245
October 23, 2014

SUBJECT: Appointment – The Mayor's Bullying Prevention Task Force


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), pursuant to section 3 of the Youth Bullying Prevention Act of 2012, effective September 14, 2012, D.C. Law 19-167, D.C. Official Code § 2-1535.02 (2013 Supp.), and in accordance with Mayor's Order 2012-150, dated September 20, 2012, as amended by Mayor's Order 2014-053, dated March 07, 2014, it is hereby **ORDERED** that:

1. **ADAM TENNER** is appointed, as a direct service provider member, replacing Andrew Barnett, to the Mayor's Bullying Prevention Task Force, for a term to end September 19, 2016.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



VINCENT C. GRAY
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2014-246
October 23, 2014

SUBJECT: Appointment – Real Estate Commission


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and in accordance with section 1002 of the Non-Health Related Occupations and Professions Licensure Act of 1998, effective April 20, 1999, D.C. Law 12-261, D.C. Official Code § 47-2853.06(h) (2014 Supp.), and Mayor's Order 2009-11, dated February 2, 2009, it is hereby **ORDERED** that:

1. **FRANK PIETRANTON**, who was nominated by the Mayor on May 30, 2014 and whose nomination was deemed approved by the Council of the District of Columbia pursuant to Proposed Resolution 20-0818 on September 20, 2014, is appointed as a licensed real estate broker member of the Real Estate Commission, replacing Richard Gersten, for a term to end February 13, 2017.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



 VINCENT C. GRAY
 MAYOR

ATTEST: 

 CYNTHIA BROCK-SMITH
 SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2014-247
October 23, 2014

SUBJECT: Establishment of the District of Columbia Commemorative Commission on the Sesquicentennial Celebration of the American Civil War

ORIGINATING AGENCY: Office of the Mayor

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, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(11) (2012 Repl.), it is hereby **ORDERED** that:

I. ESTABLISHMENT

There is established a District of Columbia Commission on the Sesquicentennial Celebration of the American Civil War ("Commission") in the executive branch of the District government.

II. PURPOSE

The Commission shall advise the Mayor, the Council of the District of Columbia and the public on strategies to garner support, local participation and establish the District's response to the Sesquicentennial Close of the end of the Civil War which saved the Nation and set all enslaved Americans "Forever Free".

III. FUNCTIONS

The Commission shall perform the following functions:

1. Coordinate and plan major events leading up to the Grand Review on May 17, 2015. These events will be educational, and are designed to honor those who gave their last full measure for what this nation is and can be;
2. Coordinate the involvement of District of Columbia churches, schools and community organizations to encourage a greater understanding of our national and local history;
3. Conduct research, collect and archive documents, locate and document relevant sites and prepare a calendar of events;

4. Make recommendations on activities to be sponsored by the District of Columbia government and assist in the implementation of approved events;
5. Encourage educational programs to increase participation in the activities to commemorate the end of the American Civil War;
6. Identify and highlight local landmarks, works of arts, and artifacts identified as part of the District's unique involvement, and contribution to American Civil War;
7. Coordinate with the organizers and key stakeholders as well as national and local government officials in the events commemorating the Sesquicentennial of the end of the American Civil War;
8. With the approval of the Office of Partnerships and Grant Services, solicit gifts, donations and grants, and hold fundraisers in accordance with applicable District laws and regulations; and,
9. Undertake other duties as are assigned by the Mayor.

IV. COMPOSITION

- A. The Commission shall have a maximum of thirteen (13) voting members.
- B. All members must be residents of the District of Columbia.

V. TERMS

- A. Each member of the Commission shall be appointed for a term of three years. Members may serve until reappointed or replaced.
- B. Any member appointed by the Mayor may be removed for failure to attend three (3) consecutive meetings.

VI. COMPENSATION

Members of the Commission shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties only when approved in advance by the administrative support agency for the Commission and shall not be compensated for time expended in the performance of official duties.

VII. ORGANIZATION

- A. The Mayor shall appoint the Chairperson and Vice Chairperson of the Commission, from among the voting members, who shall serve in that capacity at the pleasure of the Mayor.
- B. The Commission may elect such other officers as are deemed necessary.
- C. A vacancy on the Commission shall be filled in the same manner that the original appointment was made.
- D. A majority of the voting members of the Commission who are present at any meeting shall constitute a quorum.
- E. The Commission shall meet at the call of the chairperson, who shall convene the first meeting of the Commission not later than fifteen (15) days after a majority of the first members appointed have been sworn in.

VIII. ADMINISTRATION

- A. The Office of the Secretary shall provide primary administrative and technical support to the Commission.
- B. Each department, agency, instrumentality, or independent agency of the District shall cooperate with the Commission and provide any information, in a timely manner, that the Commission requests to carry out the provisions of this Order.
- C. The Commission may establish such advisory groups, committees, or subcommittees, consisting of members or nonmembers, as it deems necessary to carry out the purposes of this Order, provided that each subcommittee shall be chaired by a voting member of the Commission and nonmembers are not entitled to vote on Commission business. District residents who are not members of the Commission may be invited to serve on subcommittees.


IX. SUNSET

The Commission shall cease to exist six (6) months after the events commemorating the 150th anniversary of the end of the Civil War.

X. **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 2014-248
October 23, 2014

SUBJECT: Reappointments – District of Columbia Water and Sewer Authority Board of Directors

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and pursuant to section 204 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996, D.C. Law 11-111, D.C. Official Code § 34-2202.04 (2012 Repl.), it is hereby **ORDERED** that:

1. **VICTOR L. HOSKINS** is reappointed, as a principal Board member from Prince George's County, Maryland, to the District of Columbia Water and Sewer Authority Board of Directors, pursuant to the recommendation of Rushern L. Baker, III, Prince George's County Executive, dated September 23, 2014, for a term to end September 12, 2018 or until a successor is appointed.
2. **SHIRLEY A. BRANCH** is reappointed, as the alternate Board member to Victor L. Hoskins from Prince George's County, Maryland, to the District of Columbia Water and Sewer Authority Board of Directors, pursuant to the recommendation of Rushern L. Baker, III, Prince George's County Executive, dated September 23, 2014, for a term to end September 12, 2018 or until a successor is appointed.
3. **NICHOLAS A. MAJETT** is reappointed, as a principal Board member from Prince George's County, Maryland, to the District of Columbia Water and Sewer Authority Board of Directors, pursuant to the recommendation of Rushern L. Baker, III, Prince George's County Executive, dated September 23, 2014, for a term to end September 12, 2018 or until a successor is appointed.
4. **ADAM ORTIZ** is reappointed, as the alternate Board member to Nicholas A. Majett from Prince George's County, Maryland, to the District of Columbia Water and Sewer Authority Board of Directors, pursuant to the recommendation of Rushern L. Baker, III, Prince George's County Executive, dated September 23, 2014, for a term to end September 12, 2018 or until a successor is appointed.

5. **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 2014-249
October 23, 2014**SUBJECT:** Delegation – CFO -- Authority Under the Fiscal Year 2015 Tax Revenue Anticipation Notes Act of 2014**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) of the District of Columbia Home Rule Act, as amended, (87 Stat. 790; Pub. L. No. 93-198, D.C. Official Code § 1-204.22(6) (2012 Repl.)) and pursuant to section 13 of the Fiscal Year 2015 Tax Revenue Anticipation Notes Emergency Act of 2014, effective October 17, 2014 (D.C. Act 20-450), and substantially similar temporary or permanent versions thereof, and as it may be further amended from time to time (hereinafter cited as the “Notes Act”), it is hereby **ORDERED** that:

1. The Chief Financial Officer of the District of Columbia is delegated the authority vested in the Mayor pursuant to the Notes Act, to take any action, execute and deliver agreements, documents and instruments as required by or incidental to the issuance of any notes authorized by the Notes Act, perform any covenants contained in the Notes Act, and negotiate the sale of any notes pursuant to a purchase contract as authorized by the Notes Act, including any amendments to such agreements, documents, instruments, covenants or purchase contracts.
2. In the absence or disability of the Chief Financial Officer of the District of Columbia, the Deputy Chief Financial Officer and Treasurer of the District of Columbia is delegated the authority to execute the powers and duties delegated to the Chief Financial Officer as provided in this Order.
3. **EFFECTIVE DATE:** This Order shall become effective *nunc pro tunc* to October 17, 2014.


VINCENT C. GRAY
MAYOR

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, NOVEMBER 5, 2014
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson
Members: Nick Alberti, Donald Brooks, Herman Jones
Mike Silverstein, Hector Rodriguez, James Short

Protest Hearing (Status) **9:30 AM**
Case # 14-PRO-00073; Wet Dog, LLC, t/a Wet Dog Tavern, 2100 Vermont Ave NW, License #96176, Retailer CT, ANC 1B
Application for a New License

Protest Hearing (Status) **9:30 AM**
Case # 14-PRO-00071; 1832 NW, LLC, t/a Art Soiree House, 1832 14th Street NW, License #96150, Retailer CX, ANC 2B
Application for a New License

Show Cause Hearing (Status) **9:30 AM**
Case # 14-251-00003 and # 14-251-00003(a); Chloe, LLC, t/a District, 2473 18th Street NW, License #92742, Retailer CR, ANC 1C
Interfered with an Investigation

Fact Finding Hearing* **9:30 AM**
Cyril W. Smith and Warren J. Smith, t/a California Liquors, 2100 18th Street NW, License #5018, Retailer A, ANC 1C
License in Safekeeping

Fact Finding Hearing **9:30 AM**
Brian P. Danko
Application for a Manager's License

Show Cause Hearing* **10:00 AM**
Case # 14-251-00133; MPAC, LLC, t/a The Scene, 2221 Adams Place NE License #78642, Retailer CX, ANC 5C
Failed to Follow Settlement Agreement, Security Plan or Board Order, Allowed the Establishment to be Used for an Unlawful or Disorderly

Board's Calendar
November 5, 2014

Purpose

Show Cause Hearing* **10:00 AM**
Case # 14-251-00087; Beg Investments, LLC, t/a Twelve Restaurant & Lounge
1123 H Street NE, License #76366, Retailer CT, ANC 6A
Interfered with an Investigation

Show Cause Hearing* **11:00 AM**
Case # 13-CMP-00473; Flora Restaurant & Lounge, LLC, t/a Ghion Restaurant
2010 9th Street NW, License #86205, Retailer CT, ANC 1B
**Operating After Hours, Substantial Change in Operations, Interfered with
an Investigation, Failed to Post License, Failed to Post Window Lettering**

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

Protest Hearing* **1:30 PM**
Case # 14-PRO-00067; FR & LH, LLC, t/a To be Determined, 1515 Wisconsin
Ave NW, License #95966, Retailer CR, ANC 2E
Application for a New License

Protest Hearing* **4:30 PM**
Case # 14-PRO-00004; RNR, LLC, t/a Rock N Roll Hotel, 1353 H Street NE
License #72777, Retailer CT, ANC 6A
Termination of Settlement Agreement

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

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

**NOTICE OF MEETING
CANCELLATION AGENDA
WEDNESDAY, NOVEMBER 5, 2014 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

The Board will be cancelling the following license for the reason outlined below.

ABRA- 076672 – *El Pulgarcito of America, LLC*- Retail - CR – 5313 Georgia Avenue, NW
[Enforcement confirmed that the Licensee is Out of Business and no longer operating.]

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, NOVEMBER 5, 2014
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On November 5, 2014 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#14-CC-00178 The Churchill Hotel, 1914 CONNECTICUT AVE NW Retailer C Hotel, License#: ABRA-074621

2. Case#14-CMP-00558 Plum Blossom, 1915 18TH ST NW Retailer C Restaurant, License#: ABRA-076620

3. Case#14-CMP-00577 Gordon Biersch Brewery Restaurant, 900 F ST NW B Retailer C Restaurant, License#:ABRA-060326

4. Case#14-CMP-00580 Odeon Cafe, 1714 CONNECTICUT AVE NW Retailer C Restaurant, License#: ABRA-005811

5. Case#14-CMP-00557 Perry's Restaurant, 1811 COLUMBIA RD NW Retailer C Restaurant, License#: ABRA-007053

6. Case#14-AUD-00084 Residence Inn/Wash.DC/Thomas Circle, 1199 VERMONT AVE NW Retailer D Hotel,License#: ABRA-060397

7. Case#14-AUD-00107 Magic Gourd Restaurant, 528 23RD ST NW Retailer C Restaurant, License#: ABRA-001015

8. Case#14-CC-00177 Bistro 18, 2420 18TH ST NW Retailer C Restaurant, License#: ABRA-086876

9. Case#14-CMP-00575 Merkato Ethiopian Restaurant, 1909 9th ST NW Retailer C Restaurant, License#:ABRA-089019

10. Case#14-CMP-00500 Cava Mezze Grill, 4237 Wisconsin AVE NW Retailer C Restaurant, License#: ABRA-090698

11. Case#14-CC-00179 Sandoval Restaurant & Lounge, 4809 GEORGIA AVE NW Retailer C Tavern, License#:ABRA-092705

12. Case#14-CMP-00555 NEW TOWN KITCHEN AND LOUNGE, 1336 U ST NW Retailer C Tavern, License#:ABRA-093095

13. Case#14-CMP-00579 Mission, 1606 20TH ST NW Retailer C Restaurant, License#: ABRA-094290

14. Case#14-CC-00175 MLK MINI MARKET, 3333 MARTIN LUTHER KING JR AVE SE Retailer B Retail - Grocery,License#: ABRA-095905

15. Case#14-CMP-00556 Matzuy Billiards, 1772 COLUMBIA RD NW Retailer D Restaurant, License#: ABRA-096299

16. Case#14-CMP-00538 NEW TOWN KITCHEN AND LOUNGE, 1336 U ST NW Retailer C Tavern, License#:ABRA-093095

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LEGAL AGENDA

WEDNESDAY, NOVEMBER 5, 2014 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Motion for Reconsideration, dated October 14, 2014, submitted by Stephen O'Brien, Esq. on behalf of Napoleon. *Napoleon*, 1847 Columbia Road, NW, Retailer CR, License No.: 075836.

2. Review of Memorandum in Opposition to Motion for Reconsideration, submitted by Ted Guthrie on behalf of ANC 1C03. *Napoleon*, 1847 Columbia Road, NW, Retailer CR, License No.: 075836.

3. Review of Reply to Opposition to Motion for Reconsideration, dated October 27, 2014, submitted by Stephen O'Brien, Esq. on behalf of Napoleon. *Napoleon*, 1847 Columbia Road, NW, Retailer CR, License No.: 075836.

4. Review of Settlement Agreement between ANC 6B and Roland's of Capitol Hill, dated October 9, 2014. *Roland's of Capitol Hill*, 333 Pennsylvania Avenue, SE, Retailer B, License No.: 078514.

5. Review of Settlement Agreement between ANC 6B and Capitol Supreme Market, dated October 14, 2014. *Capitol Supreme Market*, 501 4th Street, SE, Retailer B, License No.: 076858.

6. Review of Settlement Agreement between ANC 2C and Umaya, dated October 27, 2014. *Umaya*, 733 10th Street, NW, Retailer CT, License No.: 094099.

7. Review of Off-Site Storage Request, dated October 22, 2014, submitted by Joshua Gray, General Manager of El Centro D.F. *El Centro D.F.*, 1819 14th Street, NW, Retailer CR, License No.: 084847.

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, NOVEMBER 5, 2014 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Request for Cancellation of License. ANC 2A. SMD 2A07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Panda Café*, 2138 ½ Pennsylvania Avenue NW, Retailer CR, License No. 072312.

2. Review Request for Extension of Safekeeping of Licensing from Attorney Andrew J. Kline – 2nd Request. Original Safekeeping Date: 01/03/2011. ANC 6A. SMD 6A01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Show Bar*, 1210 H Street NE, Retailer CT, License No. 076233.

3. Review Request for Extension of Safekeeping of Licensing for an Additional Six Months – 1st Request. Original Safekeeping Date: July 16, 2014. ANC 2B. SMD 2B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *To Be Determined (Formerly Café Japonese)*, 2032 P Street NW, Retailer CR, License No. 096045.

4. Review Request for Extension of Safekeeping of Licensing through March 31, 2015. Extensions have been requested twice a year since the Original Safekeeping Date of 03/01/2010. ANC 2A. SMD 2A01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *The George Washington University Club*, 1918 F Street NW, Retailer CX, License No. 026668.

5. Review Request for Extension of Safekeeping of Licensing through March 31, 2015. Extensions have been requested twice a year since the Original Safekeeping Date of 03/01/2010. ANC 2A. SMD 2A08. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Alumni House*, 1925 F Street NW, Retailer CX, License No. 060219.

6. Review Request for Extension of Safekeeping of Licensing for an Additional Four-Six Months – 2nd Request. Original Safekeeping Date: 11/12/2013. ANC 4D. SMD 4D01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *G Spot (formerly)*, 5413 Georgia Avenue NW, Retailer CT, License No. 093419.

7. Review Request for Extension of Safekeeping of License for an Additional Year – 2nd Request. Original Safekeeping Date: July 1, 2005. ANC 2F. SMD 2F05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***The Roberts Law Group, PLLC***, 1029 Vermont Avenue NW, Retailer CN, License No. 083728.
-
8. Review Application for Safekeeping of License – 1st Request. ANC 1A. SMD 1A02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Thaitanic II***, 3460 14th Street NW, Retailer CR, License No. 082445.
-
9. Review Application for Safekeeping of License – 1st Request. ANC 1B. SMD 1B12. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***The Mediterranean Spot***, 1501 U Street NW, Retailer CR, License No. 092484.
-
10. Review Application for Class Change from Retailer CR to Retailer CT. ANC 2B. SMD 2B06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Look***, 1909 K Street NW, Retailer CR, License No. 077812.
-
11. Review Request for Change of Hours. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption***: Sunday 11am-11pm, Monday-Saturday 5pm-11pm. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption***: Thursday-Sunday 11am-12am, Monday-Wednesday 5pm-12am ANC 1C. SMD 1C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Casa Oaxaca***, 2106 18th Street NW, Retailer CR, License No. 076070.
-
12. Review Request for Change of Hours. ***Approved Hours of Operation***: Sunday-Saturday 12am to 12am. ***Approved Hours of Alcoholic Beverage Sales and Consumption***: Sunday-Saturday 9am to 12am. ***Proposed Hours of Alcoholic Beverage Sales and Consumption***: Sunday-Saturday 7am to 12am. ANC 7D. SMD 7D02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Circle 7***, 740 Kenilworth Avenue NE, Retailer B Grocery, License No. 014581.
-
13. Review Request for Change of Hours. ***Approved Hours of Operation***: Sunday-Saturday 8am to 12am. ***Approved Hours of Alcoholic Beverage Sales and Consumption***: Sunday-Saturday 9am to 12am. ***Proposed Hours of Alcoholic Beverage Sales and Consumption***: Sunday-Saturday 8am to 12am. ANC 4C. SMD 4C08. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Family Food and Delicatessen Store***, 3713 New Hampshire Avenue NW, Retailer B Grocery, License No. 086078.
-
14. Review Request to Increase Summer Garden Occupancy from 71 to 104. ANC 3D. SMD 3D08. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Chef Geoff's***, 3201 New Mexico Avenue NW, Retailer CR, License No. 060249.

-
15. Review Application for Entertainment Endorsement. Entertainment to Include a DJ on weekends and a weekly Karaoke night. ANC 6C. SMD 6C05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Po Boy Jim*, 709 H Street NE, Retailer CR, License No. 087903.
-
16. Review Application for Entertainment Endorsement. Entertainment to Include Live Music and DJ. ANC 6E. SMD 6E01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Chaplin*, 1501 9th Street NW, Retailer CR, License No. 095700.
-
17. Review Application for On-Site Sales and Consumption Permit. ANC 4B. SMD 4B08. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Hellbender Brewing Company*, 5788 2nd Street NE, Manufacturer B, License No. 093500.
-
18. Review Application for Manager's License. *Jose C. Pineda*-ABRA 096688.
-

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

**CESAR CHAVEZ PUBLIC CHARTER SCHOOLS FOR PUBLIC POLICY
REQUEST FOR PROPOSALS**

Surveillance System – Chavez Prep Campus

The Cesar Chavez Public Charter for Public Policy Schools solicits proposals to for the installation of a surveillance system at the Chavez Prep Campus located at 700 Kenyon St. NW.

More information will be provided upon request to itbids@chavezschools.org

Email questions to itbids@chavezschools.org with the subject line as “**Surveillance System – Chavez Prep Campus**”.

Proposals are due not later than: Friday November 14, 2014, 4:00pm.

**DEPARTMENT OF CONSUMER AND REGULATORY
CONSTRUCTION CODES
ADMINISTRATIVE BULLETIN CC2014-02**

Issuer: Jatinder Khokhar
Interim Chief Building Official

Issuance Date: October 31, 2014

Purpose: This document provides guidance and information relating to DCRA steps and regulatory procedures, in order to assist the public in interpreting and complying with the relevant green building and energy conservation laws and regulations.

Related Code

Section: 2013 District of Columbia Green Construction Code (Green Construction Code Supplement, 12 DCMR K); 2013 District of Columbia Energy Conservation Code (Energy Conservation Code Supplement, 12 DCMR I); 2013 District of Columbia Building Code (Chapter 1 of 12 DCMR A); 2008 District of Columbia Building Code (Chapter 13A of 12A DCMR).

Subject(s): Green Building Program Manual

THIS BULLETIN SUPERSEDES CC2014-01.

This *Administrative Bulletin* provides guidance and information relating to DCRA steps and regulatory procedures, in order to assist the public in interpreting and complying with the relevant green building and energy conservation laws and regulations.

This update to the manual provides clarification to questions and processes based on feedback we have received. The Sectional Reference Guide has been removed to be published separately, and the self selection flow charts have been updated.

The Green Building Program Manual covers the following areas of the design and construction process in detail to guide projects through the green building and energy conservation laws and regulations in the District of Columbia:

1. Design Phase
2. Building Permitting Process
3. Building Inspections
4. Certificate of Occupancy Issuance
5. Post-Occupancy Requirements
6. Enforcement

This page is a cover sheet intended for publication in the District of Columbia Register. A full copy of this administrative bulletin is available at: <http://dcra.dc.gov/page/administrative-bulletins>

CC2014-02 (October 31, 2014)

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**Board of Accountancy
1100 4th Street SW, Room E300
Washington, DC 20024**

AGENDA

**November 5th, 2014
9:00 A.M.**

- 1) Meeting Call to Order
- 2) Attendees
- 3) Comments from the Public
- 4) Minutes: Review draft of 3 October 2014
- 5) Old Business
- 6) New Business
- 7) Pursuant to § 2-575(4)(a), (9) and (13) the Board will enter executive session to receive advice from counsel, review application(s) for licensure and discuss disciplinary matters.
- 8) Action on applications discussed in executive session
- 9) Adjournment

Next Scheduled Meeting – 4, December 2014
Location: 1100 4th Street SW, Conference Room E300

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Architecture and Interior Design
1100 4th Street, S.W., Room 300B
Washington, D.C. 20024**

AGENDA

November 14th, 2014

1. Call to Order - 9:30 a.m.
2. Attendees
3. Comments from the Public
4. Executive Session (Closed to the Public) – Roll Call of Board Members
5. Minutes – Review Draft, 09-12-2014
6. Review of Applications
7. Review of Complaints/Legal Matters
8. Review of Interior Design Continuing Education Provider Submissions
9. Old Business
10. New Business
11. Review of Correspondence
12. Adjourn

Next Scheduled Regular Meeting, December 12th, 2014
1100 4th Street, SW, Room 300B, Washington, DC 20024

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Barber and Cosmetology
1100 4th Street SW, Room E300
Washington, DC 20024**

**Meeting Agenda
November 3, 2014
10:00 a.m.**

1. Call to Order – 10:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Applications for Licensure
7. Executive Session (Closed to the Public)
8. Old Business
9. New Business
10. Adjourn

Next Scheduled Board Meeting – December 1, 2014.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Funeral Directors
1100 4th Street SW, Room E300
Washington, DC 20024**

Meeting Agenda

**November 6, 2014
11:00 A.M.**

1. Call to Order – 11:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Executive Session (Closed to the Public)
 - Applications
6. Review of Correspondence
7. Draft Minutes, October 2, 2014
8. New Business
9. Old Business
10. Adjourn
11. Next Scheduled Board Meeting – December 4, 2014 at 11:00 a.m.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

Board of Industrial Trades

**1100 4th Street SW, Room 300 A/B
Washington, DC 20024**

AGENDA

**November 18, 2014
1:00 P.M -3:30 P.M.**

- I. Call to Order**
- II. Ascertainment of Quorum**
- III. Adoption of the Agenda**
- IV. Acknowledgment of Adoption of the Minutes**
- V. Report from the Chairperson**
 - a) DCMR updates
 - b) New Board Member
- VI. New Business**
- VII. Old Business**
 - Correspondence**
 - a) Reciprocity with other Jurisdictions
 - Code Change**
 - b) Development of new examinations
- VIII. Opportunity for Public Comments**
- IX. Executive Session**

Executive Session (non-public) to Discuss Ongoing, Confidential Preliminary Investigations pursuant to D.C. Official Code § 2-575(b)(14), to deliberate on a decision in which the Industrial Trades Board will exercise quasi-judicial functions pursuant to D.C. Official Code § 2-575(b)(13)

 - a) Review of applications
- X. Resumption of Public Meeting**
- XI. Adjournment**

Next Scheduled Board Meeting: December 16, 2014 @ 11:00 PM – 3:30 PM, Room E4302
1100 4th Street, Washington, DC 20024

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**Board of Professional Engineering
1100 4th Street SW, Room E300
Washington, DC 20024**

AGENDA

November 20, 2014

9:30 A.M.

- 1) Meeting Call to Order
- 2) Attendees
- 3) Comments from the Public
- 4) Minutes: Review draft of 23 October 2014
- 5) Old Business
- 6) New Business
- 7) Executive Session
 - a) Pursuant to § 2-575(13) the Board will enter executive session to review application(s) for licensure
 - b) Pursuant to § 2-575(9) the Board will enter executive session to discuss a possible disciplinary action
- 8) Application Committee Report
- 9) Adjournment

Next Scheduled Meeting – Thursday, December 18, 2014

Location: 1100 4th Street SW, Conference Room E300

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**District of Columbia Board of Real Estate Appraisers
1100 4th Street SW, Room 300 B
Washington, DC 20024**

AGENDA

**November 19, 2014
10:00 A.M.**

1. Call to Order – 10:00 a.m.
2. Attendance (Start of Public Session) – 10:30 a.m.
3. Executive Session (Closed to the Public) – 10:00 – 10:30 a.m.
 - A. Legal Committee Recommendations
 - B. Legal Counsel Report
 - C. Application Review
4. Comments from the Public
5. Minutes - Draft
6. Recommendations
 - A. Review - Applications for Licensure
 - B. Legal Committee Report
 - C. Education Committee Report
 - D. Budget Report
 - E. 2014 Calendar
 - F. Correspondence
7. Old Business
8. New Business
9. Adjourn

Next Scheduled Regular Meeting, December 15, 2014
1100 4th Street, SW, Room 300B, Washington, DC 20024

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**D.C. BOXING AND WRESTLING COMMISSION**

1100 4th Street SW-Suite E500, SW

Washington, DC. 20024

November 18, 2014

7:00 P.M.

Website: http://www.pearsonvue.com/dc/boxing_wrestling/

AGENDA**CALL TO ORDER & ROLL CALL****COMMENTS FROM THE PUBLIC & GUEST INTRODUCTIONS**

- October 23, 2014 Pro-Boxing Promoter Ollie Dunlap Charity Boxing at the Mayflower at the Mayflower Hotel
- November 13, 2014 Pro-Boxing: Promoter Ollie Dunlap Fight For Children Fight Night at the Washington Hilton Hotel

REVIEW OF MINUTES

- Approval of Minutes

OLD BUSINESS

1. James LeBlanc Final Order
2. Officials Training
- 3.

NEW BUSINESS

1. Upcoming Amateur Events
- 2.

ADJORNMENT

NEXT REGULAR SCHEDULED MEETING IS DECEMBER 9, 2014

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION**

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

November 2014

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
Jason Sockwell	Board of Accountancy	5	8:30 am-12:00pm
Lisa Branscomb	Board of Appraisers	19	8:30 am-4:00 pm
Jason Sockwell	Board Architects and Interior Designers	14	8:30 am-1:00 pm
Cynthia Briggs	Board of Barber and Cosmetology	3	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	18	7:00-pm-8:30 pm
Kevin Cyrus	Board of Funeral Directors	6	11:00am-3:00 pm
Lori Fowler	Board of Professional Engineering	20	9:30 am-1:30 pm
Leon Lewis	Real Estate Commission	18	8:30 am-1:00 pm
Pamela Hall	Board of Industrial Trades	18	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 St., SW, Suite E-300 Washington, DC 20024.
For further information on this schedule, please contact the front desk at 202-442-4320.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

District of Columbia Real Estate Commission

1100 4th Street, S.W., Room 300
Washington, D.C. 20024

AGENDA

November 18, 2014

1. Call to Order - 9:30 a.m.
2. Executive Session (Closed to the Public) – 9:30 am-10:30 am
 - A. Legal Committee Recommendations
 - B. Review – Applications for Licensure
 - C. Legal Counsel Report
3. Attendance (Start of Public Session) – 10:30 a.m.
4. Comments from the Public
5. Minutes - Draft, October 14, 2014
6. Recommendations
 - A. Review - Applications for Licensure
 - B. Legal Committee Report
 - C. Education Committee Report
 - D. Budget Report
 - E. 2014 Calendar
 - F. Correspondence
7. Old Business
8. New Business
 - Report - ARELLO Investigator Workshop – October 28-30, 2014
9. Adjourn

Next Scheduled Regular Meeting, December 9, 2014
1100 4th Street, SW, Room 300B, Washington, DC 20024

**DC BILINGUAL PUBLIC CHARTER SCHOOL
REQUESTS FOR PROPOSALS**

iPads for Classrooms

DCBPCS is accepting proposals for a bid to provide 80 iPads to classrooms for school year 2014-2015. Bidders are invited to submit proposals for new iPads that include a quote, shipping date, and arrival date. All bids should be submitted electronically to Hannah Buie, School Operations Manager, at hbuie@centronia.org.

The deadline for submission is November 7, 2014.

E.L. HAYNES PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS – LEGAL COUNSEL**

E.L. Haynes Public Charter School (“ELH”) is soliciting proposals from qualified vendors for legal counsel in order to achieve three objectives:

1. Provide legal representation, research, advice, and opinions related to the dissolution, repayment and/or restructuring of certain existing tax credit, debt and lease financing arrangements. The goals in doing so are to consolidate ELH’s assets and operations, reduce the complexity of ELH’s financing structure and provide financial benefit and flexibility to ELH;
2. Provide legal representation, research, advice, and opinions related to the new tax credit financing via ELH’s existing allocation of Qualified School Construction Bonds, which were used to finance the construction of the Kansas Avenue campus. Some of the tax credit strips on these bonds have yet to be monetized. The goal is to maximize the proceeds available to ELH from these tax credit strips as a way to reduce new borrowing;
3. Provide legal representation, research, advice, and opinions related to raising new debt financing through traditional bank debt, bond financing or another vehicle. ELH will explore all potential options with both its existing financing partners and other parties. The competing goals in raising this capital are to keep the cost of financing as low as possible while preserving as much simplicity in the financing structure and future flexibility for ELH as possible.

Proposals will be due by COB Friday, November 7, 2014.

The RFPs with bidding requirements can be obtained by contacting:

Vanessa Carlo-Miranda
E.L. Haynes Public Charter School
Phone: 202.667.4446 x2511
Email: vcarlomiranda@elhaynes.org

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY**Family Child Development Homes to Join A Neighborhood-based Network of High Quality Infant/ Toddler Child Care and Comprehensive Services****Request for Applications Release Date: October 31, 2014****Registration for Pre-Application Conference and/or Webinar: November 10, 2014****Pre-Application Conference Date: November 12, 2014****Pre-Application Conference Webinar Date: November 13, 2014****Grant Application Submission Deadline: December 2, 2014**

The Office of the State Superintendent for Education (OSSE) of the District of Columbia seeks applications from Family Child Development Home partners interested in joining a neighborhood-based technical assistance network in order to receive support to attain and maintain federal Early Head Start (EHS) standards. In addition, Family Child Development Home partners that are selected to join a quality improvement network will benefit from the following:

- Job-embedded, continuous, professional learning and technical assistance aligned to DC Early Learning Standards and EHS.
- Payment at the Gold Level rate for eligible children (approximately \$2,000 more annually than the Bronze rate).
- Full payment based on enrollment not daily attendance rates.
- Assistance with recruitment to fill vacancies and support with transitions to pre-K.
- Mini-grants to support quality improvement.

Request for Applications: As part of OSSE's \$4.1 million Quality Improvement Initiative in the fiscal year 2015 ("FY15") budget for improving and expanding the quality of infant and toddler care and leveraging a new federal funding opportunity to support EHS-child care partnerships, OSSE is seeking applications from licensed Family Child Development Homes that wish to be considered to join a community-based Quality Improvement Network. The Family Child Development Home Network will be led by a community-based organization that will serve as a Hub. The Hub agency serving Family Child Development Home partners is the Mary Center. Mary Center will be responsible for providing services and supports to participating Family Child Development Homes under the Quality Improvement Network and help them meet the following goals:

- Achieving [Federal Head Start Program Performance Standards for serving infants, toddlers, and their families](#) in a family child care setting. Assisting Child Development Home providers and any employed teachers in the home to attain a Child Development Associate's certification with a focus on infant and toddler care within two years of becoming a participating provider.
- Providing comprehensive child development services for all children that enhance their physical, social, emotional, and intellectual development.
- Providing an array of services to families including parenting education and family support.

Anticipated Number of Awards: OSSE seeks to fund multiple grantees to serve as a partner child care provider. Should a grantee fail to achieve the stated goals and objectives described in the

individual proposal under this application that grantee may be subject to penalties that include, but are not limited to, loss of funding, suspension or termination.

Eligibility Criteria: OSSE seeks information from Family Child Development Homes willing to join a One City approach to raising the quality of infant and toddler child care by serving as neighborhood-based technical assistance. To be eligible, responding agencies must:

- Operate in wards 1 or 4;
- Are licensed or in the process of becoming licensed by OSSE, have not been grandfathered in/ exempt from certain licensing; standards, or received a waiver from any licensing requirements, and have no substantiated reports of licensing violations within the last year;
- Are serving children between birth and age three;
- Are willing to have two to three slots filled by children who are part of the EHS-child care partnership model;
- Have participated in training or education programming to learn best practices in caring for infants and toddlers in the past two years;
- Are interested in serving children with special needs;
- Have the willingness and dedication to implement the federal Head Start Program; and Performance Standards and prioritize Early Head Start eligible children for service.

Expectations for Child Development Home partners in the Quality Improvement Hub

Within 18 months of becoming a partner, Child Development Homes must:

- Partner with hub agencies to develop and implement a quality improvement plan;
- Meet federal key Head Start Program Performance standards for serving infants, toddlers, and their families;
- Meet or exceed DC rules regarding child-adult ratios and group size in Child Development Homes;
- Be working toward or successfully attain a CDA with training in infant/toddler development within two years of becoming a provider in the network;
- Support the provision of comprehensive services for children and families by the Hub agency, including supporting implementation of individualized family service plans (IFSP);
- Participate in the Child and Adult Care Food Program (CACFP); and
- Facilitate children's and families' transitions to pre-k.

Important Dates: The Request for Application (RFA) will be available on October 31, 2014. Applications may be obtained from the Office of Partnerships and Grant Services website, Funding Alert link @ <http://opgs.dc.gov/page/funding-alert>, the DC Register <http://www.dcregs.dc.gov/> or the Office of the State Superintendent of Education (OSSE) website, <http://osse.dc.gov/>. Applications may also be obtained from Mr. Walter C. Lundy, Jr., Associate Director, please send an email to Walter.Lundy@dc.gov to request an electronic copy of the application. Parties interested in applying for this RFA are required to attend the Pre-Application Conference that will be held on November 12, 2014, 12:00 p.m. to 2:00 p.m. EST at 810 First Street, NE, Rm 901 4, Washington, DC 20002. Additionally, a follow-up Webinar will be hosted by OSSE on November 13, 2014 from 12:00 pm – 2 pm. Interested parties are required to RSVP for the Pre-Application Conference and/or Webinar to Mr. Walter Lundy via email to Walter.Lundy@dc.gov by November 10, 2014. **The deadline for final application submission is December 2, 2014, via electronic submission at 3:30 p.m. EST.**

OFFICE OF STATE SUPERINTENDENT OF EDUCATION**REQUEST FOR APPLICATIONS****FY 2015 Mathematics Science Partnerships Grant Program****Notice of Funds Availability**

The District of Columbia Office of the State Superintendent of Education (OSSE) announces funding availability through the Mathematics and Science Partnerships Grant Program authorized through provisions of Title II, Part B of the No Child Left Behind Act of 2001. The purpose of this funding is to increase the academic achievement of students in mathematics and science by enhancing the content knowledge and teaching skills of classroom teachers. Partnerships between high-need Local Educational Agencies (LEAs) and the science, technology, engineering, and mathematics (STEM) faculty in institutions of higher education are at the core of these improvement efforts. Other partners may include public schools, private schools, business, and non-profit or for-profit organizations involved in mathematics and science education.

Available Funding for Awards: The amount available for this award period is \$707,599.90.

Award Period: The grant period will be from the date of award until September 30th, 2016.

Eligibility: The Mathematics Science Partnerships grant is a partnership grant program. An eligible partnership will include the following principal partners at a minimum:

- (1) a District of Columbia high-need Local Educational Agency (LEA);
- (2) a science, technology, engineering and mathematics (STEM) department within an institution of higher education (IHE). The institution of higher education must:
 - a. be accredited by a regional accrediting body recognized by the United States Department of Education and;
 - b. provide services in the District of Columbia at the applicant's university or college, DC public, charter, or private school or other suitable facility approved by OSSE.

State Application Priority: The District of Columbia Office of the State Superintendent of Education (OSSE) has aligned federal priorities of the Mathematics Science Partnerships grant program with the following areas of focus, identified as OSSE priorities for this grant funding opportunity. Grant applications that are awarded funding during the FY 2015 cycle will describe proposed programs which substantially address one or both of the following focus areas:

1. **Professional Development aimed at providing support to increase the proportion of effective and highly effective STEM teachers at High need LEAs.** Applicants will identify a cadre of STEM teachers within the high need LEA, or a consortium of high-need LEAs with the intent of developing a corps of highly-effective master educators who are proficient in using challenging State academic content standards, student academic

achievement standards, and State assessments to improve instructional practices and student achievement with the intent of helping other teachers become highly effective. A portion of the delivery of such supports must be in the form of subject area development in the STEM subjects. The applicant is strongly encouraged to develop the program with an emphasis on ensuring that participants have opportunities for meaningful interactions with scientists, mathematicians, engineers, and other industry leaders who represent STEM fields. Programs designed under this option will demonstrate how they intend to be used as a model to support effective instruction across the District of Columbia.

2. **Professional Development programs aimed at facilitating implementation of the Next Generation Science Standards (NGSS) in DC LEAs and schools.** Applicants will identify a cadre of STEM teachers within the high need LEA, or a consortium of high-need LEAs to participate in NGSS-specific training, who will return to their schools and LEAs to lead NGSS-specific professional development to other STEM teachers. Applications should demonstrate a strong intention to provide opportunities for participants to have direct contact with individuals and organizations that represent STEM fields such as scientists, mathematicians, engineers, etc. Programs designed under this option will demonstrate how they intend to be used as a model to support effective instruction across the District of Columbia.
3. **In-service Collaboration with Industry Leaders.** Applicants will establish and operate mathematics and science summer institutes with the intent of providing STEM teachers with the opportunity to interface directly with practicing scientists, mathematicians, and engineers in an effort to increase their subject matter. Applications seeking funding under this option will demonstrate how the proposed program intends to improve participants' instructional skills through the use of sophisticated tools and work space, computing facilities, libraries, and other resources that institutions of higher education are more readily able to provide. The design of the program will center on content knowledge, the principles of effective instruction and student learning. Long term plans that include multi-week institutes coupled with support over a sustained period are critical. A promising model for this would be the establishment and operation of summer workshops or institutes with follow-up training, coaching, and other supports for classroom implementation. Programs designed under this option shall target a majority of teachers rated as effective or minimally effective per the LEAs evaluation system with activities geared toward moving these teachers toward earning highly effective ratings.
4. **Professional development programs aimed at supporting LEA use of student learning objectives (SLOs).** Funding may be used to better prepare administrators and STEM teachers to deconstruct learning standards, identify priority content, create high-quality goals and objectives, and measure student progress in tested and non-tested grades, and in STEM subjects. Prospective applicants may also consider forming a consortium of LEAs, led by an LEA experienced in using student learning objectives that will help other LEAs to successfully implement SLOs through provision of targeted professional development and by modeling best practices.

The OSSE will no longer accept paper applications for the Mathematics Science Partnerships grant. The Request for Applications (RFA) will be released through OSSE's new Enterprise Grants Management System (EGMS) on Monday, November 17, 2014; **the deadline for submission is Friday, January 19, 2015 at 11:59 p.m.**

Pre-Application webinars will be held on Tuesday, November 18, 2014 from 2:00pm to 4:00pm and on Thursday, December 4, 2014 from 2:00pm to 4:00pm. You may RSVP by emailing Valida Walker at valida.walker@dc.gov. **It is strongly recommended that applying organizations attend one of the pre-application webinars.**

Applicants are also encouraged to email questions to Valida Walker at valida.walker@dc.gov **no later than Friday, January 19, 2015 at 5:00 p.m.** Questions submitted after this deadline will not be identified for a response.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

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 #6057-R2 to the United States Department of Treasury, Internal Revenue Service, to operate one existing diesel-fired emergency generator set located in Washington, DC. The contact person for the facility is David Gowin, Building Manager, at (202) 439-9849.

Emergency Generator to be Permitted

Equipment Location	Address	Generator Size	Engine Size	Permit No.
Internal Revenue Service, Service Court	1111 Constitution Ave. NW Washington, DC 20224	449 kW	602 bhp	6057-R2

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

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

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

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

No written comments or hearing requests postmarked after December 1, 2014 will be accepted.

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

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit No. 6232-R1 to the Architect of the Capitol to operate one 223.8 kW emergency fire pump with 300 HP diesel fired engine at the U.S. Capitol Power Plant, 25 E Street SE, Washington, DC 20003. The contact person for facility is Brian Klein at (202) 226-2313. The applicant's mailing address is U.S. Capitol Building, Room SB-15, Washington, DC 20515.

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

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

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

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

No written comments or hearing requests postmarked after December 1, 2014 will be accepted.

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

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

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 #6354-R1 to the Architect of the Capitol to operate one Cummins 750 kW emergency generator set with Cummins diesel engine Model VT28-G7 (S/N 25303571), located in Washington, DC. The contact person for the facility is James Styers, Environmental Engineer, at (202) 226-6636.

Emergency Generator to be Permitted

Equipment Location	Address	Generator Size	Engine Size	Permit No.
Supreme Court of the United States	One First Street, NE Washington, DC 20543	750 kW	1,135 hp	6354-R1

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from the 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 application to operate the emergency generator and the draft permit and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

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

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

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

No written comments or hearing requests postmarked after December 1, 2014 will be accepted.

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

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

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 #6472-A1 to the District of Columbia Water and Sewer Authority (DC Water), amending a permit to construct a packed-bed wet air scrubber at the Blue Plains advanced wastewater treatment plant, located in Washington, DC. The contact person for the applicant is Meena Gowda, Principal Counsel, at (202) 787-2628.

Odor Scrubber to be Permitted

Equipment Location	Address	Equipment Size	Type
Blue Plains WWTP- Atop Solids Processing Building	5000 Overlook Ave. SW Washington, DC 20032	54,000 cfm	Indusco Packed Bed Tower Scrubber or equivalent

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from the equipment covered by this permit. Where the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this condition, this condition shall not be applicable. [20 DCMR 201]
- 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]
- c. Permittee shall ensure that after an operating permit has been issued, the dewatered sludge loading facility (DSLFL) odor scrubber, is properly operated to achieve the following removal efficiencies or rates [20 DCMR 201]:
 1. Removal of a minimum of 99 percent of ammonia from the DSLFL air stream or a maximum outlet concentration of 0.20 ppm ammonia, whichever results in a higher outlet emission rate;
 2. Removal of a minimum of 80 percent of total reduced sulfur compounds from the DSLFL air stream or a maximum outlet concentration of 0.20 ppm of these compounds,

whichever results in a higher outlet emission rate; and

3. Removal of a minimum of 99 percent of hydrogen sulfide from the DSLF air stream or a maximum outlet concentration of 0.1 ppm of hydrogen sulfide, whichever results in a higher outlet emission rate.

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

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

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

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

No written comments or hearing requests postmarked after December 1, 2014 will be accepted.

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

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

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 #6915 to New Cingular Wireless PCS, LLC, dba AT&T Mobility, to construct and operate one diesel fired emergency generator set, located in Washington, DC. The contact person for the applicant is Barbara Walden, Manager, Environment, Health and Safety, at (925) 327-2532.

Emergency Generator to be Permitted

Equipment Location	Address	Generator Standby Rating (Engine Size)	Model Numbers (Engine/Generator)	Permit No.
5600 East Capitol St. NE Washington, DC	5600 East Capitol St. NE Washington, DC 20019	50 kW (86 bhp/64.2 kW)	Generac/ SD050	6915

The proposed emission limits are as follows:

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

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO _x	CO	PM
4.7	5.0	0.40

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions the emergency generator set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.05
Oxides of Nitrogen (NO _x)	0.15
Volatile Organic Compounds (VOC)	0.15
Total Particulate Matter (PM Total)	0.01
Sulfur Dioxide (SO _x)	0.04

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

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

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

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

No written comments or hearing requests postmarked after December 1, 2014 will be accepted.

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

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

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 #6916 to New Cingular Wireless PCS, LLC, dba AT&T Mobility, to construct and operate one diesel fired emergency generator set, located in Washington, DC. The contact person for the applicant is Barbara Walden, Manager, Environment, Health and Safety, at (925) 327-2532.

Emergency Generator to be Permitted

Equipment Location	Address	Generator Standby Rating (Engine Size)	Model Numbers (Engine/Generator)	Permit No.
1301 New Jersey Ave. NE Washington, DC	1301 New Jersey Ave. NE Washington, DC 20001	80 kW (131 bhp/97.7 kW)	Generac/ SD080	6916

The proposed emission limits are as follows:

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

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO_x	CO	PM
4.0	5.0	0.30

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions the emergency generator set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.05
Oxides of Nitrogen (NO _x)	0.20
Volatile Organic Compounds (VOC)	0.20
Total Particulate Matter (PM Total)	0.01
Sulfur Dioxide (SO _x)	0.07

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

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

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

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

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DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

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 #6918 to New Cingular Wireless PCS, LLC, dba AT&T Mobility, to construct and operate one diesel fired emergency generator set, located in Washington, DC. The contact person for the applicant is Barbara Walden, Manager, Environment, Health and Safety, at (925) 327-2532.

Emergency Generator to be Permitted

Equipment Location	Address	Generator Standby Rating (Engine Size)	Model Numbers (Engine/Generator)	Permit No.
4240 Massachusetts Ave. SE Washington, DC	4240 Massachusetts Ave. SE Washington, DC 20019	50 kW (86 bhp/64.2 kW)	Generac/ SD050	6918

The proposed emission limits are as follows:

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

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO_x	CO	PM
4.7	5.0	0.40

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions the emergency generator set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.05
Oxides of Nitrogen (NO _x)	0.15
Volatile Organic Compounds (VOC)	0.15
Total Particulate Matter (PM Total)	0.01
Sulfur Dioxide (SO _x)	0.04

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

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

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

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

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DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

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 #6920 to New Cingular Wireless PCS, LLC, dba AT&T Mobility, to construct and operate one diesel fired emergency generator set, located in Washington, DC. The contact person for the applicant is Barbara Walden, Manager, Environment, Health and Safety, at (925) 327-2532.

Emergency Generator to be Permitted

Equipment Location	Address	Generator Standby Rating (Engine Size)	Model Numbers (Engine/Generator)	Permit No.
300 37 th Street SE Washington, DC	300 37 th Street SE Washington, DC 20019	50 kW (86 bhp/64.2 kW)	Generac/ SD050	6920

The proposed emission limits are as follows:

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

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO_x	CO	PM
4.7	5.0	0.40

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions the emergency generator set are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.05
Oxides of Nitrogen (NO _x)	0.15
Volatile Organic Compounds (VOC)	0.15
Total Particulate Matter (PM Total)	0.01
Sulfur Dioxide (SO _x)	0.04

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

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

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

FRIENDSHIP PUBLIC CHARTER SCHOOL
NOTICE OF REQUEST FOR PROPOSAL FOR

Friendship Public Charter School is seeking bids from prospective candidates to provide

School Garden Physical and Program Development: Friendship Public Charter School is soliciting proposals from qualified vendors/ Company to develop **School Garden Physical and Program Development**. The competitive Request for Proposal can be found on FPCS website at <http://www.friendshipschools.org/procurement>. Proposals are due no later than 4:00 P.M., EST, Nov 7th, 2014. Questions can be addressed to ProcurementInquiry@friendshipschools.org. -- **All bids not addressing all areas as outlined in the RFP will not be considered**

Comprehensive System Intended to Increase College Enrollment: Friendship Public Charter School is soliciting proposals from qualified vendors/ Company to provide **Comprehensive System Intended to Increase College Enrollment**. The competitive Request for Proposal can be found on FPCS website at <http://www.friendshipschools.org/procurement>. Proposals are due no later than 4:00 P.M., EST, Nov 7th, 2014. Questions can be addressed to ProcurementInquiry@friendshipschools.org. -- **All bids not addressing all areas as outlined in the RFP will not be considered**

Controller-Module-LWAP: Friendship Public Charter School is seeking an experienced vendor /company to supply **Controller-Module-LWAP**. The competitive Request for Proposal can be found on FPCS website at <http://www.friendshipschools.org/procurement>.

The deadline has been extended and proposals are due no later than 5:00 P.M., EST, December 12th, 2014. Questions can be addressed to ProcurementInquiry@friendshipschools.org. -- **All bids not addressing all areas as outlined in the RFP will not be considered.**

**DEPARTMENT OF HEALTH CARE FINANCE &
DEPARTMENT ON DISABILITY SERVICES**

**PUBLIC NOTICE OF PROPOSED AMENDMENTS AND
PROPOSED TRANSITION PLAN**

**Home and Community-Based Services Waiver for
Persons with Intellectual and Developmental Disabilities**

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02) (2012 Repl. & 2013 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), and the Director of the Department on Disability Services (DDS), pursuant to authority set forth in Title I of the Department on Disability Services Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264; D.C. Official Code § 7-761.01 *et seq.*), hereby give notice of their intent to submit a transition plan for and amendments to the District of Columbia Medicaid program's Home and Community-Based Services (HCBS) Waiver for Persons with Intellectual and Developmental Disabilities (IDD) to the Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS) for review and approval.

CMS regulations, effective March 17, 2014, and published in 79 Fed. Reg. 2948-3039 (Jan. 16, 2014), changed the definition of home and community-based services settings for HCBS Waiver services. Additionally, the new CMS regulations require that, at the time HCBS Waiver amendments are submitted, DHCF and DDS must develop and submit to CMS a transition plan identifying how the HCBS Waiver will be brought into compliance with the new outcome-oriented definition of HCBS settings; provide a thirty (30) day public notice and comment period; and provide at least one additional opportunity for public comment.

The proposed amendments to the HCBS Waiver contain changes to the methods and standards for setting payment rates for some services and substantive changes to the amount, duration, and scope of some services. DHCF and DDS previously published a public notice in the D.C. Register, *see* 61 DCR 2330-2333 (Mar. 14, 2014), of a series of proposed changes in rate methodologies and reimbursements, substantive changes for some services, and a proposed transition plan. Based upon comments from the public and CMS, DHCF and DDS have revised the proposed transition plan and are making additional changes to the proposed HCBS waiver amendments.

The following proposed changes in rate methodologies and reimbursements, to be effective upon approval by CMS and publication of implementing regulations, were initially published on March 14, 2014, and are republished without substantive changes:

- 1) The Residential Habilitation and Supported Living services rate methodologies to be modified to match the overtime, paid time-off correction implemented in the Intermediate Care Facility for Individuals with Intellectual Disabilities rate methodology implemented in FY 2014.
- 2) Residential Habilitation, Supported Living, In-Home Supports, Host Home, Behavioral Support Non-Professional and Respite services to include increases in the hourly wage rates for the Direct Support Professionals (DSPs), and associated percentage rate increases for the House Manager and Qualified Intellectual Disabilities Professionals and Registered Nurse to be in compliance with the D.C. Living Wage Act of 2006 for FY 2015.
- 3) The Day Habilitation services rate methodology to be changed to include nursing for staff training and oversight of Health Care Management Plans (HCMPs) at a ratio of 1:20 to be paid at the rate for a Registered Nurse of \$72,800. This change is to improve the health and welfare of Waiver beneficiaries who have complex health support needs.
- 4) Host Home services rate to include a vacancy factor of 93% (1.07) to promote parity with all other residential services which also have a vacancy factor.
- 5) Employment Readiness, Day Habilitation, Supported Employment (all), Group Supported Employment, and Family Training services' Direct Support wage rates to be increased by the market basket rate for nursing homes for FY 2015 of 1.3%. The rates for these services have not changed in six (6) years.
- 6) Clinical therapy rate research to address the on-going problem with access to a qualified and adequate provider network in Physical Therapy (PT), Occupational Therapy (OT), Speech, Nutrition and Behavioral Support services, a rate review of other provider networks operating in the District was completed. Two primary competitors for clinicians are working in the schools and early intervention. The Office of the State Superintendent for Education's (OSSE) published rates under 5 DCMR § A-2853 pay \$98.90 per hour for PT, \$100.90 for Speech and \$105.57 for OT. Health Services for Children with Special Needs reports PT and OT at \$125 per hour, and Speech Therapy sessions at \$71.18. Master's prepared counselors through OSSE, the Department of Behavioral Health and the Children and Family Services Agency are paid at \$65.00. Based on the above the following rates are proposed: increase Behavior Paraprofessional

from \$60.00 to \$65.00 per hour; increase OT, PT and Speech from \$65.00 to \$100.00 per hour; and, Nutrition from \$55.00 to \$60.00 per hour.

- 7) Art Therapies: Based on the comments from providers and market research, to increase Art Therapy to \$75 per hour, and to introduce a group rate of \$22 per hour for a group of four.
- 8) Fitness: Based on current market conditions, to reduce the rate from \$75 to \$50 per hour, and to introduce a group rate of \$30 per hour for a group of two.
- 9) Individualized Day Supports rate to be reduced from \$24.44 per hour to \$21.79 per hour, based on market research and to promote parity with other individualized supports.
- 10) Upon approval of the IDD HCBS waiver by CMS, DHCF and DDS intend to increase all rates in subsequent years based on requirements of the D.C. Living Wage Act of 2006 and the market basket index for nursing homes to keep pace with inflation using appropriate Medicaid long-term care services indicators.

DHCF and DDS propose the following additional changes in rate methodologies and reimbursements to be effective upon approval by CMS and publication of implementing regulations:

- 1) Day Habilitation: Modify rate to reflect increased costs associated with benefits for staff, facilities and utilities, including cell phones; and decreased costs associated with Direct Support Professional (DSP) hours, specifically that the rate should be based upon DSPs working 2080 hours per year. The new rate is proposed at \$6.68 per 15 minute unit. Introduce a small group rate with a staffing ratio of 1:3 and no more than 10 people in a setting for people with higher intensity support needs at \$11.60 per 15 minute unit. Add a new rate modifier for Day Habilitation that includes payment for meals for waiver recipients who live independently or with their families.
- 2) Employment Readiness: Increase in the Employment Readiness rate from \$3.80 to \$5.26 per 15 minute unit based upon increased costs in capital and indirect costs.
- 3) Personal Care: An increase in the personal care rate to coincide with the State Plan personal care service rate to \$4.65 per 15 minute unit.
- 4) Supported Living: A decrease in the Supported Living without transportation rates due to a reduction in the number of hours to be reimbursed during what is commonly considered the hours spent in day or vocational services.

- 5) Individualized Day Supports: Introduce a one-to-one rate of \$9.23 per 15 minute unit. Add a new rate modifier that includes payment for meals for waiver recipients who live independently or with their families.

The following substantive changes to services proposed to be effective upon approval by CMS and publication of implementing regulations were initially published on March 14, 2014, and are republished without substantive changes.

- 1) Behavioral Supports: Modify to a tiered service, utilizing low intensity behavioral supports, moderate behavioral supports, and high intensity behavioral supports, with corresponding caps on level of service, based on the person's assessed needs.
- 2) Day Habilitation: Add a nursing component to the service definition for the purpose of medication administration, and staff training and monitoring of the participants' HCMPs.
- 3) Individualized Day: Modify requirements for DSP qualifications. Allow relatives to provide DSP services for the person.
- 4) Transportation Community Access: This service is not utilized and will be omitted because transportation is available through the Medicaid transportation provider.
- 5) Shared Living: This service is not utilized and will be omitted. In the future, it will be an available service under the Individual and Family Supports Home and Community-Based Services waiver that is in development.
- 6) Skilled Nursing: Skilled nursing services will no longer be prohibited in a Supported Living setting.
- 7) Supported Employment: Amend provider qualifications by requiring that all Supported Employment providers become Rehabilitation Services Administration service providers within one year of approval of these amendments.
- 8) Supported Living: Add specialized rate authority when needed to provide intensive individualized staffing to support a person due to complex behaviors that may involve a serious risk to the health safety or wellbeing of the person or others, or when required by court order.
- 9) Supported Living: Modify service to allow skilled nursing to be provided in this setting.

- 10) Wellness: Modify requirements for fitness trainers to include people who have obtained a bachelor's level degree in physical education, health education or exercise science. Modify provider qualifications for bereavement counselors to ensure access to a larger group of qualified providers.
- 11) DHCF shall use spousal impoverishment rules to determine eligibility for the home and community-based waiver group, whereby a certain amount of the couples' combined income and assets are protected for the spouse not receiving services under the HCBS waiver, to be effective in IDD HCBS Waiver Year 2, or upon approval by CMS.

DHCF and DDS propose the following additional substantive changes in services to be effective upon approval by CMS and publication of implementing regulations:

- 1) Waiver Years 4 and 5 Increase in Participants: Increase the unduplicated number of participants in Waiver Years 4 and 5 from 1,692 to 1,742.
- 2) Art Therapies: Change the name of Art Therapies to Creative Art Therapies.
- 3) Behavioral Supports: Add clarifying language that a Licensed Graduate Social Worker may only deliver services in accordance with Section 3413 of Chapter 34 of Title 22 of the D.C. Municipal Regulations.
- 4) Companion: Add a new service to provide non-medical assistance or supervision in accordance with a person's assessed needs and plan of care with a rate of \$4.65 per 15 minute unit.
- 5) Day Habilitation: Add small group day habilitation for people who are medically or behaviorally complex, and which must be provided separate and apart from any large day habilitation facility. Add provision of one nutritionally adequate meal per day for people who live independently or with their families. Clarify service definition for day habilitation to require meaningful adult activities and skills acquisition that support community integration and a person's independence.
- 6) In Home Supports: Modify to require the owner and operator of the provider agency to have a degree in the Social Service or related field with at least 3 years of experience working with people with IDD, or five years of experience working with people with IDD.
- 7) Wellness: Add small group fitness at 1:2 ratio, which allows a person to work out with a friend. Add recreational therapists and people with a B.A. in Kinesiology to the list of qualified providers for fitness services.

- 8) Individualized Day: Modify Individualized Day Supports (IDS) service definition to clarify that IDS includes the provision of opportunities that promote community socialization and involvement in activities, and the building and strengthening of relationships with others in the local community. Allow IDS to be combined with other day and employment supports for a total of forty (40) hours per week. Offer IDS in small groups (1:2) and one-to-one, based upon the person's assessed need and, for limited times, based on ability to match the person with an appropriate peer to participate with for small group IDS. Add orientation requirements for DSP staff working in IDS. Limit minimum service authorizations. Add provision of one nutritionally adequate meal per day for people who live independently or with their families.
- 9) Supported Living and Supported Living with Transportation: Modify service definition to create more flexibility in the application of the reimbursed staffing hours and ratios, to better reflect the time individual persons may spend in their residence during the course of the day to be responsive to individualized person-centered plans.
- 10) Provider Requirements: Add requirement that owner-operators of the following services complete training in Person-Centered Thinking, Supported Decision-Making, Supporting Community Integration, and any other topics determined by DDS, and in accordance with DDS published guidance within one year from the date the waiver application becomes effective for current providers and prior to any new waiver provider becoming approved to initiate services: Supported Living, Supported Living with Transportation, Host Homes, Residential Habilitation, In Home Supports, Day Habilitation, Individualized Day Supports, Employment Readiness, and Supported Employment.

Copies of the proposed amendments to the HCBS waiver and the proposed transition plan may be obtained on the DDS website at <http://dds.dc.gov> or upon request from Laura L. Nuss, Director, D.C. Department on Disability Services, 1125 Fifteenth Street, N.W., 4th Floor, Washington, D.C. 20005.

There are two opportunities to provide comments on the proposed HCBS waiver amendments and the proposed transition plan:

Written comments on the proposed waiver amendments and proposed transition plan shall be submitted to Laura L. Nuss, Director, D.C. Department on Disability Services, 1125 Fifteenth Street, N.W., 4th Floor, Washington, D.C. 20005, or via e-mail at dds.publiccomments@dc.gov, during the thirty (30) day public comment period, starting from the date this notice is published.

DHCF and DDS will hold a public forum during which written and oral comments on the proposed amendments and transition plan will be accepted. The public forum will be held at

D.C. Department on Disability Services, 1125 Fifteenth Street, N.W., Washington, D.C. 20005 on Monday, November 17, 2014 at 4pm.

Copies of this notice also will be published on the DDS website at <http://dds.dc.gov> and on the DHCF website at <http://dhcf.dc.gov>.

For further information, contact Erin Leveton, Program Manager, DDS State Office of Disability Administration, at (202) 730-1754, erin.leveton@dc.gov.

**DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
INCLUSIONARY ZONING PROGRAM
NOTICE OF ALTERNATIVE SELECTION PROCEDURE FOR
2910 GEORGIA AVENUE NW, WASHINGTON, DC**

The DC Department of Housing and Community Development (“DHCD”), pursuant to the authority set forth in Section 107 of the Inclusionary Zoning Implementation Act of 2006, effective March 14, 2007 (D.C. Law 16-275; D.C. Official Code Section 6-1041.07) and Mayor’s Order 2008-59, dated April 2, 2008, hereby gives notice that registration for the Alternative Selection Procedure for two affordable housing units (“Inclusionary Units”) under the Inclusionary Zoning Program has been extended from the date of publication of the previous notice in the DC Register (September 12, 2014) until December 12, 2014 or until the two Inclusionary Units are sold. Information about the size, sale price and details about these Inclusionary Units is available at www.dchousingsearch.org.

DHCD is hereby establishing the Alternative Selection Procedure for the selection of Households eligible to purchase the two (2) Inclusionary Units at 2910 Georgia Avenue NW, Washington, District of Columbia. Unless otherwise defined herein, any capitalized terms used in this document shall have the meaning identified in the Inclusionary Zoning Implementation regulations, 14 D.C.M.R. §2299. Inclusionary Unit #C-02 is a two bedroom unit and is reserved for a Low-Income Household. The maximum purchase price for Inclusionary Unit #C-02 is \$145,200. Inclusionary Unit #202 is a two bedroom unit and is reserved for a Moderate-Income Household. The maximum purchase price for Inclusionary Unit #202 is \$271,200.

In accordance with 14 D.C.M.R. §2210.6, DHCD will permit the sale of the Inclusionary Units to Households that did not register for previous lotteries. Households must register under the current Alternative Selection Procedure outlined below to be eligible to purchase these Inclusionary Units. No previous Household registration will be valid. Households that previously registered for the Inclusionary Zoning Program lottery will continue to be eligible for future lotteries for other upcoming Inclusionary Units.

Alternative Selection Procedure:

1. Households interested in purchasing the above Inclusionary Units shall either register online at www.dhcd.dc.gov or register in person through one of the computers in DHCD’s Housing Resource Center, 1800 Martin Luther King Jr. Avenue SE, First Floor, Washington D.C. 20020, Monday to Friday, 8:30 A.M. to 3:30 P.M., (202) 442-9505.

2. Interested Households shall provide DHCD with the following information through the online registration:

- Name, address, and telephone number of the Household member who will serve as the primary contact;
- The Number of people in your Household; Note that your Household must have at least two (2) persons and must have no more than four (4) persons in order to be eligible); The income level of your Household; Note that your Household Income levels must be at or below the maximum levels for a Low-Income Household or a Moderate-Income Household:

Household Size (Number of Persons)	Low-Income Household Maximum Income	Moderate-Income Household Maximum Income
2	\$42,800	\$68,480
3	\$48,150	\$77,040
4	\$53,500	\$85,600

- Whether the Household consists of a person enrolled as a full time student, and, if so, the Annual Income and household size of the parents or guardians of the full time student;
- Name and address of employer of each employed Household member;
- Whether the Household’s address is the principal residence for the primary contact and the members of the Household;
- Whether the Household has obtained an eligibility notice for any District or Federal loan or grant programs (HPAP/EAHP/NEAHP, etc.)

3. DHCD shall inform Households who have fulfilled the registration requirements listed above that they have been selected to continue the process to purchase the Inclusionary Unit for which they are income eligible. Following such notice from DHCD, the selected Households shall contact the Certifying Entity to obtain their Certifications of Income, Affordability, and Housing Size. Households must also obtain a Housing Counseling Certificate of completion.

4. Prior to contacting the Certifying Entity, Households must obtain a pre-approval letter from a lender indicating the Household’s creditworthiness and ability to afford the purchase price. Please note that a pre-approval letter is required, not a pre-qualification letter.

5. Households should request an appointment with the Certifying Entity to determine their eligibility for the purposes of issuing the Certification of Income, Affordability and Housing Size and providing each of the Households with housing counseling and a housing counseling certificate of completion under the Inclusionary Zoning Program.

6. After a Household obtains their Certifications of Income, Affordability and Housing Size; and receives their housing counseling certificate of completion, the Household shall provide the following information to the DHCD by emailing the following documents to Lesley Edmond at 2910.georgiaavenue@dc.gov; or by mailing the documents to the attention of Lesley Edmond at: 1800 Martin Luther King Jr. Avenue SE, Second Floor, Washington D.C. 20020:

- a. A Certification of Income, Affordability and Housing Size obtained from a Certifying Entity approved by DHCD;
- b. A housing counseling certificate of completion; and
- c. An active pre-approval letter from lender(s) indicating the Household’s creditworthiness and ability to afford the purchase price.

7. Any mailed documents must be addressed as follows:
 Attn: Lesley Edmond – 2910 Georgia Avenue Registration
 1800 Martin Luther King Jr. Avenue SE, Second Floor
 Washington D.C. 20020

8. Registration for the above two Inclusionary Units shall remain open from the date of the D.C. Register publication through 5 p.m. on Friday, December 12, 2014. Only Households that have submitted all the documents required in paragraph six (6) to DHCD shall be eligible to purchase one of the two Inclusionary Units. Households that mail their documents must ensure that they are received by DHCD on Friday, December 12, 2014. Documents that are postmarked December 12, 2014, but arrive later, will not be accepted.

9. DHCD will review the documents required in paragraph six (6). If a Household has properly submitted all the required documents, DHCD will notify the Household and the Inclusionary Development Owner that the Household is eligible to purchase one of the two Inclusionary Units. DHCD will approve documents on a rolling basis, and interested Households are encouraged to submit their documentation as soon as possible if they are interested in purchasing the unit. Notified Households do not have any exclusive right to purchase the Inclusionary Unit. The Inclusionary Units may be sold to the first ready and able Household.

10. The Inclusionary Development Owner may sell the Inclusionary Unit to the first ready and able Household for each of the Inclusionary Units that submits all the documents required in paragraph six (6). The Inclusionary Development Owner may sell the Inclusionary Unit prior to December 12, 2014, if an interested Household has had its documentation approved.

11. DHCD may, at its sole discretion, reopen registration after December 12, 2014. If DHCD reopens registration, it will do so by republishing the Alternative Selection Procedure.

12. Once the Inclusionary Development Owner sells to the first ready and able buyer, all other registered Households for that Inclusionary Unit become ineligible for that Inclusionary Unit and must re-register for future lotteries if they wish to purchase other upcoming Inclusionary Units.

13. All notices by DHCD to registered and selected Households, Certifying Entities, and the Inclusionary Development Owner shall be by email only.

**IDEA PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS**

Multiple

IDEA Public Charter School is soliciting multi-year BID proposals from qualified vendors to provide various services for the 2014-2015 school year. A synopsis of the services and products sought are provided below. The full RFP, containing guidelines for submission, applicable qualifications and bid specifications, can be obtained by visiting our website: www.ideapcs.org. The full RFP's will be available on the school website Friday, October 31, 2014.

A Portable Document Format (pdf) electronic version of your proposal must be received by the school no later than 2:00 p.m. EST on November 15, 2014. Proposals should be emailed to: Ms. Nicole Seward, Vice President of Operations, sewardn@ideapcs.org

No phone calls submissions or late responses please. Interviews, samples, demonstrations will be scheduled at our request after the review of the proposals only.

Interested parties/vendors will state their credentials/qualifications and provide appropriate licenses, references, insurances, certifications, proposed costs, and work plan.

- A. **Special Events Planner**- To coordinate IDEA's 2015 Gala.
- B. **Copier/Printer**: For a printing intensive school environment, looking for vendors selling new copier/printers.
- C. **Copier Service/Supplies**- Vendor needed to provide service and supplies to copier machine(s).

**OFFICE OF THE DEPUTY MAYOR FOR
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLIC MEETING REGARDING
SURPLUS RESOLUTION PURSUANT TO D.C. OFFICIAL CODE §10-801**

The District will conduct a public meeting to receive public comments on the proposed surplus of District property. **Please note that written comments will be accepted until Tuesday, November 25th, 2014.** The date, time and location shall be as follows:

- Property:** “DC Water Sites”
125 O Street, S.E. and 1402 First Street, S.E.
Portions of Lot 805 in Square 744S and Lot 801 in Square 744SS
- Date:** Thursday, November 20, 2014
- Time:** 6:30 p.m.
- Location:** Boilermaker Building, The Yards
300 Tingey Street, S.E., Unit 140 (adjacent to Nando’s Peri Peri)
Washington, DC 20003
- Contact:** Joseph Lapan, Joseph.Lapan@dc.gov

Because DC Water will continue to occupy the Property while pre-development is ongoing, declaration of the Property as surplus will be conditioned on (i) DC Water receiving rights to occupy suitable relocation/replacement property(ies), (ii) available funding for activities necessary to allow DC Water to relocate to and operate on such relocation/replacement property(ies) and (iii) approval by an independent engineer procured by DC Water of an operational plan during and after relocation.

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
District of Columbia Metropolitan Police)	
Department,)	PERB Case No. 09-A-05
)	
Petitioner,)	Opinion No. 1487
)	
v.)	
)	
Fraternal Order of Police/Metropolitan Police)	Decision and Order
Department Labor Committee, (on behalf of)	
Thomas Pair),)	
)	
Respondent.)	
)	
_____)	

DECISION AND ORDER

On April 3, 2009, the District of Columbia Metropolitan Police Department (“MPD” or “Department” or “Petitioner”) filed an arbitration review request (“Request”) seeking review of an arbitration award (“Award”)¹ that overturned the termination of Grievant Thomas Pair (“Grievant”), alleging that the Award violated law and public policy, and that the Arbitrator acted without authority and/or exceed her jurisdiction. On April 23, 2009, the Fraternal Order of Police/Metropolitan Police Department Labor Committee (“FOP” or “Union”) filed an Opposition to the Request (“Opposition”). As reasoned below, and pursuant to D.C. Official Code § 1-605.02(6) (2001 ed.), MPD’s Request is denied.

I. Statement of the Case

The matter before the Board arises from a grievance filed by FOP challenging MPD’s termination of Grievant’s employment. (Award at 4). MPD asserts that after Grievant was terminated on September 30, 2005, he took no action to challenge MPD’s determination until November 2007, when he presented the matter to MPD for conciliation in accordance with Article 19, E, Section 4, of the parties’ Collective Bargaining Agreement (“CBA”).² (Request at 5). On November 28, 2007, MPD sent a letter to FOP stating that “[t]he Chief of Police

¹ Included with MPD’s Request as Attachment 1.
² Article 19, E, Section 4 states: “Submissions to arbitration shall be made within ten (10) business days from any attempt at conciliation.” (Request, Attachment 4, Exhibit 9 at 24); (Opposition, Attachment 5 at 24).

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considered but ultimately does not want to settle [Grievant's case and others] at this time." (Request, Attachment 4, Exhibit 8).

On December 18, 2007, FOP sent a letter to MPD requesting that Grievant's case, among others, be "promptly scheduled for arbitration proceedings through the Federal Mediation and Consultation Service ("FMCS")...." (Request, Attachment 5, Sub-Attachment 2). On January 29, 2008, FOP sent another letter to MPD asking what steps the Department was taking to schedule the arbitrations FOP had requested in its December 18th correspondence. (Opposition, Attachment 3). On February 6, 2008, MPD sent a letter to FOP stating that FOP was responsible for contacting FMCS to schedule the arbitrations because FOP represented the parties that were requesting the arbitrations. (Request, Attachment 5, Sub-Attachment 4). MPD asserts that FOP then failed to submit Grievant's case to FMCS for arbitration "until on or about March 4, 2008." (Request at 4).

MPD argued in its Brief before the Arbitrator that Grievant's case was not arbitrable because FOP's request for arbitration did not comply with Article 19, E, Section 4 of the parties' CBA, which MPD asserted required FOP to file the request within ten (10) business days of MPD's November 28, 2007, letter that rejected FOP's attempt to conciliate Grievant's case. (Award at 9-10). In her March 9, 2009, Opinion and Award, the Arbitrator invoked her authority under Article 19, E, Section 3³ and other language in the CBA to resolve MPD's arbitrability question as a threshold issue before addressing the case's merits. *Id.* Relying on precedent established in a previous arbitration between the parties that dealt with the same 10-day provision in the CBA⁴, the Arbitrator found that MPD's statement in its November 28, 2007, letter that the Chief of Police did not want to settle Grievant's case "at this time" did not definitively "conclude" the conciliation process and that the 10-day requirement in Article 19, E, Section 4 therefore did not begin to run. *Id.* at 10-11. The Arbitrator reasoned that including the words "at this time" left "open the possibility for future consideration and the possibility of a change of position, ... even if remote", and that had MPD not used those words, it would have been "clearly understood that the MPD had ended conciliation efforts." *Id.* The Arbitrator found that "[t]here must be clear language used to provide sufficient notice before a contractual right to proceed could be lost." *Id.* The Arbitrator then cited various examples from other MPD correspondences in which the Department's language was "clear and detailed and provided instructions on contractual rights which could be lost if procedural timetables [were] not followed." *Id.* at 12-13. The Arbitrator reasoned that by adding the words, "at this time", MPD failed in its duty of notification by not using language that was indisputable. *Id.* at 13. The Arbitrator further noted that MPD did not raise the timeliness issue in its February 6, 2008, letter

³ Article 19, E, Section 3, in pertinent part, states: "If the Department believes the issue is not arbitrable and the Union disagrees or if agreement cannot be reached on a joint stipulation of the issue, each party shall submit its own statement of the issue to arbitration and the arbitrator will rule on arbitrability as a threshold issue before proceeding to a hearing on the merits." (Request, Attachment 4, Exhibit 9 at 24); (Opposition, Attachment 5 at 24).

⁴ *District of Columbia Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee*, FMCS Case No. 08-54130-A (December 15, 2008) (holding that the 10-day period in Article 19, E, Section 4 begins to run only after the conciliation attempt has fully concluded because having the period begin at the outset of conciliation would defeat the purpose of the conciliation requirement). (Request, Attachment 5, Sub-Attachment 5).

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to FOP or at any other time prior to the arbitration. *Id.* at 13-14. Based on these reasons, the Arbitrator found that MPD “did not provide clear and sufficient notification that efforts at conciliation had ended”, that the 10-day period in Article 19, E, Section 4 therefore never began to run, and that the merits of Grievant’s case were therefore arbitrable. *Id.* at 14, 33. Addressing the merits of Grievant’s case, the Arbitrator overturned the Panel’s findings and penalty determinations on grounds that they were not supported by substantial evidence, and ordered Grievant to be reinstated and made “whole” subject to certain specified mitigating factors and considerations.⁵ *Id.* at 33.

On April 3, 2009, MPD filed the instant Arbitration Review Request, challenging only the Arbitrator’s procedural finding that the case is arbitrable. (Request at 4-7).

A. MPD’s Arguments that the Award Violated Law and Public Policy

MPD contends the Arbitrator’s finding is contrary to law and public policy because it violates the 10-day time period in Article 19, E, Section 4. *Id.* at 4-5. MPD asserts Grievant “let this matter lie dormant for approximately two and one-half years” until November 2007, and then attempted conciliation. *Id.* at 5. MPD argues that when it rejected Grievant’s conciliation effort in its November 28, 2007, letter to FOP, the 10-day period in Article 19, E, Section 4 began to run and Grievant had until December 12, 2007, to request arbitration. *Id.* at 5. MPD states, “Grievant failed to submit this matter to FMCS until on or about March 4, 2008, sixty-five (65) days from the date of the attempt to conciliate” and therefore, “Grievant failed to timely submit this matter to arbitration and it is not arbitrable.” *Id.* MPD likened the 10-day requirement in this case to another time limit in the CBA that requires MPD to issue final adverse action decisions within 55-days, which the D.C. Court of Appeals has stated is a “bargained-for right which created in essence a substantive right, [...and] failure to issue [a] decision within the 55 days, as pr[e]scribed, must be viewed as a harmful error.” *Id.* at 5-6 (quoting *D.C. Metropolitan Police Department v. D.C. Public Employee Relations Board*, 901 A.2d 784, 786 (2006)). MPD asserts that, similarly, Grievant’s request for arbitration sixty-five (65) days after the 10-day period expired created a harmful error that the Arbitrator was obligated to recognize and follow. *Id.* at 5-6. As such, MPD argues the Arbitrator’s finding is inconsistent with the standard articulated in *MPD v. PERB*, *supra*, 901 A.2d 784, because the Arbitrator disregarded MPD’s November 28, 2007, letter rejecting Grievant’s conciliation efforts. *Id.* at 6. Further, MPD contends the Arbitrator’s finding violates Article 19, E, Section 5(4)⁶ of the CBA because the Arbitrator applied a finality requirement that is not stated in or required by the CBA or any other legal authority. *Id.* at 6.

⁵ Throughout almost the entirety of the Award, the Arbitrator refers to FOP as the “FOB”. Every indication shows, however, that this was done in error and that the Arbitrator intended to use the acronym “FOP.” (Award at 1). Therefore, the Board considers all references to the “FOB” in the Award to actually mean the FOP.

⁶ Article 19, E, Section 5 (4) states: “The arbitrator shall not have the power to add to, subtract from or modify the provisions of this Agreement in arriving at a decision of the issue presented and shall confine his [or her] decision solely to the precise issue submitted for arbitration.” (Request, Attachment 4, Exhibit 9 at 25); (Opposition, Attachment 5 at 25).

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B. MPD's Arguments that the Arbitrator Acted Without Authority and/or Exceeded Her Jurisdiction

MPD contends that, in accordance with Article 19, E, Section 5(4), the Arbitrator also acted without authority and/or exceeded her jurisdiction when she "expanded the terms of the 'conciliation clause'" by adopting a new, unwritten, and unprecedented standard requiring MPD to prove that its rejection of Grievant's conciliation effort was final. *Id.* at 6. MPD states:

The phrase 'any attempt at conciliation' [in Article 19, E, Section 4] is not defined in the CBA. In the construction of a contract the intention of the parties is to prevail, and in ascertaining this intention the language is to be given its plain and ordinary meaning. [*Friedman v. Decatur Corp.*, 77 U.S. App. D.C. 326, 135 F.2d 812 (1943)]. Webster's Dictionary defines 'conciliate', *inter alia*, as 'to make compatible: cause to be in accord.' An 'attempt' is defined, *inter alia*, as 'an effort or a try.' The [Department's] letter of November 28, 2007, states, '[t]he Chief of Police has reviewed the cases the FOP has presented and has made the following decisions....' It further states, '[t]he Chief of Police has considered but ultimately does not want to settle the following cases at this time. ... Thomas Pair.' It is clear from the letter that FOP presented Grievant's case to the Chief of Police (COP) for consideration and that the COP considered and rejected a settlement. Thus, there was an 'attempt at conciliation,' pursuant to Article 19, E, [Section] 2 of the CBA. The Arbitrator essentially added the requirement that there be evidence that the COP's decision was final. That requirement is not contained in the CBA. Accordingly, the Arbitrator violated [Article 19, E, Section 5(4)] of the CBA which forbids an arbitrator from, *inter alia*, adding to provisions of the agreement.

Id. at 6-7. MPD asserts that by relying on a finality requirement that is not in the CBA, the arbitrator fashioned her "own brand of industrial justice" when she determined the matter was arbitrable. *Id.* at 7 (citing *United Paperworkers Int'l Union v. Misco, Inc.*, 484 U.S. 29, 36 (1987); and *United Steelworkers of America v. Enterprise Wheel and Car Corp.*, 363 U.S. 597 (1960)). As such, MPD argues that the Arbitrator's finding of arbitrability did not draw its essence from the CBA, which required Grievant to request arbitration "within ten (10) business days from any attempt at conciliation" and was inconsistent with the express requirement that the arbitrator not "add to, subtract from, or modify the provisions" of the CBA and should therefore be reversed. *Id.*; see also (Request, Attachment 4, Exhibit 9 at 24-25); and (Opposition, Attachment 5 at 24-25).

C. FOP's Opposition

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On April 23, 2009, FOP filed its Opposition to MPD's Request asserting that: 1) MPD's Request is untimely; 2) MPD's law and public policy arguments are misplaced; and 3) the Arbitrator's arbitrability finding is consistent with the CBA. (Opposition at 4-14).

No other pleadings having been filed, MPD's Request and FOP's Opposition are now before the Board for disposition.

II. Analysis

A. Timeliness of MPD's Request

FOP's contention that MPD's Request is untimely does not prevail. FOP asserts that pursuant to PERB Rule 538.1, MPD had twenty (20) days after service of the Award to file its Request. (Opposition at 5-6). FOP relies on MPD's Affidavit of Service in which MPD certified that it received the Award by "first class mail" on March 13, 2009. *Id.* (citing Request, Attachment 2). FOP calculates that MPD's Request was due on April 2, 2009, and that MPD did not file it until April 3, 2009. *Id.* PERB Rule 538.1 requires arbitration review requests to be filed within twenty (20) days from service of the award, but the Rule also states that, "[s]ervice of the award shall be complete on personal delivery during business hours[;] depositing the document in the United States mail, properly addressed, first class postage prepaid[;] electronic mail[;] or by facsimile transmission", and that "[w]henver an award is served by United States mail, five (5) days shall be added to the prescribed period of time to file a request for review with the Board." MPD and FOP both assert MPD received the Award *via* "first class mail" on March 13, 2009. (Request, Attachment 2); (Opposition at 5-6). If the Board assumes the Arbitrator mailed the Award and thus completed service on the earliest possible day, March 9 (the same day she signed the Award), then in accordance with PERB Rules 501.5 and 538.1, the deadline to file an Arbitration Review Request was April 3, not April 2 as FOP asserts. (See PERB Rules 501.5 and 538.1). Therefore, because PERB's time-stamp shows that MPD's Request was filed on April 3, the Board finds it was timely filed in accordance with PERB's Rules. *Id.*; and (Request at 1).

B. Arbitrability

The CMPA authorizes the Board to modify or set aside an arbitration award in only three limited circumstances: 1) if an arbitrator was without, or exceeded his or her jurisdiction; 2) if the award on its face is contrary to law and public policy; or 3) if the award was procured by fraud, collusion or other similar and unlawful means. D.C. Official Code § 1-605.02(6).

MPD requests reversal of the Award in this case based on its assertions that the Arbitrator's arbitrability finding was contrary to law and public policy, and that the Arbitrator exceeded her authority. (Request at 4-7).

1. Deferral to Arbitrator on Questions of Procedural Arbitrability

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The D.C. Court of Appeals has stated, “issues of procedural arbitrability, i.e., whether prerequisites such as time limits, notice, laches, estoppel, and other conditions precedent to an obligation to arbitrate have been met, are for the arbitrators to decide.” *Washington Teachers’ Union, Local No. 6, AFT v. D.C. Public Schools*, 77 A.3d 441, 446, fn. 10 (2013).

In this case, the Board finds the Arbitrator had jurisdictional authority to determine whether the underlying grievance was arbitrable, and defers to the Arbitrator’s conclusion. First, since the crux of MPD’s argument is that Grievant’s case was not arbitrable because FOP did not submit Grievant’s request for arbitration within the 10-day time limit stated in Article 19, E, Section 4 of the CBA, the Board finds that MPD’s contention is procedural in nature and is therefore exclusively for the arbitrator to decide. *Id.* Second, Article 19, E, Section 3 of the parties’ CBA expressly authorized the Arbitrator to determine whether Grievant’s case was arbitrable. (Request, Attachment 4, Exhibit 9 at 24); (Opposition, Attachment 5 at 24). The record shows that the Arbitrator followed the process outlined in Article 19, E, Section 3 of the CBA by first ruling on the arbitrability question as a threshold issue before proceeding to her analysis of the merits. (Award at 9-14). As such, the Board defers to the Arbitrator’s analysis and conclusion that Grievant’s case was arbitrable. *Id.*

2. Deferral to Arbitrator’s Interpretations of the Parties’ CBA

Additionally, the Board defers to the Arbitrator’s interpretation of the words “at this time” in MPD’s November 28, 2007, letter rejecting Grievant’s efforts to conciliate as meaning MPD’s decision was not final. (Award at 10-13).

The Board has long held that by agreeing to submit the settlement of a grievance to arbitration, it is the arbitrator’s interpretation, not the Board’s, for which the parties have bargained. See *University of the District of Columbia and University of the District of Columbia Faculty Association*, 39 D.C. Reg. 9628, Slip Op. No. 320, PERB Case No. 92-A-04 (1992). The Board has also adopted the Supreme Court’s holding in *United Steelworkers of America v. Enterprise Wheel & Car Corp.*, that arbitrators bring their “informed judgment” to bear on the interpretation of collective bargaining agreements....” 363 U.S. 593, 597 (1960). By submitting the matter to arbitration, “the parties agree[d] to be bound by the arbitrator’s interpretation of the parties’ agreement, related rules and regulations, as well as the evidentiary findings on which the decision is based.” *District of Columbia Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee*, 47 D.C. Reg. 7217, Slip Op. No. 633 at p. 3, PERB Case No. 00-A-04 (2000); *District of Columbia Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee (Grievance of Angela Fisher)*, 51 D.C. Reg. 4173, Slip Op. No. 738 PERB Case No. 02-A-07 (2004). Finally, the “Board will not substitute its own interpretation or that of the agency for that of the duly designated arbitrator.” *District of Columbia Department of Corrections and International Brotherhood of Teamsters, Local Union 246*, 34 D.C. Reg. 3616, Slip Op. No. 157, PERB Case No. 87-A-02 (1987).

In this case, even if the Board would have come to a different interpretation of whether

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MPD's rejection of Grievant's conciliation efforts was sufficiently final to invoke the 10-day requirement in Article 19, E, Section 4, it is not the Board's interpretation for which the parties have bargained. *UDC and UDCFA, supra*, Slip Op. No. 320, PERB Case No. 92-A-04. Rather, the Arbitrator brought her "informed judgment" to bear on the question before her, reasonably applied her interpretation of the CBA, and concluded that the 10-day period did not begin to run when MPD issued its November 28th letter. *United Steelworkers, supra*; and (Award at 10-13). Therefore, because the parties agreed beforehand to be bound by the Arbitrator's interpretation of their CBA and the evidentiary findings upon which that interpretation was based, the Board cannot and will not substitute its own interpretation or that of MPD for that of the duly designated Arbitrator. *MPD v. FOP, supra*, Slip Op. No. 633 at p. 3, PERB Case No. 00-A-04; and *DOC and Teamsters, Local Union 246, supra*, Slip Op. No. 157, PERB Case No. 87-A-02.

3. The Arbitrator's Arbitrability Finding was Not Contrary to Law

The Board rejects MPD's contention that the Arbitrator's finding is contrary to law because it violates the 10-day time period in Article 19, E, Section 4. (Request at 4-6).

In order to find that an arbitrator's award is facially contrary to law, the asserting party bears the burden to specify the "applicable law and definite public policy that mandates that the Arbitrator arrive at a different result." *District of Columbia Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee*, 59 D.C. Reg. 11329, Slip Op. No. 1295, PERB Case No. 09-A-11 (2012); *MPD v. FOP, supra*, Slip Op. No. 633, PERB Case No. 00-A-04. Additionally, the Board has held that a mere "disagreement with the Arbitrator's interpretation ... does not make the award contrary to law...." *District of Columbia Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee*, Slip Op. No. 933, PERB Case No. 07-A-08 (2008) (quoting *AFGE, Local 1975 and Dept. of Public Works*, 48 D.C. Reg. 10955, Slip Op. No. 413, PERB Case No. 95-A-02 (1995)).

In this case, MPD fails to demonstrate or show how the provision in Article 19, E, Section 4 "mandates" a different result in the Arbitrator's ruling that the matter was arbitrable. *MPD and FOP, supra*, Slip Op. No. 1295, PERB Case No. 09-A-11. As stated previously, the parties agreed to present the question of whether MPD's November 28, 2007, letter invoked the 10-day period in Article 19, E, Section 4 to the Arbitrator and to be bound by her conclusion. *UDC and UDCFA, supra*, Slip Op. No. 320, PERB Case No. 92-A-04; *see also MPD v. FOP, supra*, Slip Op. No. 633 at p. 3, PERB Case No. 00-A-04. Additionally, since MPD raised this same argument before the Arbitrator, the Board finds that raising it again here constitutes nothing more than mere disagreement with the Arbitrator's conclusion. (Award at 9-10); *MPD and FOP, supra*, Slip Op. No. 933, PERB Case No. 07-A-08. As such, the Board cannot overturn the Arbitrator's finding because there is nothing on the face of Article 19, E, Section 4 that mandates the Arbitrator reach a different result. *MPD and FOP, supra*, Slip Op. No. 1295, PERB Case No. 09-A-11; and *DOC and Teamsters, Local Union 246, supra*, Slip Op. No. 157, PERB Case No. 87-A-02.

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Similarly, the Board rejects MPD's contention that the Arbitrator's arbitrability finding is contrary to law because she applied a finality requirement that is not stated in or required by the CBA, in violation of Article 19, E, Section 5(4). (Request at 6). Again, the Board finds that the Arbitrator's interpretation, analysis, and conclusion concerning Article 19, E, Section 4 is not facially contrary to any law. *UDC and UDCFA, supra*, Slip Op. No. 320, PERB Case No. 92-A-04. The Board further finds that the Arbitrator did not fashion her "own brand of industrial justice" when she determined that Grievant's case was arbitrable because her finding relied on practices established in a previous arbitration case between the same parties that dealt with the same issue. (Request at 7) (*citing United Paperworkers, supra*, 484 U.S. at 36); (Award at 10-11). In *MPD and FOP, supra*, FMCS Case No. 08-54130-A, it was held that the 10-day period in Article 19, E, Section 4 begins to run only after the conciliation attempt has fully concluded, since having the period begin at the outset of conciliation would defeat the purpose of the conciliation requirement. *See* (Request, Attachment 5, Sub-Attachment 5). As such, since the Arbitrator's findings reasonably relied on an interpretation of the same provision that was established in a previous arbitration case between these same parties, the Board defers to the Arbitrator's finding that Grievant's case was arbitrable. *MPD v. FOP, supra*, Slip Op. No. 633 at p. 3, PERB Case No. 00-A-04; *and DOC and Teamsters, Local Union 246, supra*, Slip Op. No. 157, PERB Case No. 87-A-02.

4. The Arbitrator's Arbitrability Finding was Not Contrary to Public Policy

Next, the Board rejects MPD's argument that the Arbitrator's decision was contrary to public policy. (Request at 4-7).

PERB's review of an arbitration decision on the basis of public policy is an "extremely narrow" exception to the rule that reviewing bodies must defer to an arbitrator's ruling. "[T]he exception is designed to be narrow so as to limit potentially intrusive judicial review of arbitration awards under the guise of public policy." *Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee (on Behalf of Kenneth Johnson)*, 59 D.C. Reg. 3959, Slip Op. No. 925, PERB Case No. 08-A-01 (2012) (*quoting American Postal Workers Union, AFL-CIO v. United States Postal Service*, 789 F.2d 1, 8 (D.C. Cir. 1986)). A petitioner must demonstrate that the award "compels" the violation of an explicit, well defined public policy grounded in law and or legal precedent. *See United Paperworkers, supra*, 484 U.S. 29. The violation must be so significant that the law or public policy "mandates that the arbitrator arrive at a different result." *MPD v. FOP, supra*, Slip Op. No. 633, PERB Case No. 00-A-04. Again, mere "disagreement with the arbitrator's interpretation . . . does not make the award contrary to . . . public policy." *MPD and FOP, supra*, Slip Op. No. 933, PERB Case No. 07-A-08.

In this case, the Board finds that MPD's reliance on the D.C. Court of Appeals' decision in *MPD v. PERB, supra*, 901 A.2d 784 regarding the 55-day rule is misplaced because the 55-day provision in that matter is only loosely comparable, if at all, to the 10-day provision in this case. The arbitration case the Arbitrator relied on, however, is directly on point concerning Article 19, E, Section 4 and is therefore more directly comparable to the facts of this case.

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(Award at 10-11); *see also* (Request, Attachment 5, Sub-Attachment 5). Furthermore, the Court's ruling in *MPD v. PERB, supra*, 901 A.2d 784 did not establish an "explicit, well defined public policy" related to Article 19, E, Section 4, and MPD's comparison did not articulate a violation of public policy so significant that the Arbitrator was "mandated" to "arrive at a different result." *United Paperworkers, supra*, 484 U.S. 29; *MPD v. FOP, supra*, Slip Op. No. 633 at p. 3, PERB Case No. 00-A-04. Therefore, because the D.C. Court of Appeals recognizes a public policy strongly in favor of arbitrability, the Board finds that MPD has not stated a public policy exception to warrant upsetting the Arbitrator's finding that Grievant's case is arbitrable. *District of Columbia Public Employee Relations Board v. Fraternal Order of Police/Metropolitan Police Department Labor Committee*, 987 A.2d 1205 (D.C. 2010).

5. The Arbitrator Did Not Exceed Her Authority

Lastly, the Board rejects MPD's contention that the Arbitrator exceeded her authority because she applied a finality requirement that is not stated in or required by the CBA, in violation of Article 19, E, Section 5(4) of the CBA. (Request at 4-6). In order to determine if the arbitrator has exceeded his jurisdiction and/or was without authority to render an award, the Board evaluates "whether the award draws its essence from the collective bargaining agreement." *MPD and FOP (on Behalf of Kenneth Johnson), supra*, Slip Op. No. 925, PERB Case No. 08-A-01 (*quoting D.C. Public Schools v. AFSCME, District Council 20*, 34 D.C. Reg. 3610, Slip Op. No. 156, PERB Case No. 86-A-05 (1987)); *see also Dobbs, Inc. v. Local No. 1614, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America*, 813 F.2d 85 (6th Cir. 1987). The U.S. Court of Appeals for the Sixth Circuit in *Michigan Family Resources, Inc. v. Service Employees International Union Local 517M*, has explained what it means for an award to "draw its essence" from a collective bargaining agreement by stating the following standard:

[1] Did the arbitrator act 'outside his authority' by resolving a dispute not committed to arbitration?; [2] Did the arbitrator commit fraud, have a conflict of interest or otherwise act dishonestly in issuing the award?"; "[a]nd [3] [I]n resolving any legal or factual disputes in the case, was the arbitrator arguably construing or applying the contract"? So long as the arbitrator does not offend any of these requirements, the request for judicial intervention should be resisted even though the arbitrator made "serious," "improvident" or "silly" errors in resolving the merits of the dispute.

475 F.3d 746, 753 (6th Cir. 2007).

As stated previously, the Arbitrator in this case did not fashion the finality requirement on her own, but instead reasonably relied on a previous arbitration case between the same parties that dealt with the same issue. *See* (Request, Attachment 5, Sub-Attachment 5). In so doing, the Arbitrator reasonably (1) considered the parties' positions; (2) exercised her express authority to analyze and interpret the applicable provisions of the CBA; and (3) concluded that Grievant's

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case is arbitrable. *MPD v. FOP, supra*, Slip Op. No. 633 at p. 3, PERB Case No. 00-A-04; *and DOC and Teamsters, Local Union 246, supra*, Slip Op. No. 157, PERB Case No. 87-A-02. As such, because the Arbitrator did not act outside of her authority; did not commit fraud; did not have a conflict of interest or otherwise act dishonestly in issuing the Award; and because the Arbitrator arguably and reasonably construed and applied the parties' CBA in applying a previously established finality requirement to Grievant's case, the Board finds that the Arbitrator's decision drew its essence from the parties' CBA and therefore did not violate Article 19, E, Section 5(4). *See Michigan Family Resources, supra*, 475 F.3d at 753. Therefore, the Board rejects MPD's argument and finds no cause to upset or reverse the Arbitrator's arbitrability finding.

C. Conclusion

The Board finds that MPD's Request was timely under PERB Rules 501.5 and 538.1. Additionally, because (1) the D.C. Court of Appeals has held that issues of procedural arbitrability are for the arbitrators to decide; (2) the Arbitrator's finding that Grievant's case was arbitrable drew its essence from the parties' CBA; (3) the Arbitrator's arbitrability determination was not contrary to law or public policy per D.C. Official Code § 1-605.02(6); and (4) the Arbitrator did not exceed her authority per D.C. Official Code § 1-605.02(6), the Board denies MPD's Request for a review of the Arbitrator's Award. *WTU v. DCPS, supra*, 77 A.3d at 446, fn. 10; *MPD and FOP (on Behalf of Kenneth Johnson), supra*, Slip Op. No. 925, PERB Case No. 08-A-01.

ORDER

IT IS HEREBY ORDERED THAT:

1. MPD's Arbitration Review Request is Denied.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, and Members Donald Wasserman and Keith Washington

August 21, 2014

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 09-A-05, Opinion No. 1487, was transmitted *via* US Mail and e-mail to the following parties on this the 17th day of September, 2014.

Andrea Comentale, Esq.
Assistant Attorney General
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VIA US MAIL AND EMAIL

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VIA US MAIL AND EMAIL

/s/ Adessa Barker
PERB

OFFICE OF THE DEPUTY MAYOR FOR PUBLIC SAFETY AND JUSTICE**D.C. CORRECTIONS INFORMATION COUNCIL****NOTICE OF PUBLIC MEETING**

The DC Corrections Information Council (CIC), in accordance with the DC Official Code § 1-207.42 and § 2-575, hereby gives notice that it has scheduled the following meeting for **Monday, November 3, 2014** from **6:30 pm** to **8:00 pm**. For additional information, please contact Shakenia Bryant, CIC Office Manager, at (202) 478-9211 or shakenia.bryant@dc.gov.

The CIC is an independent monitoring body mandated by the US Congress and the DC Council to inspect, monitor, and report on the conditions of confinement at facilities where DC residents are incarcerated. This includes facilities operated by the Federal Bureau of Prisons (FBOP), the DC Department of Corrections (DOC), and private contractors. Through its mandate, the CIC collects information from many different sources, including facility inspections, communication with incarcerated DC residents, and community outreach.

Below is the draft agenda for this meeting. A final agenda will be posted on the CIC website, available at <http://cic.dc.gov/>.

DRAFT AGENDA

- I. Call to Order (Board Chair)
- II. Roll Call (Board Chair)
- III. Reports: USP Allenwood, FCI Allenwood Low, Rivers, and USP Atlanta
- IV. Recent Inspections
- V. Community Outreach Position
- VI. Community Outreach
- VII. Questions/Comments
- VIII. Schedule Next CIC Open Meeting and Set Open Meeting Schedule
- IX. Vote to Close Remainder of Meeting, pursuant to DC Code 2-574(c)(1)
- X. Closed Session of Meeting (if approved by majority of CIC Board)
- XI. Adjournment (Board Chair)

CLOSED MEETING

- I. Closed Session of Meeting (if approved by majority of CIC Board)
- II. Adjournment (Board Chair)

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA**PUBLIC NOTICE**

GT97-3, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO AMEND ITS RATE SCHEDULE NO. 6,

GT06-1, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO AMEND GENERAL SERVICE PROVISION NO. 23,

and

FORMAL CASE NO. 1027, IN THE MATTER OF THE EMERGENCY PETITION OF THE OFFICE OF THE PEOPLE'S COUNSEL FOR AN EXPEDITED INVESTIGATION OF THE DISTRIBUTION SYSTEM OF WASHINGTON GAS LIGHT COMPANY

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice that, on October 21, 2014, Washington Gas Light Company ("WGL") filed its annual reconciliation ("Annual Reconciliation Filing")¹ of the Plant Recovery Adjustment ("PRA") surcharge for 2014.² This surcharge recovers the costs of WGL's vintage coupling replacement and encapsulation program ("Program") approved in Order No. 15627.³

2. The 2014 Annual Reconciliation Filing shows the over- or under-collection of the PRA surcharge for the previous year. In the 2014 Annual Reconciliation Filing, WGL includes two tables. The first table shows the adjustment of the current factor to take into account the over-collection of the PRA surcharge for the period ending September 30, 2014.⁴ The second table shows how the reconciliation factor was calculated.⁵

3. All persons interested in commenting on the 2014 Annual Reconciliation Filing may submit written comments and reply comments no later than ten (10) and twenty (20) days,

¹ *Formal Case No. 1027, In the Matter of the Emergency Petition of the Office of the People's Counsel for an Expedited Investigation of the Distribution System of Washington Gas Light Company, GT97-3, GT06-1, Washington Gas Light Company's Annual Reconciliation Filing, filed October 21, 2014.*

² *See Formal Case No. 1027, In the Matter of the Emergency Petition of the Office of the People's Counsel for an Expedited Investigation of the Distribution System of Washington Gas Light Company, GT97-3, GT06-1 ("Formal Case No. 1027, GT97-3, GT06-1"), Washington Gas Light Company's Annual Surcharge Filing ("WGL 2014 Annual Surcharge Filing"), filed September 16, 2014.*

³ *Formal Case No. 1027, GT97-3, GT06-1, Order No. 15627, rel. December 16, 2009.*

⁴ WGL 2014 Annual Reconciliation Filing at 1.

⁵ WGL 2014 Annual Reconciliation Filing at 2.

respectively, after the issuance of this Notice. Comments are to be addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., West Tower, Suite 200, Washington, D.C. 20005. Copies of the 2014 Annual Reconciliation Filing may be obtained by visiting the Commission's website at www.dcpssc.org. Once at the website, open the "eDocket" tab, click on "Search database" and input "FC 1027" as the case number and "376" as the item number. Copies may also be obtained by contacting the Commission Secretary at (202) 626-5150 or psc-commissionsecretary@dc.gov.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA**NOTICE OF PROPOSED TARIFF**

GT97-3, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO AMEND ITS RATE SCHEDULE NO. 6,

GT06-1, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO AMEND GENERAL SERVICE PROVISION NO. 23,

and

FORMAL CASE NO. 1027, IN THE MATTER OF THE EMERGENCY PETITION OF THE OFFICE OF THE PEOPLE'S COUNSEL FOR AN EXPEDITED INVESTIGATION OF THE DISTRIBUTION SYSTEM OF WASHINGTON GAS LIGHT COMPANY

1. The Public Service Commission of the District of Columbia ("Commission"), pursuant to its authority under D.C. Official Code § 34-802 (2001), and D.C. Official Code § 34-2003 (2014 Supp.) hereby gives notice of its intent to act upon the Application of Washington Gas Light Company ("WGL")¹ in the above-captioned matter. Pursuant to D.C. Official Code § 2-505 (2001), the Commission will act upon the Application in not less than 30 days after the date of publication of this Notice of Proposed Tariff ("NOPT") in the *D.C. Register*.

2. On October 1, 2014, WGL filed an application requesting authority to amend the following tariff page:

GENERAL SERVICE PROVISIONS NO. 26, PLANT RECOVERY ADJUSTMENT
Third Revised Page 61

3. In its Application, WGL proposes to add a sentence indicating that the Annual Reconciliation Factor for the Plant Recovery Adjustment ("PRA") surcharge will be updated and filed annually each October. The Application also seeks to clarify that the annual computation of the PRA factor and/or reconciliation factor will be provided to Commission staff at least 15 days prior to the application of the new surcharge each October.²

4. The proposed tariff revision is on file with the Commission and may be reviewed at the Office of the Commission Secretary, Public Service Commission of the District of

¹ See *Formal Case No. 1027, In the Matter of the Emergency Petition of the Office of the People's Counsel for an Expedited Investigation of the Distribution System of Washington Gas Light Company, GT97-3, GT06-1* ("Formal Case No. 1027, GT97-3, GT06-1"), Washington Gas Light Company's Revised Tariff Page, filed October 1, 2014.

² *Formal Case No. 1027, GT97-3, GT06-1*, Washington Gas's Revised Tariff Page, filed October 1, 2014, at 1.

Columbia, 1333 H Street, NW, West Tower, Suite 200, Washington, D.C. 20005, between the hours of 9:00 am and 5:30 pm Monday through Friday. Copies of WGL's Application may be obtained by visiting the Commission's website at www.dcpsec.org. Once at the website, open the "eDocket" tab, click on "Search database" and input "FC 1027" as the case number and "373" as the item number. Copies of the WGL Application may also be purchased, at cost, by contacting the Commission Secretary at (202) 626-5150 or psc-commissionsecretary@dc.gov.

5. All persons interested in commenting on WGL's Application may submit written comments and reply comments not later than 30 and 45 days, respectively, after publication of this notice in the *D.C. Register* to Brinda Westbrook-Sedgwick, Commission Secretary, at the above address. After the comment period has expired, the Commission will take final action on WGL's Application.

**THE DISTRICT OF COLUMBIA COMMISSION ON THE
MARTIN LUTHER KING, JR. HOLIDAY**

NOTICE OF PUBLIC MEETING

**Wednesday, November 5, 2014
200 I Street SE Washington, DC 20001**

The District of Columbia Commission on the Martin Luther King, Jr. Holiday will hold its open public meeting on Wednesday, November 5, 2014 at 1:00 pm in the Offices of the DC Commission on the Arts and Humanities. The Commission on the Martin Luther King, Jr. Holiday will be in attendance to discuss program events being planned for January 2015.

The regular monthly meetings of the District of Columbia Commission on the Martin Luther King, Jr. Holiday are held in open session on the first Wednesday of the month. If you have any questions or concerns, please feel free to contact Sharon Anderson at sharond.anderson@dc.gov.

D.C. SENTENCING AND CRIMINAL CODE REVISION COMMISSION**PUBLIC NOTICE****APPOINTMENT OF LINDEN A. FRY AS GENERAL COUNSEL FOR
THE D.C. SENTENCING AND CRIMINAL CODE REVISION COMMISSION**

The D.C. Sentencing and Criminal Code Revision Commission hereby gives notice pursuant to D.C. Code § 1-609.03 (c) (2013) that Linden A. Fry was appointed as General Counsel for the D.C. Sentencing and Criminal Code Revision on August 24, 2014. This is an excepted service position.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY (NOFA)

CLEAN TEAM GRANTS

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to manage a **DC Clean Team Program** (“the Program”) in three service areas (listed below). **The submission deadline is December 1, 2014, 1:00 p.m.**

Through this grant, DSLBD will fund clean teams, which will: 1) Improve commercial district appearance to help increase foot traffic, and consequently, opportunity for customer sales; 2) Provide jobs for DC residents; 3) Reduce litter, graffiti, and posters which contributes to the perception of an unsafe commercial area; 4) Maintain a healthy tree canopy and landscape; 5) Support Sustainable DC goals by recycling, mulching street trees, using eco-friendly supplies, and reducing stormwater pollution generated by DC’s commercial districts; and 6) Provide jobs for DC residents.

Eligible applicants are DC Business Improvement District management organizations which are incorporated in the District of Columbia and have demonstrated capacity with: a) providing clean team services or related services to commercial districts or public spaces; b) providing job-training services to its employees; and c) providing social support services to its Clean Team employees.

DSLBD will **award** between one and three grants to provide Clean Team services for each of the following areas. Each service area has \$100,000 allocated to it.

- Wisconsin Avenue (Ward 3)
- Pennsylvania Avenue (Ward 7)
- New York Avenue (Ward 5)

The **grant performance period** to deliver clean team services is January 16, 2015 through September 30, 2015. Grants may be renewed for a second performance period of October 1, 2015 through September 30, 2016 and for an additional \$100,000 per service area.

Application Process: Interested applicants must complete an online application (RFA Part 2, see below) and submit it on or before **Monday, December 1, 2014 at 1:00 p.m.** Applicants submitting incomplete applications will be notified by December 3, 2014 and will have two business days to upload missing information. Corrected applications are due on December 5, 2014 at 1 p.m. DSLBD will not accept applications submitted via hand delivery, mail or courier service. **Late submissions and incomplete applications will not be forwarded to the review panel.**

The **Request for Application** (RFA) comprises two parts.

1. **RFA Part I, Program Guidelines and Application Instructions** document, which includes: a detailed description of clean team services; service area boundaries; applicant eligibility requirements; and selection criteria. Part 1 of the RFA is posted at

www.dslbd.dc.gov (click on the *Our Programs* tab and then *Solicitations and Opportunities* on the left navigation column).

2. **RFA Part II** which is **the Online Form** through which an Applicant submits application information. The online application will be live **Monday, November 3, 2014**. To access the online application form, an organization must complete and submit an online **Expression of Interest** (Registration) form at <https://octo.quickbase.com/db/bi5n5mq5b>. DSLBD will activate their online access within two business days and notify them via email.

Selection Criteria for applications will include: a) Applicant Organization's demonstrated capacity to provide clean team or related services, and managing grant funds; b) Proposed service delivery plan for basic clean team services; and, c) Proposed service delivery plan for additional clean team services. Applicants should reference RFA Part 1 for detailed description of selection criteria.

Selection Process: DSLBD will select grant recipients through a competitive application process that will assess the Applicant's eligibility, experience, capacity, service delivery plan, and, budget. Applicants may apply for one or more service areas by submitting. DSLBD will determine grant award selection and notify all applicants of their status via email on or before January 2, 2015.

Funding for this award was established by *DC Act 20-377 ("Fiscal Year 2015 Budget Support Emergency Act of 2014")*, Title VI, Subtitle I ("*Competitive Grants*"), Section 6097. Funding is contingent on continued funding from the grantor. The RFA does not commit the Agency to make an award.

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

All applicants must attest to executing DSLBD grant agreement as issued (sample document will be provided in online application) and to starting services on January 16, 2015.

For more information, contact Camille Nixon at the Department of Small and Local Business Development at (202) 727-3900 or camille.nixon@dc.gov.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE

REQUESTS FOR WAIVER OF SUBCONTRACTING REQUIREMENT

In accordance with *The Small and Certified Business Enterprise Development and Assistance Amendment Act of 2014, L20-0108, D.C. Code 2-218.01 et. Seq* (“the Act”), Notice is hereby given that the following agencies have requested waivers from the 35% subcontracting requirement of the Act for the below identified solicitations/contracts with values estimated over \$250,000:

Agency	Solicitation No.	Description	Contracting Officer/ Specialist	DSLBD Contact
CFSA	DCRL-2013-CB-0043	Home Studies - Maryland	tara.sigamoni@dc.gov	cory.jefferson2@dc.gov
OCFO	CFOPD-14-C-069B	Instant Ticket Games	dorothy.whisler@dc.gov	vonetta.martin@dc.gov
CFSA	DCRL-2013-CA-0043	Home Studies - Maryland	tara.sigamoni@dc.gov	jacarl.melton@dc.gov
DYRS	DOC 92783	Group Home Services	Sherrie.mendes@dc.gov	vonetta.martin@dc.gov
DOT	DCKA-2014-B-0065	Horizontal Sidewalk (Saw Cutting)	courtney.lattimore@dc.gov	cory.jefferson2@dc.gov
DDS	DCJM-2015-R-0002	DDS/DDA Provider Certification Reviews	janice.watson@dc.gov	jacarl.melton@dc.gov
OCFO	CFOPD-13-C-005	401(a) & 457 Pension Plan Management	drakus.wiggins@dc.gov	monica.matey@dc.gov
DDS	DCJM-2015-R-0002	DDS/DDA Provider Certification Reviews	janice.watson@dc.gov	vonetta.martin@dc.gov
DCHR	DCPO-2011-C-0019	Health Insurance Plans for DC Employees	yvette.henry@dc.gov	audrey.buchanan2@dc.gov
CFSA	DCRL-2013-R-0134	Evidence- Based Mentoring Program	tara.sigamoni@dc.gov	dian.herrman2@dc.gov
DOH	DCHC-	Women, Infants	allison.robertson@dc.gov	monica.matey@dc.gov

	2014-H-0005	and Children (WIC) Nutrition Services		
FEMS	CW31686	DC Ladder Trucks Refurbishment	gena.johnson@dc.gov	jacarl.melton@dc.gov
FEMS	Doc173793	Repair of John Glenn Boat	gena.johnson@dc.gov	monica.matey@dc.gov
FEMS	n/a	Purchase of Ladder Truck	gena.johnson@dc.gov	dian.herrman2@dc.gov
DHS	Doc180087	Accommodations for Hypothermia Season of Homeless	Wendell.Atkinson@dc.gov	vonetta.martin@dc.gov

As outlined in D.C. Code §2-218.51, as amended, draft approvals are to be posted for public comment on DSLBD's website: www.dslbd.dc.gov for five (5) days in order to facilitate feedback and input from the business community. Following the five (5) day posting period, DSLBD will consider any feedback received prior to issuing a final determination on whether to grant the waiver request.

Pursuant to D.C. Code 2-218.51, the subcontracting requirements of D.C. Code 2-218.46, may only be waived if there is insufficient market capacity for the goods or services that comprise the project and such lack of capacity leaves the contractor commercially incapable of achieving the subcontracting requirements at a project level.

More information and links to the above waiver requests can be found on DSLBDs website: www.dslbd.dc.gov

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DC TAXICAB COMMISSION**

NOTICE OF GENERAL COMMISSION MEETING

The District of Columbia Taxicab Commission will hold its regularly scheduled General Commission Meeting on Wednesday, November 12, 2014 at 10:00 am. The meeting will be held in the Old Council Chambers at 441 4th Street, NW, Washington, DC 20001.

The final agenda will be posted no later than seven (7) days before the General Commission Meeting on the DCTC website at www.dctaxi.dc.gov.

Members of the public are invited to participate in the Public Comment Period. You may present a statement to the Commission on any issue of concern; the Commission generally does not answer questions. Statements are limited to five (5) minutes for registered speakers and two (2) minutes for non-registered speakers. To register, please call 202-645-6018 (ext. 4) no later than 3:30 pm on November 10, 2014. Registered speakers will be called first, in the order of registration. A fifteen (15) minute period will then be provided for **all** non-registered speakers. **Registered speakers must provide ten (10) printed copies of their typewritten statements to the Secretary to the Commission no later than the time they are called to the podium.**

DRAFT AGENDA

- I. Call to Order
- II. Commission Communication
- III. Commission Action Items
- IV. Government Communications and Presentations
- V. General Counsel's Report
- VI. Staff Reports
- VII. Public Comment Period
- VIII. Adjournment

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

Order No. 18732-A on the Motion for Reconsideration and Rehearing of the Application of WSD Capital LLC, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403, the side yard requirements under § 405.9, and nonconforming structure requirements under § 2001.3, for a second story addition to an existing one-family detached dwelling in the R-1-B District at premises 859 Venable Place, N.W. (Square 2971, Lot 39).

HEARING DATE: March 18, 2014
DECISION DATE: March 18, 2014
**MOTION FOR RECONSIDERATION
& REHEARING DECISION DATE:** April 15, 2014

ORDER DENYING RECONSIDERATION AND REHEARING

The order of the Board of Zoning Adjustment (the “Board”) approving the application of WSD Capital LLC (the Applicant) was issued on March 18, 2014. On March 18, 2014, a motion for reconsideration and rehearing was filed by Michael Sindram, who was not a party to the case. The Office of Zoning sent a letter dated March 19, 2014 to Mr. Sindram, noting that only a party may request rehearing and reconsideration and informing Mr. Sindram that he must seek a waiver of this requirement pursuant to 11 DCMR § 3100.5. On March 24, 2014 Mr. Sindram submitted a request to reopen the record and to accept an untimely filing.¹

In both motions, Mr. Sindram put forth the same arguments. First, he claimed that he did not receive mailed notice of the hearing. Next, he argued that the Board failed to provide reasonable public accommodation under the Americans with Disabilities Act (ADA) to allow him to testify by phone. Finally, Mr. Sindram indicated that the ANC meeting agenda provided an incorrect address for the Subject Property and attached ANC 4B’s agenda for February 24, 2014, which lists the address as 829 Venable Place.

For the reasons discussed below, the Board found the arguments and evidence insufficient to support waiving the party status requirement for reconsideration or rehearing of the case.

CONCLUSIONS OF LAW AND DECISION

Pursuant to § 3126.2 of the Board’s Rules of Practice and Procedure (Chapter 31 of Title 11

¹ The request to reopen the hearing pursuant to § 3121.9 is not properly before the Board, as it was filed after the decision was rendered. Subsection 3121.9 provides the opportunity to enter testimony or evidence into the record after it has been closed, provided that the movant “demonstrate good cause and the lack of prejudice to any party.” If the Board grants a motion under this provision, the relevant evidence will be considered by the Board during the decision-making process.

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DCMR):

Any party may file a motion for reconsideration or rehearing of any decision of the Board, provided that the motion is filed with the Director within ten (10) days from the date of issuance of a final written order by the Board.

Under § 3100.5, the Board may waive the party status requirement of § 3126.2 where good cause is shown. Mr. Sindram claims that he did not receive mailed notice of the hearing, that the Board did not provide reasonable public accommodation to allow him to testify by phone, and that the ANC meeting agenda provided an incorrect address for the Subject Property. As a result, Mr. Sindram argues that he was not given proper notice about the public hearing, nor was he afforded a reasonable opportunity to testify. For the following reasons, the Board concludes that these arguments do not show good cause that would justify waiving the prohibition against filing a motion for reconsideration or rehearing by a non-party.

The Board finds that notice of the hearing was mailed to Mr. Sindram and that, even if it were not, adequate notice of the public hearing was provided through other means. As required by § 3113.13, the Director of the Office of Zoning provided notice not less than 40 days before the date of the hearing by “mailing the notice to the applicant and to the owners of all property within two hundred feet (200 ft.) of the property involved in the application.” Mr. Sindram’s address was included on the list of property owners to whom notice of the hearing was sent, as shown in Exhibit 7 of the record. In addition, the Board concludes that Mr. Sindram was given notice of the hearing through the other means required by §§ 3113.13 through 3113.15, such as, the posting of the notice on the Subject Property and publication of the notice in the *D.C. Register*.

As to Mr. Sindram’s argument regarding the Board’s failure to allow him to testify by phone, the Board does not allow anyone to testify by telephone. The Board notes that any person wishing to provide testimony may do so in writing. Written testimony is entered into the record and considered by the Board as it renders a decision, thus making the submission of written testimony a reasonable option for persons unable to appear at the public hearing. As to the motion’s final argument, the error contained in ANC 4B’s agenda did not impact the Board’s proceedings and does not support the claim that Mr. Sindram did not receive proper notice of the Board’s hearing or a reasonable opportunity to testify. Accordingly, the Board finds that Mr. Sindram’s arguments do not show good cause that would justify the Board’s waiver of the party status requirement for reconsideration and rehearing.

Nonetheless, if the Board were to waive the party requirement, the motion for reconsideration and rehearing must be denied, as Mr. Sindram does not address the requirements of § 3126. Pursuant to § 3126.4, “a motion for reconsideration shall state specifically all respects in which the final decision is claimed to be erroneous, the grounds of the motion, and the relief sought.” Under § 3126.6, the Board shall not consider a request for rehearing “unless new evidence is submitted that could not reasonably have been presented at the original hearing.” Neither motion

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addresses an error in the Board's final decision, nor does either motion provide evidence that was not available at the time of the public hearing.

Accordingly, it is hereby **ORDERED** that the motion for **RECONSIDERATION** and **REHEARING** is **DENIED**.

VOTE: 3-0-2 (Lloyd J. Jordan, Jeffrey L. Hinkle, and Marnique Y. Heath to DENY; S. Kathryn Allen and the Zoning Commission member not present, not voting.)

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: October 27, 2014

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.

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

Application No. 18814 of 2341 Ontario Road LLC, pursuant to 11 DCMR §§ 1403.1 and 3104.1, for special exceptions from zoning boundary crossing a lot provisions under § 2514.2, roof structure provisions under § 411.11, and height requirements under § 1403.1, to allow the construction of a new fourteen (14) unit apartment house in the RC/R-5-B and RC/C-2-B Districts at 2341 Ontario Road, N.W. (Square 2566, Lot 841).¹

HEARING DATES: September 16, 2014² and October 21, 2014
DECISION DATE: September 23, 2014

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 4 (original) and 32 (revised).)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 1C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1C, which is automatically a party to this application. The ANC submitted a resolution of support for the application. In its letter the ANC indicated that at a duly noticed public meeting on October 1, 2014, with a quorum present, the ANC voted 7-0-0 to support the application. (Exhibit 41.) No party in opposition appeared at the public hearing.

The Office of Planning ("OP") submitted a timely report on September 9, 2014, recommending approval of the application (Exhibit 35) and testified in support of the application at the hearing. The District Department of Transportation ("DDOT") submitted a timely report of no objection to the application. (Exhibit 36.)

The Board closed the record at the end of the hearing. As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for special exceptions from zoning boundary crossing a lot provisions under § 2514.2, roof structure provisions under § 411.11, and the height provisions under § 1403.1, to allow the construction of a new fourteen (14) unit apartment house in the RC/R-5-B and RC/C-2-B Districts. No parties appeared at the

¹ The Applicant amended the application by lowering the number of units requested from 20 to 14 and by adding a request for relief from height requirements under § 1403.1. (Exhibit 34.) The caption has been amended accordingly.

² The Board postponed the public hearing on September 16, 2014 and rescheduled it for October 21, 2014 at the request of the ANC and Applicant. (Exhibits 37 and 38.)

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public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 2514.2, 411.11, and 1403.1, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED THAT THIS APPLICATION IS HEREBY GRANTED SUBJECT TO THE APPROVED REVISED PLANS IN THE RECORD AT EXHIBIT 34C.**

VOTE: **5-0-0** (Lloyd J. Jordan, Marnique Y. Heath, S. Kathryn Allen,
Jeffrey L. Hinkle, and Marcie I. Cohen to APPROVE.)

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: October 22, 2014

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

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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.

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