VOL. 61 – NO. 49 FRIDAY, NOVEMBER 28, 2014

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 20-469, Stroke System of Care Act of 2014
- Board of Elections schedules a public hearing on the proposed initiative measure "D.C. Character Development and Citizenship Education Initiative of 2014"
- Department of Consumer and Regulatory Affairs establishes enforcement penalties for businesses engaged in the sale or manufacture of synthetic drugs
- Department of Health updates requirements for returning students to school after being diagnosed with a communicable disease
- District Department of Transportation establishes routes and hours of operations for the D.C. Streetcar System
- Department of Employment Services solicits comments on the Senior Community Service Employment Program
- Department of Health announces funding availability for the Million Hearts Strategy Grant Program

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances (ODAI) publishes the *District of Columbia Register* (ISSN 0419-439X) (*D.C. Register*) every Friday under the authority of the *District of Columbia Documents Act,* D.C. Law 2-153, effective March 6, 1979 (25 DCR 6960). The policies which govern the publication of the *D.C. Register* are set forth in Title 1 of the District of Columbia Municipal Regulations, Chapter 3 (Rules of the Office of Documents and Administrative Issuances.) Copies of the Rules may be obtained from the Office of Documents and Administrative Issuances. Rulemaking documents are also subject to the requirements of the *District of Columbia Administrative Procedure Act,* District of Columbia Official Code, §§2-50l *et seq.*, as amended.

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

Deadlines for Submission of Documents for Publication

ODAI accepts electronic documents for publication using a Web-based portal at www.dcregs.dc.gov. To submit a document, obtain a username and password from your department's ODAI liaison. If you do not know your liaison, email ODAI at dcdocuments@dc.gov to request for your department's ODAI liaison. For guidelines on how to format and submit documents for publication, email ODAI at dcdocuments@dc.gov.

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

Viewing the DC Register

ODAI publishes the *D.C. Register* ONLINE every Friday at www.dcregs.dc.gov. Copies of the *D.C. Register* are also available for public review at each branch of the District of Columbia Public Library and in each Advisory Neighborhood Commission office. There are no restrictions on the republication of any portion of the *D.C. Register*. News services are encouraged to publish all or part of the *D.C. Register*.

Legal Effect of Publication - Certification

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

DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

441 4th STREET - SUITE 520 SOUTH - ONE JUDICIARY SQ. - WASHINGTON, D.C. 20001 - (202) 727-5090

VINCENT C. GRAY
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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

CONTENTS

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

D.C. ACTS

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

D.C. ACTS CONT'D

RESOLUTIONS

BILLS INTRODUCED AND PROPOSED RESOLUTIONS

COUNCIL HEARINGS

OTHER COUNCIL ACTIONS

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES

PUBLIC HEARINGS

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PUBLIC HEARINGS CONT'D

FINAL RULEMAKING

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

FINAL RULEMAKING CONT'D

PROPOSED RULEMAKING

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PROPOSED RULEMAKING CONT'D

EMERGENCY RULEMAKING

NOTICES, OPINIONS, AND ORDERS
BOARDS, COMMISSIONS, AND AGENCIES

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

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

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

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

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-469

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 12, 2014

To establish a comprehensive system of stroke care, to authorize the Department of Health to designate a qualifying hospital as an acute stroke ready hospital, a primary stroke center, or a comprehensive stroke center, to require the Department of Health, in consultation with the Fire and Emergency Medical Services Department, to establish response and treatment protocols and a plan for the continuous improvement in the quality of care provided to a person experiencing a stroke, to require stroke care centers and other emergency medical services providers to report data to the Department of Health, and to require the establishment of a database of information related to stroke treatment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Stroke System of Care Act of 2014".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Acute stroke ready hospital" or "ASRH" means a hospital that has been certified as an acute stroke ready hospital by a certifying entity and has been designated as an acute stroke ready hospital by DOH.

(2) "Applicant hospital" means a hospital that has applied to DOH for designation as an ASRH, PSC, or a CSC.

(3) "Certifying entity" means The Joint Commission or another entity acceptable to the DOH that is nationally recognized and provides certification or accreditation of acute stroke ready hospitals, primary stroke centers, and comprehensive stroke centers in the United States.

(4) "Comprehensive stroke center" or "CSC" means a hospital that has been certified as a comprehensive stroke center by a certifying entity and has been designated as a comprehensive stroke center by DOH.

(5) "DOH" means the Department of Health.

(6) "Evidence-based treatment guidelines" means a recommended criteria based on scientific study and current best evidence that has been shown to provide the optimum care for a patient.

(7) "OUC" means the Office of Unified Communications.

(8) "FEMS" means the Fire and Emergency Medical Services Department.

(9) "Primary stroke center" or "PSC" means a hospital that has been certified as a primary stroke center by a certifying entity and has been designated as a primary stroke center by the DOH.

(10) "Stroke" means a medical emergency that occurs when there is a rapid loss of brain function due to a blockage or rupture of blood vessels to the brain.

(11) "Stroke triage assessment tool" means a method of identifying:

(A) A stroke emergency;

(B) The severity of the stroke; and

(C) The best immediate treatment.

(12) "The Joint Commission" means the independent, nonprofit standards-setting and accrediting organization, founded in 1951, that evaluates and accredits more than 20,000 health-care organizations and programs in the United States.

Sec. 3. ASRH, PSC, and CSC; designation.

(a) A hospital seeking designation as an ASRH, a PSC, or a CSC shall apply to DOH for that designation in accordance with procedures established by DOH pursuant to subsection (d) of this section.

(b) The DOH shall designate an applicant hospital as an ASRH, a PSC, or a CSC if:

(1) The applicant hospital has been certified as an acute stroke ready hospital, a primary stroke center, or a comprehensive stroke center by a certifying entity; and

(2) The applicant hospital meets any other requirements established by DOH pursuant to subsection (d) of this section.

(c) If DOH denies an applicant hospital designation as an ASRH, a PSC, or a CSC, the applicant hospital may reapply in accordance with procedures established by DOH pursuant to subsection (d) of this section .

(d) Within 30 days after the effective date of this act, and updated on an annual basis thereafter, DOH must publish on its website:

(1) The application process for a hospital seeking designation as an ASRH, a PSC, or a CSC;

(2) The requirements that a hospital seeking designation as an ASRH, a PSC, or a CSC must meet; and

(3) If an applicant hospital is denied designation as an ASRH, a PSC, or a CSC, the process for reapplying for that designation.

Sec. 4. ASRH, PSC, and CSC; suspension and revocation.

(a) The DOH is authorized, after providing notice and holding a hearing in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), to suspend or revoke a hospital's designation as an ASRH, a PSC, or a CSC.

(b) The DOH shall suspend or revoke a hospital's designation as an ASRH, a PSC, or a CSC if:

(1) The ASRH, PSC, or CSC is placed on probation or loses certification with the certifying entity; or

(2) The ASRH, PSC, or CSC fails to comply with any other requirements established by DOH pursuant to section 3(d).

(c) Pursuant to section 6(a)(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(a)(1)), the Office of Administrative Hearings shall adjudicate appeals from suspensions or revocations by DOH made pursuant to this section.

Sec. 5. Information about the ASRH, PSC, or CSC.

Within 180 days after the effective date of this act, and updated on an annual basis thereafter, the DOH shall create a list containing the name and address of each ASRH, PSC, and CSC. The DOH shall provide the list to FEMS. The DOH and FEMS shall each publish the list on their agency websites.

Sec. 6. Pre-hospital care protocol and training.

(a)(1) The DOH, in collaboration with the FEMS, shall establish pre-hospital care protocols for the assessment, treatment, and transport of stroke patients by licensed emergency medical service providers. The protocols shall include the adoption of a standardized stroke triage assessment tool and procedure for transport of a stroke patient to the closest ASRH, PSC, or CSC.

(2) Within 180 days after the effective date of this act, and updated on an annual basis thereafter, the standardized stroke triage assessment tool and procedure for transport of a stroke patient shall be made available on the FEMS website. In addition, the FEMS shall provide copies of the tool and procedure to each licensed emergency medical services provider.

(3) Within one year after the effective date of this act, and updated on an annual basis thereafter, the FEMS and OUC shall include the protocols established pursuant to this subsection in its training requirements and require all licensed emergency medical services providers and 911 dispatch personnel to receive this stroke-specific training.

(b) The DOH shall encourage ASRH's, PSC's, and CSC's to coordinate through written agreements. To ensure that stroke patients are offered appropriate access to the correct level of care, a written agreement should include, at a minimum, an open-communication protocol between each ASRH, PSC, and CSC and a transfer agreement for the transport to, and acceptance of, stroke patients from another ASRH, PSC, or CSC.

Sec. 7. Continuous improvement in quality of care.

(a) Within one year after the effective date of this act, the DOH, in collaboration with the FEMS, shall establish a plan for achieving continuous improvement in the quality of care provided to a person experiencing a stroke. The plan shall:

(1) Provide for the creation and maintenance of a database of information and statistics on stroke care that aligns with the stroke consensus metrics approved by the American Heart Association, American Stroke Association, Centers for Disease Control and Prevention, and The Joint Commission;

(2) Provide for the utilization of the "Get With The Guidelines," the data-set platform published by the American Heart Association, or other nationally recognized data-set platform with like confidentiality standards;

(3) Provide for the coordination, to the extent possible, with national voluntary health organizations involved in stroke-care quality improvement to avoid redundancies;

(4) Establish a requirement that each ASRH, PSC, and CSC, and other emergency medical service providers report data on the treatment of stroke patients to DOH that is consistent with nationally recognized guidelines;

(5) Encourage the sharing of information and data among health-care providers on ways to improve the quality of care for stroke patients;

(6) Provide for the facilitation of communication and analysis of health information and data among the health-care professionals providing care for stroke patients; and

(7) Establish a recommendation for the application of evidenced-based treatment guidelines regarding the transitioning of a patient to community-based follow-up care after hospital discharge for treatment for a stroke.

(b)(1) The plan established pursuant to subsection (a) of this section shall be published on the DOH and FEMS websites and updated annually, with all updates to the plan published on the DOH and FEMS websites.

(c) The DOH shall establish a data oversight process that will:

(1) Provide for the review of the data compiled pursuant to subsection (a)(4) of this section;

(2) Identify changes to the response protocol or the treatment of stroke patients that are necessary to improve the system of care for stroke patients; and

(3) Lead to recommendations to the Mayor and the Council for legislative changes to improve the system of care for stroke patients.

(d) The information in the database described in subsection (a)(1) of this section shall be made available to government agencies, or contractors of government agencies, that are responsible for the management and administration of emergency medical services.

Sec. 8. Confidentiality; public information.

(a) Except as provided in subsection (b) of this section, information submitted to the DOH, FEMS, or to the District pursuant to this act is confidential and is not a public record.

(b) Data compiled in aggregate form by the DOH, FEMS, or the District for purposes of establishing a plan required by section 7 is a public record as long as it does not reveal confidential information that is protected by District, state, or federal law.

Sec. 9. Rules.

Within 180 days of the effective date of this act, the Mayor, 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.*), shall issue rules to implement the provisions of this act.

ENROLLED ORIGINAL

Sec. 10. 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. 11. 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. 12. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 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
November 12, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-470

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 12, 2014

To amend Chapter 8 of Title 16 of the District of Columbia Official Code to allow individuals to file a motion to seal the records of offenses that are decriminalized or legalized after the date of the arrest, charge, or conviction and to place the burden of proof on the prosecutor to show that the movant's record is not eligible for sealing because the conduct was not decriminalized or legalized; and to amend the Human Rights Act of 1977 to establish criminal penalties for persons who require an individual to produce any arrest record pursuant to that act other than for the purpose of filing a sealing or expungement motion.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Record Sealing for Decriminalized and Legalized Offenses Amendment Act of 2014".

Sec. 2. Chapter 8 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-803 is amended as follows:

(1) Subsection (c-1) is repealed.

(2) Subsection (i) is amended by striking the phrase "(a), (c-1), or (c-2)" and inserting the phrase "(a) or (c-2)" in its place.

(b) A new section 16-803.02 is added to read as follows:

"§ 16-803.02. Sealing of public records for decriminalized or legalized offenses.

"(a) A person arrested for, charged with, or convicted of a criminal offense pursuant to the District of Columbia Official Code or the District of Columbia Municipal Regulations that was decriminalized or legalized after the date of the arrest, charge, or conviction may file a motion to seal the record of the arrest, charge, conviction, and related Superior Court proceedings at any time.

"(1)(A) The Superior Court shall grant a motion to seal if:

"(i) The arrest was not made in connection with or did not result in any other District of Columbia Official Code or District of Columbia Municipal Regulations charges or convictions against the person; and

"(ii) The arrest was not made in connection with or did

ENROLLED ORIGINAL

not result in any other federal charges or convictions in the United States District Court for the District of Columbia against the person.

"(B) In a motion filed under subparagraph (A) of this section, the burden shall be on the prosecutor to establish by a preponderance of the evidence that the record is not eligible for sealing pursuant to this section because the conduct was not decriminalized or legalized.

"(2)(A) In cases that do not meet the requirements of paragraph (1) of this subsection, the Superior Court may grant a motion to seal if it is in the interest of justice to do so. In making this determination, the Court shall weigh:

"(i) The interests of the movant in sealing the publicly available records of his or her arrest, charge, conviction, and related Superior Court proceedings;

"(ii) The community's interest in retaining access to those records;

"(iii) The community's interest in furthering the movant's rehabilitation and enhancing the movant's employability; and

"(iv) Any other information it considers relevant.

"(B) In a motion filed under this paragraph, the burden shall be on the movant to establish by a preponderance of the evidence that it is in the interest of justice to grant relief.

"(b) If the Court grants a motion to seal under this section:

"(1)(A) The Court shall order the prosecutor, any law enforcement agency, and any pretrial, corrections, or community supervision agency to remove from their publicly available records all references that identify the movant as having been arrested, prosecuted, or convicted.

"(B) The prosecutor's office, any law enforcement agency, and any pretrial, corrections, or community supervision agency shall be entitled to retain records relating to the movant's arrest, prosecution, conviction, or related Superior Court proceedings in a nonpublic file.

"(C) The prosecutor, any law enforcement agency, and any pretrial, corrections, or community supervision agency shall file a certification with the Court within 90 days after the Court issues an order under subparagraph (A) of this paragraph that, to the best of its knowledge and belief, all references that identify the movant as having been arrested, prosecuted, or convicted have been removed from its publicly available records.

"(2)(A) The Court shall order the clerk to remove or eliminate all publicly available court records that identify the movant as having been arrested, prosecuted, or convicted.

"(B) The Clerk shall be entitled to retain any records relating to the movant's arrest, prosecution, conviction, or related Superior Court proceedings in a nonpublic file.

"(3)(A) In a case involving co-defendants in which the Court orders the movant's records sealed, the Court may order that only those records, or portions thereof, relating solely to the movant be redacted.

"(B) The Court need not order the redaction of references to the movant that appear in a transcript of court proceedings involving co-defendants.

"(4) The Court shall not order the redaction of the movant's name from any published opinion of the trial or appellate courts that refer to the movant.

"(5) Unless otherwise ordered by the Court, the clerk and any other agency shall reply in response to inquiries from the public concerning the existence of records which have been sealed pursuant to this section that no records are available.

"(6) No person as to whom relief pursuant to this section has been granted shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge his or her arrest, charge, trial, or conviction in response to any inquiry made of him or her for any purpose.

"(7) For purposes of this section, the entities listed in § 16-801(11)(D)-(F) shall be considered public.".

(c) Section 16-805(d) is amended to read as follows:

"(d) If the Court determines that a hearing is required, the hearing shall be scheduled within 30 days of the prosecutor's response. If the Court determines that a hearing is not required, the Court shall dismiss, grant, or deny the motion within 30 days of the prosecutor's response.".

(d) Section 16-806 is amended as follows:

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

(A) The lead-in language is amended by striking the phrase "§§ 16-803 or 16-1803.01" and inserting the phrase "§ 16-803, § 16-803.01, or § 16-803.02" in its place.

(B) Paragraph (4) is amended by striking the phrase "§ 16-803.01" and inserting the phrase "§§ 16-803.01 and 16-803.02" in its place.

(C) Paragraph (5) is amended by striking the phrase "§ 16-803 or 16-803.01" and inserting the phrase "§ 16-803, § 16-803.01, or § 16-803.02" in its place.

(2) Subsection (c) is amended by striking the phrase "§ 16-802(h)(7) or § 16-803(l)5)" and inserting the phrase "§ 16-802(h)(7), § 16-803(l)5), or § 16-803.02(b)(5)" in its place.

Sec. 3. Section 266(a) of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1402.66(a)), is amended as follows:

(a) Designate the text of paragraph (1) as subparagraph (A).

(b) Paragraph (2) is redesignated as subparagraph (B).

(c) Paragraph (3) is redesignated as subparagraph (C).

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

"(2) A person who requires an individual to produce any arrest record or any copy, extract, or statement thereof pursuant to this subsection other than for the purpose of filing a sealing or expungement motion shall be fined not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or imprisoned for not more than 10 days.".

ENROLLED ORIGINAL

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 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
November 12, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-471

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 10, 2014

To symbolically designate the 1300 block of N Street, N.W., in Ward 2, as N Street Village Way.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "N Street Village Way Designation Act of 2014".

Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a), the Council symbolically designates the 1300 block of N Street, N.W., between 14th Street, N.W., and Vermont Avenue, N.W., in Ward 2, as "N Street Village Way".

Sec. 3. Transmittal.

The Chairman of the Council shall transmit a copy of this act, upon its effective date, to the District Department of Transportation.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 10, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-472

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 10, 2014

To amend the Solid Waste Facility Permit Act of 1995 to require quarterly inspections of solid waste facilities currently operating in the District; and to amend Chapter 7 of Title 21 of the District of Columbia Municipal Regulations to allow for greater input during the solid waste facility permit application and renewal process.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Solid Waste Facility Permit Amendment Act of 2014".

Sec. 2. Section 7 of the Solid Waste Facility Permit Act of 1995, effective June 11, 1999 (D.C. Law 11-94; D.C. Official Code § 8-1056), is amended as follows:

(a) The lead-in language is redesignated as subsection (a).

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

"(b) Pursuant to subsection (a) of this section, the Mayor shall conduct, at a minimum, quarterly inspections of all solid waste facilities in the District to ensure compliance with section 903 of Title 20 of the District of Columbia Municipal Regulations (20 DCMR § 903), section 733.1(a), (c), (e), (f), (g), (h), (i), (m), and (s) of Title 21 of the District of Columbia Municipal Regulations (21 DCMR § 733.1(a), (c), (e), (f), (g), (h), (i), (m), and (s)), and any regulations issued pursuant to this act.".

Sec. 3. Chapter 7 of Title 21 of the District of Columbia Municipal Regulations (21 DCMR § 700 *et seq.*) is amended as follows:

(a) Section 731 (21 DCMR § 731) is amended as follows:

(1) Subsection 731.6 is amended by striking the phrase "thirty (30)" and inserting the phrase "sixty (60)" in its place.

(2) Subsection 731.7 is amended by striking the word "Following" and inserting the word "Before" in its place.

(3) Subsection 731.9 is amended by striking the word "Advisory" and inserting the phrase "Councilmember in whose ward the facility is or would be located and to the Advisory" in its place.

(4) Subsection 731.10 is amended to read as follows:

"731.10 To be considered, the comments of the Councilmember in whose ward the facility is or would be located and the comments of the affected Advisory Neighborhood

ENROLLED ORIGINAL

Commission shall be received by the Director sixty (60) days from the date the notice was sent. The Director shall accord great weight to timely comments submitted by the affected Advisory Neighborhood Commission.".

(5) Subsection 731.11 is amended as follows:

(A) Strike the word "may" and insert the word "shall" in its place.

(B) Strike the phrase "If requested by the Director, a representative" and insert the phrase "A representative" in its place.

(6) Subsection 731.12 is amended by striking the phrase "or the affected Advisory Neighborhood Commission" and inserting the phrase "the Councilmember in whose ward the facility is or would be located, or the affected Advisory Neighborhood Commission" in its place.

(b) Section 732.1(d)(2) (21 DCMR § 732.1(d)(2)) is amended by striking the phrase "10:00 p.m." and inserting the phrase "7:00 p.m." in its place.

(c) Section 733.1 (21 DCMR § 733.1) is amended as follows:

(1) Paragraph (f) is amended to read as follows:

"(f) Storage containers used for the temporary storage of solid waste shall be securely covered, nonabsorbent, and leak-proof;"

(2) Paragraph (u) is amended by striking the word "and" at the end.

(3) Paragraph (v) is amended by striking the period and inserting a semicolon in its place.

(4) New paragraphs (w), (x), and (y) are added to read as follows:

"(w) A solid waste facility shall, on a quarterly basis, submit a form prescribed by the Director certifying compliance with paragraph (g) of this subsection.

"(x) A solid waste facility shall, on a quarterly basis, submit a form prescribed by the Director certifying compliance with paragraph (h) of this subsection.

"(y) A solid waste facility shall, on a quarterly basis, have a third party approved by the Director conduct testing of the ventilation system to ensure compliance with paragraph (s) of this subsection and shall submit those results to the Department.".

(d) Section 734.1 (21 DCMR § 734.1) is amended by striking the phrase "impact," and inserting the phrase "impact, to comply with changes to existing law," in its place.

(e) Section 735.1 (21 DCMR § 735.1) is amended by striking the phrase "sixty (60)" and inserting the phrase "one-hundred twenty (120)" in its place.

(f) Section 736.1 (21 DCMR § 736.1) is amended by striking the number "731.5" and inserting the number "731.6" in its place.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 10, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-473

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 12, 2014

To amend the Omnibus Public Safety Act of 2006 to repeal the provision authorizing the use of prostitution free zones; and to repeal the Anti-Loitering/Drug Free Zone Act of 1996.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Repeal of Prostitution Free Zones and Drug Free Zones Amendment Act of 2014".

Sec. 2. Section 104 of the Omnibus Public Safety Act of 2006, effective April 24, 2007 (D.C. Law 16-306; D.C. Official Code § 22-2731), is repealed.

Sec. 3. The Anti-Loitering/Drug Free Zone Act of 1996, effective June 3, 1997 (D.C. Law 11-270; D.C. Official Code § 48-1001 *et seq.*), is repealed.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 12, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-474

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 12, 2014

To amend the Legalization of Marijuana for Medical Treatment Initiative of 1998 to expand the definition of a qualifying medical condition to allow physicians to determine whether a patient would benefit from medical marijuana treatment and to increase the number of living plants a medical marijuana cultivation center can possess at any time.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Medical Marijuana Expansion Amendment Act of 2014".

Sec. 2. The Legalization of Marijuana for Medical Treatment Initiative of 1998, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*), is amended as follows:

(a) Section 2(17) (D.C. Official Code § 7-1671.01(17)) is amended to read as follows:

"(17) "Qualifying medical condition" means any condition for which treatment with medical marijuana would be beneficial, as determined by the patient's physician.".

(b) Section 7(e)(2) (D.C. Official Code § 7-1671.06(e)(2)) is amended by striking the number "95" and inserting the number "500" in its place.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 12, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-475

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 10, 2014

To amend, on a temporary 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 Temporary 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.

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

ENROLLED ORIGINAL

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

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 10, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-476

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 10, 2014

To approve, on an emergency basis, Modifications Nos. 4-6 to Contract No. NFPHC-121 between the Not-for-Profit Hospital Corporation ("NFPHC") and Washington Imaging Associates of Maryland d/b/a Progressive Radiology ("Progressive") to provide radiology services at United Medical Center, and to authorize payment for the services received and to be received under the contract modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modification Nos. 4-6 to Contract No. NFPHC-121 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 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-252.02), the Council approves Modifications Nos. 4-6 to Contract No. NFPHC-121 between the NFPHC and Progressive to provide, in consultation with the NFPHC, radiology services at United Medical Center, and authorizes payment in the total amount of $1,364,900 for services received and to be received under the contract modifications.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 10, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-477

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 10, 2014

To approve, on an emergency basis, Modification Nos. 8-10 to Contract No. NFPHC-151 between the Not-for-Profit Hospital Corporation ("NFPHC") and Wisconsin Avenue Psychiatric Center d/b/a Psychiatric Institute of Washington ("PIW") to provide management and operation of the Behavioral Health and Professional Psychiatric Services Program at United Medical Center, and to authorize payment for the services received and to be received under the contract modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modification Nos. 8-10 to Contract No. NFPHC-151 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 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-252.02), the Council approves Modification Nos. 8-10 between the NFPHC and PIW to provide, in consultation with the NFPHC, management and operation of the Behavioral Health and Professional Psychiatric Services Program at the NFPHC, and authorizes payment in the total amount of $1,786,936 for services received and to be received under the contract modifications.

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
November 10, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-478

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 13, 2014

To amend, on an emergency basis, due to congressional review, An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to extend the time in which the Mayor may dispose of certain District-owned real property located at 5131 Nannie Helen Burroughs Avenue, N.E., known as the Strand Theater.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Extension of Time to Dispose of the Strand Theater Second Congressional Review Emergency Amendment Act of 2014".

Sec. 2. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), is amended by adding a new subsection (d-6) to read as follows:

"(d-6) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of the property located at 5131 Nannie Helen Burroughs Avenue, N.E., known as the Strand Theater, for which disposition was approved by the Council pursuant to the Strand Theater Disposition Approval Resolution of 2009, effective October 6, 2009 (Res. 18-0263; 56 DCR 8410), and extended by the Strand Theater Disposition Extension Approval Resolution of 2011, effective September 20, 2011 (Res. 19-246; 58 DCR 8477), is extended to October 6, 2015.".

Sec. 3. Applicability.

This act shall apply as of October 27, 2014.

Sec. 4. 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)).

ENROLLED ORIGINAL

Sec. 5. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 13, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-479

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 12, 2014

To amend, on an emergency basis, due to congressional review, the Legalization of Marijuana for Medical Treatment Initiative of 1998 to expand the definition of a qualifying medical condition to allow physicians to determine whether a patient would benefit from medical marijuana treatment and to increase the number of living plants a medical marijuana cultivation center can possess at any time.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Medical Marijuana Expansion Congressional Review Emergency Amendment Act of 2014".

Sec. 2. The Legalization of Marijuana for Medical Treatment Initiative of 1998, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*), is amended as follows:

(a) Section 2(17) (D.C. Official Code § 7-1671.01(17)) is amended to read as follows:

"(17) "Qualifying medical condition" means any condition for which treatment with medical marijuana would be beneficial, as determined by the patient's physician.".

(b) Section 7(e)(2) (D.C. Official Code § 7-1671.06(e)(2)) is amended by striking the number "95" and inserting the number "500" in its place.

Sec. 3. Applicability.

This act shall apply as of October 27, 2014.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 12, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-480

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 10, 2014

To amend, on an emergency basis, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to require each administrative law judge, hearing officer, or attorney who is required to be a member of the District of Columbia Bar as a prerequisite of District government employment to file a Certificate of Good Standing from the District of Columbia Court of Appeals on an annual basis.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District Government Certificate of Good Standing Filing Requirement Emergency Amendment Act of 2014".

Sec. 2. Section 881(a) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective July 25, 2002 (D.C. Law 14-182; D.C. Official Code § 1-608.81(a)), is amended by striking the phrase "each attorney" and inserting the phrase "each administrative law judge, hearing officer, or attorney" in its place.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 10, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-481

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 18, 2014

To amend, on an emergency basis, the District of Columbia Statehood Constitutional Convention Initiative of 1979 to repeal the Statehood Commission, repeal the Statehood Compact Commission, to establish the Office of the Statehood Delegation, and to establish the New Columbia Statehood Commission and New Columbia Statehood Fund; to repeal the 51st State Commission Establishment Act of 2010; to amend section 47-1812.11c of the District of Columbia Official Code to reflect the establishment of the New Columbia Statehood Fund; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to establish personnel authority for the Statehood Delegation over the Office of the Statehood Delegation; to amend the District of Columbia Health Occupations Revision Act of 1985 to repeal the Health Occupation Advisory Committees; to amend the Department of Health Functions Clarification Act of 2001 to re-establish the Health Occupation Advisory Committees under the Department of Health; to amend the Retail Service Station Act of 1976 to modify the membership and scope of the Gas Station Advisory Board; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to modify the personnel authority for the District of Columbia Law Revision Commission; to amend the District of Columbia Law Revision Commission Act of 1980 to modify the membership of the commission and provide that members shall not be compensated for service; to amend section 47-355.07 of the District of Columbia Official Code to codify the role and responsibilities of the Board of Review for Anti-Deficiency Violations, and to revise the membership of the board; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to clarify the compensation provisions for various boards and commissions, and to increase the statutory compensation cap for certain boards and commissions; to abolish certain boards and commissions; to amend Chapter 24 of Title 17 of the District of Columbia Municipal Regulations to repeal the authority for the Notary Public Board of Review; to make conforming amendments; and to provide for the orderly transition of duties and responsibilities to the newly elected Mayor and Attorney General.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "New Columbia Statehood Initiative, Omnibus Boards and Commissions, and Election Transition Reform Emergency Amendment Act of 2014".

ENROLLED ORIGINAL

TITLE I – THE NEW COLUMBIA STATEHOOD INITIATIVE

Sec. 101. The District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Official Code § 1-121 *et seq.*), is amended as follows:

(a) Sections 6 and 7 (D.C. Official Code §§ 1-125 and 1-126) are repealed.

(b) Title II (D.C. Official Code § 1-129.01 *et seq.*) is amended to read as follows:

"TITLE II -- NEW COLUMBIA STATEHOOD INITIATIVE

"SUBTITLE A. DEFINITIONS.

"Sec. 11. Definitions.

"For the purposes of this title, the term:

"(1) "Commission" means the New Columbia Statehood Commission established pursuant to section 31.

"(2) "Fund" means the New Columbia Statehood Fund established pursuant to section 32.

"(3) "Statehood Delegation" means, collectively, the United States Representative and the 2 United States Senators holding office pursuant to section 4.

"(4) "Statehood Fund" means the fund established by each United States Senator and United States Representative pursuant to section 4(g), and overseen by the Office of Campaign Finance.

"(5) "United States Representative" means the District of Columbia public official elected pursuant to section 4 to the office of Representative.

"(6) "United States Senator" means either of the 2 District of Columbia public officials elected pursuant to section 4 to the office of Senator.

"SUBTITLE B. DISTRICT OF COLUMBIA STATEHOOD DELEGATION

"Sec. 21. Office of the Statehood Delegation.

"(a) The Office of the Statehood Delegation ("Office") is established as an independent agency within the District of Columbia government, consistent with the meaning of the term independent agency as provided in section 301(13) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(13)).

"(b) The Office shall provide support to the Statehood Delegation in promoting statehood and voting rights for the citizens of the District of Columbia.

"(c) The Office shall be headed by an Executive Director who shall be appointed by the Statehood Delegation. The Executive Director shall support the members of the Statehood Delegation and provide administrative support to the Commission.

"(d) The Executive Director shall devote his or her full time to the duties of the Office. The salary of the Executive Director shall be determined by the Statehood Delegation, but shall not exceed 75% of the compensation for a Member of the Council as determined by section 1109(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.09(b)).

"(e) For Fiscal Year 2015, the compensation for the Executive Director shall be paid from funds budgeted for Statehood Initiatives under section 1112 of the Fiscal Year 2015 Budget

Support Act of 2014, enacted on September 23, 2014 (D.C. Act 20-424; 61 DCR 9990). Beginning in Fiscal Year 2016, the salary for the Executive Director shall be paid from the New Columbia Statehood Fund, subject to the availability of funds.

"SUBTITLE C. NEW COLUMBIA STATEHOOD COMMISSION AND NEW COLUMBIA STATEHOOD FUND

"Sec. 31. Establishment of the New Columbia Statehood Commission.

"(a) The New Columbia Statehood Commission is established as an independent agency within the District of Columbia government, consistent with the meaning of the term independent agency as provided in section 301(13) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(13)).

"(b) The Commission shall:

"(1) Educate regarding, advocate for, promote, and advance the proposition of statehood and voting rights for the District of Columbia to District residents and citizens of the 50 states;

"(2) Solicit financial and in-kind contributions, grants, allocations, gifts, bequests, and appropriations from public and private sources to be deposited in the New Columbia Statehood Fund established pursuant to section 32 and used for the purposes of promoting statehood and voting rights; and

"(3) Develop an annual budget for, and oversee expenditures from, the New Columbia Statehood Fund.

"(c) The Commission shall be comprised of 5 voting members ("Commissioners") as follows:

"(1) The Mayor, or his or her alternate;

"(2) The Chairman of the Council, or his or her alternate;

"(3) The United States Representative for the District of Columbia; and

"(4) The 2 United States Senators for the District of Columbia.

"(d) The Mayor and the Chairman of the Council shall serve as co-chairs of the Commission.

"(e) By March 1, 2015, the Commission shall adopt bylaws, and may adopt guidelines, rules, and procedures for the governance of its affairs and the conduct of its business.

"(f) The Commission shall meet, at a minimum, on a semiannual basis. A majority of the Commissioners shall constitute a quorum for the conduct of business.

"(g) The Commission, in carrying out its duties, may utilize pro bono services; provided, that such services are reported pursuant to section 33.

"(h) The Commission may recruit honorary members based on criteria the Commission shall determine. The honorary members shall have no vote on the operation of the Commission.

"Sec. 32. Establishment of the New Columbia Statehood Fund.

"(a) There is established as a special fund the New Columbia Statehood Fund, which shall be administered in accordance with subsections (b), (c), and (d) of this section.

"(b)(1) All revenues from the following sources shall be deposited into the Fund:

"(A) An annual appropriation by the Council;

"(B) Any contributions to, and grants for, the benefit of the New Columbia Statehood Fund received from public and private sources;

"(C) Net receipts pursuant to the income tax check-off provided in D.C. Official Code § 47-1812.11c.

"(2) For Fiscal Year 2015, all funds not expended pursuant to section 21(e) from the funds budgeted for Statehood Initiatives under section 1112 of the Fiscal Year 2015 Budget Support Act of 2014, enacted on September 23, 2014 (D.C. Act 20-424; 61 DCR 9990), shall be deposited into the Fund.

"(c) The Fund shall be used to support the Statehood Delegation, each of the members thereof, the Commission, and efforts to promote statehood and voting rights for the citizens of the District of Columbia.

"(d)(1) To the extent that disbursements are to be made to the Statehood Fund of each member of the Statehood Delegation, the disbursements, as decided by the Commission, shall be equal to each member, except as provided in this subsection.

"(2) No disbursement shall be made under this subsection to a member of the District of Columbia Statehood Delegation who is out of compliance with the filing and disclosure requirements of this title and applicable District or federal law, or who has used funds in violation of section 35, until such time as the violation has been corrected. In this instance, the 1/3 disbursement held back shall become part of the corpus from which the next disbursement pursuant to this subsection may be made.

"(e)(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 any 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.

"(f) The Mayor shall submit to the Council, as part of the annual budget, a requested appropriation for expenditures from the Fund. The Mayor's submission shall be based on a budget prepared by the Commission, and shall include the rationale for any variance from the Commission's request.

"(g) The Chief Financial Officer shall transmit to the Mayor and the Council, at least annually, a report summarizing the revenues and expenditures of the Fund.

"(h) All revenues and expenses of the Fund shall be audited annually by the Chief Financial Officer, who shall transmit the audit to the Mayor and the Council. The expenses of the annual audit shall be defrayed by the Fund.

"Sec. 33. Annual reporting requirements.

"(a) The Commission shall submit to the Mayor and the Chairman of the Council by September 1, 2015, and on a biannual basis thereafter, a detailed report including:

"(1) The Commission's activities, revenues, and expenditures;

"(2) The full name, value, and form of each gift, grant, bequest, or appropriation to the New Columbia Statehood Fund; and

"(3) Any other information considered appropriate by the Commission.

"(b) The Commission shall make each report available to the general public upon request.

"Sec. 34. Tax-exempt status.

"Contributions to the New Columbia Statehood Fund shall be tax deductible.

"Sec. 35. Use of funds by Statehood Delegation members.

"(a) Except as provided in subsection (b) of this section, members of the Statehood Delegation shall use New Columbia Statehood Fund monies for any expense closely and directly related to the operation of their offices.

"(b)(1) Fund monies shall not be used by members of the Statehood Delegation for:

"(A) Campaign expenses related to any election, local or national;

"(B) To influence the outcome of any election, local or national;

"(C) Any contributions or loans to any political party or candidate for federal or non-federal office;

"(D) Any personal expenses, or travel expenses not closely and directly related to the office the member holds; or

"(E) Any personal salary or stipend for the member.

"(2) The prohibition in paragraph (1)(E) of this subsection shall not limit the ability of a member of the Statehood Delegation to pay salaries to employees other than the member, or to pay vendors providing services closely and directly related to the office the member holds.

"(c) Upon request, but at least annually, each Statehood Delegation member shall provide the Chief Financial Officer with an accounting of the expenditures made with the money received from the Fund. The date by which the accounting is due shall be set by the Chief Financial Officer. Information submitted by members of the Statehood Delegation shall be included in the report required by section 33.".

Sec. 102. The 51st State Commission Establishment Act of 2010, effective March 23, 2010 (D.C. Law 18-127; D.C. Official Code § 1-136.01 *et seq.*), is repealed.

Sec. 103. Section 47-1812.11c of the District of Columbia Official Code is amended as follows:

(a) Subsection (a) is amended by striking the phrase "the Statehood Delegation Fund ("Fund"), established by § 1-129.08" and inserting the phrase "the New Columbia Statehood Fund ("Fund"), established by section 32 of the New Columbia Statehood Initiative, Omnibus Boards and Commissions, and Election Transition Reform Emergency Amendment Act of 2014, passed on emergency basis on October 28, 2014 (Enrolled version of Bill 20-986)" in its place.

(b) Subsection (c) is repealed.

Sec. 104. Section 406(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.06(b)), is amended as follows:

(a) Paragraph (21) is amended by striking the phrase "Administration; and" and inserting the phrase "Administration;" in its place.

(b) Paragraph (22) is amended by striking the phrase "Education." and inserting the phrase "Education; and" in its place.

(c) A new paragraph (23) is added to read as follows:

"(23) For the Executive Director of the Office of the Statehood Delegation, the personnel authority is the Statehood Delegation as defined in section 11(3) of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 16, 2005 (D.C. Law 15-226; D.C. Official Code § 1-209.01(3).".

Sec. 105. Within 60 days of the effective date of the New Columbia Statehood Initiative and Omnibus Boards and Commissions Reform Amendment Act of 2014, passed on 2nd reading on October 28, 2014 (Enrolled version of Bill 20-71), the Commission shall issue a report with findings as to whether the Statehood Delegation should receive compensation in the form of a salary or stipend and, if so, the appropriate amount of such compensation.

TITLE II -- OMNIBUS BOARDS AND COMMISSIONS REFORM

SUBTITLE A. STRUCTURAL REVISIONS TO CERTAIN BOARDS AND COMMISSIONS

PART 1. HEALTH OCCUPATIONS ADVISORY COMMITTEES

Sec. 201. Section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), is amended by repealing subsections (b), (c-1), (c-2), (d), (d-1), (d-2), (d-3), (e), and (f).

Sec. 202. The Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731 *et seq.*), is amended as follows:

(a) Redesignate Part A, Part B, and Part C as Subtitle A, Subtitle B, and Subtitle C, respectively.

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

"Subtitle D. Health Occupation Advisory Committees.

"Sec. 4941. Generally.

"(a) The Department of Health shall oversee the Health Occupation Advisory Committees established under this subtitle.

"(b) All appointments to the Health Occupation Advisory Committees shall be made by the Director of the Department of Health.

"(c) The Department of Health shall provide facilities and other administrative support for the Health Occupation Advisory Committees, as determined by the Director.

"(d) The Health Occupation Advisory Committees shall review applications for licensure to practice upon request of the Board of Medicine. The Health Occupation Advisory Committees shall submit their respective recommendations to the Board of Medicine for action.

"(e) For the purposes of this subtitle, the term:

(1) "Board of Medicine" means the Board of Medicine established pursuant to section 203(a) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03(a)).

(2) "Health Occupation Advisory Committees" means the advisory committees established pursuant to this subtitle.

"Sec. 4942. Advisory Committee on Acupuncture.

"(a) There is established an Advisory Committee on Acupuncture to consist of 5 members as follows:

"(1) The Director of the Department of Health, or his or her designee;

"(2) Three non-physician acupuncturists licensed in the District;

"(3) A consumer member.

"(b) Of the appointees to the Advisory Committee on Acupuncture other than the Director, 2 shall serve an initial term of 2 years and 2 shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

"(c)(1) The Advisory Committee on Acupuncture shall develop and submit to the Board of Medicine guidelines for licensing acupuncturists and regulating the practice of acupuncture in the District.

"(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

"(B) The Advisory Committee on Acupuncture shall submit revised guidelines to the Board of Medicine by June 22, 2015.

"(3) The Advisory Committee on Acupuncture shall meet at least annually to review guidelines and make necessary revisions for submission to the Board of Medicine.

"Sec. 4943. Advisory Committee on Anesthesiologist Assistants.

"(a) There is established an Advisory Committee on Anesthesiologist Assistants to consist of 3 members as follows:

"(1) The Director of the Department of Health, or his or her designee;

"(2) An anesthesiologist licensed in the District with experience working with anesthesiologist assistants; and

"(3) An anesthesiologist assistant licensed in the District.

"(b) Of the appointees to the Advisory Committee on Anesthesiologist Assistants other than the Director, one shall serve an initial term of 2 years and one shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

"(c)(1) The Advisory Committee on Anesthesiologist Assistants shall develop and submit to the Board of Medicine guidelines for licensing and regulating anesthesiologist assistants in the District. The guidelines shall set forth the actions that anesthesiologist assistants may perform under the direct supervision of a licensed anesthesiologist, who shall be responsible for the overall medical direction of the care and treatment of patients.

"(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

"(B) The Advisory Committee on Anesthesiologist Assistants shall submit revised guidelines to the Board of Medicine by June 22, 2015.

"(3) The Advisory Committee on Anesthesiologist Assistants shall meet at least annually to review the guidelines and make necessary revisions for submission to the Board of Medicine.

"Sec. 4944. Advisory Committee on Naturopathic Medicine.

"(a) There is established an Advisory Committee on Naturopathic Medicine to consist of 3 members as follows:

"(1) The Director of the Department of Health, or his or her designee;

"(2) A licensed physician with experience in naturopathic medicine or in working with naturopathic physicians; and

"(3) A licensed naturopathic physician.

"(b) Of the appointees to the Advisory Committee on Naturopathic Medicine other than the Director, one shall serve an initial term of 2 years and one shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

"(c)(1) The Advisory Committee on Naturopathic Medicine shall develop and submit to the Board of Medicine guidelines for licensing naturopathic physicians and regulating the practice of naturopathic medicine in the District.

"(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

"(B) The Advisory Committee on Naturopathic Medicine shall submit revised guidelines to the Board of Medicine by June 22, 2015.

"(3) The Advisory Committee on Naturopathic Medicine shall meet at least annually to review the guidelines and make necessary revisions for submission to the Board of Medicine.

"Sec. 4945. Advisory Committee on Physician Assistants.

"(a) There is established an Advisory Committee on Physician Assistants to consist of 3 members as follows:

"(1) The Director of the Department of Health, or his or her designee;

"(2) A physician or osteopath licensed in the District with experience working with physician assistants; and

"(3) A physician assistant licensed in the District.

"(b) Of the appointees to the Advisory Committee on Physician Assistants other than the Director, one shall serve an initial term of 2 years and one shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

"(c)(1) The Advisory Committee on Physician Assistants shall develop and submit to the Board of Medicine guidelines for licensing and regulating physician assistants in the District. The guidelines shall set forth the actions that physician assistants may perform in collaboration with a licensed physician or osteopath, who shall be responsible for the overall medical direction of the care and treatment of patients and the level of collaboration required for each action.

"(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

"(B) The Advisory Committee on Physician Assistants shall submit revised guidelines to the Board of Medicine by June 22, 2015.

"(3) The Advisory Committee on Physician Assistants shall meet at least annually to review guidelines and make necessary revisions for submission to the Board of Medicine.

"Sec. 4946. Advisory Committee on Polysomnography.

"(a) There is established an Advisory Committee on Polysomnography to consist of 3 members as follows:

"(1) The Director of the Department of Health, or his or her designee; and

"(2) Two polysomnographic technologists licensed in the District.

"(b) Of the appointees to the Advisory Committee on Polysomnography other than the Director, one shall serve an initial term of 2 years and one shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

"(c)(1) The Advisory Committee on Polysomnography shall develop and submit to the Board of Medicine guidelines for licensing, registration, and regulation of polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees in the District. The guidelines shall set forth the education and experience requirements for registration and licensure and the actions that polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees may perform.

"(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

"(B) The Advisory Committee on Polysomnography shall submit revised guidelines to the Board of Medicine by June 22, 2015.

"(3) The Advisory Committee on Polysomnography shall meet at least annually to review the guidelines and make necessary revisions for submission to the Board of Medicine.

"Sec. 4947. Advisory Committee on Surgical Assistants.

"(a) There is established an Advisory Committee on Surgical Assistants to consist of 5 members as follows:

"(1) The Director of the Department of Health, or his or her designee;

"(2) A surgeon licensed in the District with experience working with surgical assistants; and

"(3) Three surgical assistants licensed in the District.

"(b) Of the appointees to the Advisory Committee on Surgical Assistants other than the Director, 2 shall serve an initial term of 2 years and 2 shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

"(c)(1) The Advisory Committee on Surgical Assistants shall develop and submit to the Board of Medicine guidelines for licensing and regulating surgical assistants in the District. The guidelines shall set forth the actions that surgical assistants may perform in collaboration with a licensed surgeon, who shall be responsible for the overall medical direction of the care and treatment of patients.

"(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

"(B) The Advisory Committee on Surgical Assistants shall submit revised guidelines to the Board of Medicine by June 22, 2015.

"(3) The Advisory Committee on Surgical Assistants shall meet at least annually to review the guidelines and make necessary revisions for submission to the Board of Medicine.".

PART 2. GAS STATION ADVISORY BOARD

Sec. 211. Section 5-301 of the Retail Service Station Act of 1976, effective April 19, 1977 (D.C. Law 1-123; D.C. Official Code § 36-304.01), is amended as follows:

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

(1) Strike the phrase "structurally altered" and insert the phrase "discontinued, nor may be structurally altered" in its place.

(2) Strike the phrase "nonfull service facility" and insert the phrase "nonfull service facility or into any other use" in its place.

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

"(d)(1) An exemption may be granted to the prohibitions contained in subsections (b) and (c) of this section if:

"(A) A petition for exemption has been filed with the Gas Station Advisory Board ("Board"), established pursuant to subsection (e) of this section, by both a distributor and a retail dealer (collectively referred to as "petitioners") that complies with the requirements of paragraph (2) of this subsection;

"(B) The Board makes a determination, pursuant to paragraph (3) of this subsection, that an exemption should be granted and makes a recommendation to the Mayor to grant the exemption; and

"(C) The Mayor, in agreement with the Board, grants the exemption.

"(2) To be considered for an exemption under this subsection, petitioners must file a petition with the Board that includes:

"(A) Plans and a certification by petitioners that the station will be improved in the following ways:

"(i) By improving or increasing the lighting of the facility (to a reasonable level);

"(ii) By improving customer accessibility to the gasoline dispensers; and

"(iii) By improving customer conveniences, including separate restroom facilities for men and women, a working air hose for automobile and bicycle tires, and water for windshield cleaning equipment;

"(B) Any existing site market studies that justify the conversion;

"(C) Certification that petitioners have notified the Advisory Neighborhood Commission ("ANC") in which the station is located and any ANC within one-quarter mile of the station, and has met or offered to meet with any affected ANC before submission of the petition for exemption regarding their plans for the station and its impact on the neighborhood; and

"(D) Certification by petitioners that, should the application be granted, any later changes to the building design or lighting will be submitted to any affected ANC before the application for building permits.

"(3)(A) The Board shall only make a recommendation to grant an exemption if the Board finds that:

"(i) The operator of the full service retail service station is experiencing extreme financial hardship; and

"(ii) Another full service retail service station exists within one mile of the station which provides equivalent service facilities.

"(B) In addition to the requirements in subparagraph (A) of this paragraph, the Board shall give due weight to the views of the community and the affected ANC.

"(4) If the Board makes a recommendation to the Mayor that an exemption should be granted under this subsection, the Mayor shall issue a determination on the petition not less than 45 days, nor more than 60 days, after the date the petition is submitted, deemed complete, and notice of thereof has been published in the District of Columbia Register. If the Mayor does not issue a determination within the 60 days, the petition shall be deemed approved.".

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

"(e)(1) There is established a Gas Station Advisory Board to consider petitions for exemption from the requirements contained in subsections (b) and (c) of this section.

"(2) The Board shall consist of 5 members as follows:

"(A) One member representing the retail service station dealers, appointed by the Mayor;

"(B) One member representing the oil companies, appointed by the Mayor;

"(C) One member representing the community interest, appointed by the Mayor;

"(D) One member representing the community interest, appointed by the Council;

"(E) One member representing the Mayor.

"(3) Members of the Board appointed under this subsection shall continue to serve until their successors are appointed.

"(4) The Board shall establish and publish, for 30 days comment, the rules and

procedures which shall govern its conduct. The Board may establish and publish, for 30 days comment, additional criteria which shall be used in reviewing the petitions for exemptions.".

PART 3. LAW REVISION COMMISSION

Sec. 221. Section 406(b)(11) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.06(b)(11)), is amended by striking the phrase "the personnel authority is the District of Columbia Law Revision Commission" and inserting the phrase "the personnel authority is the Chairman of the Council" in its place.

Sec. 222. Section 2 of the District of Columbia Law Revision Commission Act of 1980, effective February 26, 1981 (D.C. Law 3-119; D.C. Official Code § 45-301), is amended as follows:

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

"(a) There is established as an advisory body to the Council of the District of Columbia the District of Columbia Law Revision Commission ("Commission"), which shall be composed of 9 members, as follows:

"(1) Four members appointed by the Council of the District of Columbia;

"(2) Two members appointed by the Mayor of the District of Columbia;

"(3) Two members appointed by Joint Committee on Judicial Administration in the District of Columbia; and

"(4) The Attorney General of the District of Columbia, or his or her designee.".

(b) Subsection (b) is repealed.

(c) Subsection (c) is amended by striking the phrase "Except as provided in subsection (d) of this section, no" and inserting the phrase "No" in its place.

(d) Subsection (d) is repealed.

(e) Subsection (h) is amended to read as follows:

"(h) Each member of the Commission shall serve without compensation; provided, that each member may be reimbursed for actual expenses pursuant to section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08).".

(f) Subsection (j) is repealed.

PART 4. BOARD OF REVIEW FOR ANTI-DEFICIENCY VIOLATIONS

Sec. 231. Section 47-355.07 of the District of Columbia Official Code is amended to read as follows:

"Sec. 47-355.07. Board of Review for Anti-Deficiency Violations.

"(a) The Board of Review for Anti-Deficiency Violations ("Review Board") is established as an independent agency within the District of Columbia government, consistent with the meaning of the term independent agency, as provided in section 301(13) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(13)).

"(b) The Review Board shall:

"(1) Advise and make recommendations to the Mayor, Council, Chief Financial Officer, and Inspector General on issues relative to anti-deficiency law violations in the District of Columbia; and

"(2) Convene within 30 days of learning of an alleged violation of § 47-355.02 to determine whether a violation occurred.

"(c)(1) The Review Board shall be comprised of 5 members of the District of Columbia government appointed as follows:

"(A) Two representatives who serve at the pleasure of the Chief Financial Officer, one of whom shall be appointed by the Chief Financial Officer to serve as Chairperson of the Review Board;

"(B) One representative who serves at the pleasure of the Mayor;

"(C) One representative of the Council, who shall be an employee of the Council and shall be appointed by the Chairman of the Council; and

"(D) One representative who serves at the pleasure of the Inspector General.

"(2) Members shall be appointed to a term of 3 years. Each member may serve beyond the end of their term until reappointed or replaced by the appropriate appointing authority.

"(3) Members shall serve without compensation; provided, that a member may be reimbursed for expenses incurred in the authorized execution of official duties of the Review Board if those expenses are approved in advance by the Chief Financial Officer.

"(d) If the Review Board determines that a violation of § 47-355.02 has occurred, it shall:

"(1) Assess the responsibility of culpable employees;

"(2) Except as provided in subsection (e) of this section, recommend an appropriate disciplinary action; and

"(3) Present a report to the Council within 30 days of the determination of a violation that includes all relevant facts, including:

"(A) The violation;

"(B) The name and title of the employees who were responsible for the violation;

"(C) Any justification; and

"(D) A statement of the action taken or proposed to be taken.

"(e)(1) A finding by the Review Board that a violation of § 47-355.02 has occurred shall not be a prerequisite for adverse personnel action under § 47-355.06.

"(2) In recommending appropriate disciplinary action under subsection (d) of this section, the Review Board may make a recommendation that no action be taken where it finds justification for the violation. Justification may include overspending as a result of court orders, entitlements, or explicit authorization in an appropriations act.

"(f) The Review Board is authorized to establish subcommittees as needed. A subcommittee may include District government employees who are not members of the Review Board; provided, that each subcommittee is chaired by a member of the Review Board.

"(g) The Review Board may establish its own bylaws and rules of procedure, subject to the approval of the Chief Financial Officer or his or her designee.

"(h) The Office of the Chief Financial Officer shall provide administrative and staff support to the Review Board.".

PART 5. COMMISSION ON THE ARTS AND HUMANITIES

Sec. 232. Section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), is amended as follows:

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

(1) Paragraph 31 is amended by striking the period and inserting the phrase "; and" in its place.

(2) A new paragraph (32) is added to read as follows:

"(32) Commission on the Arts and Humanities, established by section 4 of the Commission on the Arts and Humanities Act, effective October 21, 1975 (D.C. Law 1-22; D.C. Official Code § 39-203).".

(b) Subsection (f)(11) is repealed.

SUBTITLE B. COMPENSATION FOR SERVICE ON CERTAIN BOARDS AND COMMISSIONS

Sec. 241. Section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08), is amended as follows:

(a) A new subsection (a-1) is added to read as follows:

"(a-1) Except as provided in subsection (a) of this section, members of boards and commissions shall not be compensated for time expended in the performance of official duties except as authorized by subsections (b), (c), (c-1), (c-2), and (c-3) of this section.".

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

"(c) Members of the following boards and commissions shall be entitled to compensation in the form of a salary as currently authorized by law:

"(1) Public Service Commission;

"(2) Contract Appeals Board;

"(3) Rental Housing Commission;

"(4) The Chairperson of the District of Columbia Taxicab Commission;

"(5) District of Columbia Board of Ethics and Government Accountability; and

"(6) Full-time members of the Real Property Tax Appeals Commission.".

(c) New subsections (c-1), (c-2), and (c-3) are added to read as follows:

"(c-1) Members of the following boards and commissions shall be entitled to compensation in the form of an hourly rate of pay as follows:

"(1) Board of Zoning Adjustment members shall be entitled to compensation at the hourly rate of $25 for time spent in performance of duties at meetings, not to exceed $12,000 for each board member per year;

"(2) Office of Employee Appeals members shall be entitled to compensation at the hourly rate of $25 for time spent in performance of duties at meetings, not to exceed $3,000 for each member per year;

"(3) District of Columbia Retirement Board Members shall be entitled to compensation as provided in section 121(c) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-711(c));

"(4) Police and Firefighters Retirement and Relief Board members shall be entitled to compensation at the hourly rate of $25 for time spent in performance of duties at meetings, not to exceed $8,000 for each board member per year;

"(5) Public Employee Relations Board members shall be entitled to compensation at the hourly rate of $25 for time spent in performance of duties at meetings , not to exceed $3,000 for each board member per year;

"(6) Zoning Commission members shall be entitled to compensation at the hourly rate of $25 for time spent in performance of duties at meetings, not to exceed $12,000 for each commission member per year;

"(7) Historic Preservation Review Board members shall be entitled to compensation at the hourly rate of $25 for time spent in performance of duties at meetings, not to exceed $3,000 for each board member per year;

"(8) Alcoholic Beverage Control Board members shall be entitled to compensation at the hourly rate of $40 for time spent in performance of duties at meetings, not to exceed $18,000 for each board member per year;

"(9) Part-time members of the Real Property Tax Appeals Commission shall be entitled to compensation at the hourly rate of $50 for time spent in performance of duties at meetings;

"(10) District of Columbia Board of Elections members shall be entitled to compensation at the hourly rate of $40 while actually in the service of the board, not to exceed the $12,500 for each member per year and $26,500 for the Chairman per year.

"(c-2) Members of the following boards and commissions shall be entitled to compensation in the form of stipend as follows:

"(1) Each Commissioner, other than the ex officio Commissioner and the Chairperson, of the Board of Commissioners of the District of Columbia Housing Authority shall be entitled to a stipend of $3,000 per year for their service on the board; the Chairperson shall be entitled to a stipend of $5,000 per year. Each Commissioner also shall be entitled to reimbursement of actual travel and other expenses reasonably related to attendance at board meetings and fulfillment of official duties. Stipends and reimbursements shall be made at least quarterly;

"(2) Each member of the Education Licensure Commission shall be entitled to a stipend of $4,000 per year for their service on the commission. Each member also shall be entitled to reimbursement of actual travel and other expenses reasonably related to the

performance of the duties of the commission while away from their homes or regular places of business; and

"(3)(A) Public and industry members of the District of Columbia Taxicab Commission shall be entitled to compensation of $25 per meeting or work session, not to exceed $1,350 for each public or industry member per year.

"(B) Total compensation for all Commission members shall not exceed $10,800, for all meetings and work sessions.

"(c-3) Chairpersons of the boards and commissions specified in subsections (c-1) and (c-2) of this section who are public members shall be entitled to an additional compensation of 20% above the annual maximum.".

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

"(d) Members of boards and commissions shall not be entitled to reimbursement for expenses unless specifically authorized by law; except, that transportation, parking, or mileage expenses incurred in the performance of official duties may be reimbursed, not to exceed $15 per meeting or currently authorized amounts, whichever is less.".

SUBTITLE C. ABOLISHMENT OF CERTAIN BOARDS AND COMMISSIONS

Sec. 251. The Emerging Technology Opportunity Development Task Force Act of 2006, effective March 2, 2007 (D.C. Law 16-190; D.C. Official Code § 2-1221.31 *et seq.*), is repealed.

Sec. 252. The Litter and Solid Waste Act of 1985, effective February 21, 1986 (D.C. Law 6-84; D.C. Official Code § 3-1001 *et seq.*), is repealed.

Sec. 253. Section 101 of the Enhanced Professional Security Amendment Act of 2006, effective November 16, 2006 (D.C. Law 16-187; D.C. Official Code § 5-129.21), is repealed.

Sec. 254. The District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-201 *et seq.*), is amended as follows:

(a) Section 2(2) (D.C. Official Code § 6-201(2)) is repealed.

(b) Section 12 (D.C. Official Code § 6-211) is amended as follows:

(1) Subsection (b)(1) is amended by striking the phrase "Advisory Committee" and inserting the phrase "Executive Director" in its place.

(2) Subsection (c) is amended by striking the phrase "Advisory Committee" and inserting the phrase "Executive Director" in its place.

(3) Subsection (s) is amended to read as follows:

"(s) Commissioners shall be entitled to compensation as provided in section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08).".

(c) Section 13 (D.C. Official Code § 6-212) is repealed.

Sec. 255. The Tobacco Settlement Trust Fund Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-38; D.C. Official Code § 7-1811.01 *et seq.*), is amended as follows:

(a) Section 2302(b) (D.C. Official Code § 7-1811.01(b)) is amended by striking the phrase "Board of Trustees of the Tobacco Settlement Trust Fund established under section 2302a" and inserting the phrase "Office of the Chief Financial Officer" in its place.

(b) Section 2302a (D.C. Official Code § 7-1811.02) is repealed.

Sec. 256. Section 15 of the Choice in Drug Treatment Act of 2000, effective July 18, 2000 (D.C. Law 13-146; D.C. Official Code § 7-3014), is repealed.

Sec. 257. Section 7 of the District of Columbia Soil and Water Conservation Act of 1982, effective September 14, 1982 (D.C. Law 4-143; D.C. Official Code § 8-1706), is repealed.

Sec. 258. The Make a Difference Selection Committee Establishment Act of 1998, effective April 30, 1998 (D.C. Law 12-98; D.C. Official Code § 9-1215.01 *et seq.*), is repealed.

Sec. 259. The Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-301 *et seq.*), is amended as follows:

(a) Section 4(d) (D.C. Official Code § 10-303(d)) is amended by striking the phrase "with recommendations from the Recreation Assistance Board established by section 7".

(b) Section 7 (D.C. Official Code § 10-306) is repealed.

Sec. 260. Section 501 of the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-262; D.C. Official Code § 22-4251), is repealed.

Sec. 261. Section 802 of the Securities Act of 2000, effective October 26, 2000 (D.C. Law 13-203; D.C. Official Code § 31-5608.02), is repealed.

Sec. 262. The Cable Television Communications Act of 1981, effective August 21, 1982 (D.C. Law 4-142; D.C. Official Code § 34-1251.01 *et seq.*), is amended as follows:

(a) Section 103(1) (D.C. Official Code § 34-1251.03(1)) is amended repealed.

(b) Section 202(17) (D.C. Official Code § 34-1252.02(17)) is repealed.

(c) Section 301 (D.C. Official Code § 34-1253.01) is repealed.

Sec. 263. The District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; D.C. Official Code § 38-1208.01 *et seq.*), is amended as follows:

(a) Section 801(1) (D.C. Official Code § 38-1208.01(1)) is repealed.

(b) Section 803 (D.C. Official Code § 38-1208.03) is repealed.

(c) Section 804 (D.C. Official Code § 38-1208.04) is repealed.

Sec. 264. The School Modernization Financing Act of 2006, effective June 8, 2006 (D.C. Law 16-123; D.C. Official Code § 38-2973.01 *et seq.*), is amended as follows:

(a) Section 201 (D.C. Official Code § 38-2973.01) is repealed.

(b) Section 202 (D.C. Official Code § 38-2973.02) is repealed.

Sec. 265. An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896 (29 Stat. 244; D.C. Official Code § 39-101 *et seq.*), is amended as follows:

(a) Section 9 (D.C. Official Code § 39-109) is repealed.

(b) Section 10 (D.C. Official Code § 39-110) is repealed.

(c) Section 11 (D.C. Official Code § 39-111) is repealed.

Sec. 266. The Office of the Chief Tenant Advocate Establishment Act of 2005, effective October 20, 2005 (D.C. Law 16-33, D.C. Official Code § 42-3531.01 *et seq.*), is amended as follows:

(a) Section 2064(3) (D.C. Official Code § 42-3531.04(3)) is repealed.

(b) Section 2068 (D.C. Official Code § 42-3531.08) is repealed.

Sec. 267. Chapter 45 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-4501(3) is repealed.

(b) Section 47-4504 is repealed.

(c) Section 47-4512(b)(1) is amended by striking the phrase "and the Advisory Board".

Sec. 268. The District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 954; D.C. Official Code § 51-101 *et seq.*), is amended as follows:

(a) Section 1(10) (D.C. Official Code § 51-101(10)) is repealed.

(b) Section 3 (D.C. Official Code § 51-103) is amended as follows:

(1) Subsection (d) is amended by striking the phrase "in accordance with such regulations as the Board may prescribe".

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

(A) Paragraph (1)(F) is amended by striking the phrase ", in accordance with such regulations as the Board may prescribe,".

(B) Paragraph (4) is amended by striking the word "Board" and inserting the word "Director" in its place.

(c) Section 7 (D.C. Official Code § 51-107) is amended as follows:

(1) Subsection (a) is amended by striking the phrase ", in accordance with such regulations as the Board may prescribe".

(2) Subsection (c)(2) is amended by striking the phrase ", under regulations prescribed by the Board,".

(3) Subsection (g) is amended as follows:

(A) Paragraph (2) is amended by striking the phrase "as provided in the regulations of the Board,".

(B) Paragraph (6)(A) is amended by striking the phrase "as provided in the regulations of the Board".

(d) Section 9 (D.C. Official Code § 51-109) is amended by striking the phrase "in accordance with such regulations as the Board may prescribe".

(e) Section 10 (D.C. Official Code § 51-110) is amended as follows:

(1) Subsection (b)(3) is repealed.

(2) Subsection (e) is amended by striking the phrase "under regulations prescribed by the Board".

(f) Section 15 (D.C. Official Code § 51-115) is repealed.

Sec. 269. 17 DCMR § 2411 through 17 DCMR § 2422 are repealed.

TITLE III -- TECHNICAL, CONFORMING, AND OTHER AMENDMENTS

SUBTITLE A. DEPARTMENT OF PARKS AND RECREATION NAME CLARIFICATION

Sec. 301. An Act To vest in the Commissioners of the District of Columbia control of street parking in said District, approved July 1,1898 (30 Stat. 570; codified in scattered cites in the D.C. Official Code), is amended as follows:

(a) Section 6a (D.C. Official Code § 10-137.01) is amended by striking the phrase "Department of Recreation and Parks" in the title and inserting the phrase "Department of Parks and Recreation" in its place.

(b) A new section 8 is added to read as follows:

"Sec. 8. Name change to Department of Recreation and Parks.

"The Department of Recreation and Parks, established by Organization Order No. 10, approved June 27, 1968, shall be renamed the Department of Parks and Recreation.".

Sec. 302. Section 2 of the Division of Park Services Act of 1988, effective March 16, 1989 (D.C. Law 7-209; D.C. Official Code § 10-166), is amended as follows:

(a) Subsection (a) is amended by striking the phrase "Department of Recreation" and inserting the phrase "Department of Parks and Recreation" in its place.

(b) Subsection (c) is amended by striking the phrase "Department of Recreation" and inserting the phrase "Department of Parks and Recreation" in its place.

(c) Subsection (f) is amended by striking the phrase "Department of Recreation and Parks" and inserting the phrase "Department of Parks and Recreation" in its place.

Sec. 303. Section 4a of Article II of An Act to create a Recreation Board for the District of Columbia, to define its duties and for other purposes, effective May 16, 1995 (D.C. Law 10-255; D.C. Official Code § 10-213.01), is amended by striking the phrase "Department of

Recreation and Parks" and inserting the phrase "Department of Parks and Recreation" in its place.

Sec. 304. The Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-301 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 10-302) is amended by striking the phrase "Department of Recreation and Parks" in the section heading and inserting the phrase "Department of Parks and Recreation" in its place.

(b) Section 7(a)(7) (D.C. Official Code § 10-306(a)(7)) is amended by striking the phrase "Department of Recreation and Parks" and inserting the phrase "Department of Parks and Recreation" in its place.

SUBTITLE B. CONFORMING AMENDMENTS

Sec. 311. Section 2(f)(45) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(f)(45)), is repealed.

Sec. 312. Section 103(b)(ii)(V)(ee) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.03(b)(ii)(V)(ee)), is amended by striking the phrase "in conjunction with the Environmental Planning Commission".

Sec. 313. The District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Official Code § 8-1001 *et seq.*), is amended as follows:

(a) Section 5(c) (D.C. Official Code § 8-1004(c)) is amended by striking the phrase "the Environmental Planning Commission established pursuant to section 2 of the Litter and Solid Waste Act of 1985, effective February 21, 1986 (D.C. Law 6-84; D.C. Official Code § 3-1001), and".

(b) Section 8(b)(3) (D.C. Official Code § 8-1008(b)(3)) is amended by striking the phrase ", in conjunction with the Environmental Planning Commission,".

Sec. 314. Section 4(f) of the Education Licensure Commission Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code § 38-1304(f)), is amended to read as follows:

"(f) Members of the Commission shall be entitled to compensation as provided in section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08).".

Sec. 315. Section 2552 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1805.52), is amended by striking the phrase "representatives of public charter schools, and the Public School Modernization Advisory Committee" and inserting the phrase "and representatives of public charter schools" in its place.

Sec. 316. Section 1104(c) of the School Based Budgeting and Accountability Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 38-2803(c)), is amended as follows:

(a) Paragraph (4) is amended by striking the phrase "schools;" and inserting the phrase "schools; and" in its place.

(b) Paragraph (5) is repealed.

Sec. 317. Section 6(c) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-305(c)), is amended by striking the phrase "pursuant to section 1108(c)(2)(K) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08(c)(2)(K))" and inserting the phrase "pursuant to section 1108(c-2)(3) of the District of Columbia Government Comprehensive Merit Personnel Act of 1974, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08(c-2)(3))" in its place.

TITLE IV – MAYOR AND ATTORNEY GENERAL TRANSITION

Sec. 401. Definitions.

For the purposes of this title, the term

(1) "Attorney General-elect" means the person who is certified as the successful candidate for the office of Attorney General by the Board of Elections following the 2014 General election held to determine the Attorney General or, for the period of time between the general election and certification, the person announced and published by the Board of Elections as the unofficial winner of the general election for Attorney General with a margin of victory of at least 2% of the votes cast.

(2) "Mayor-elect" means the person who is certified as the successful candidate for the office of Mayor by the Board of Elections following the 2014 General election held to determine the Mayor or, for the period of time between the general election and certification, the person announced and published by the Board of Elections as the unofficial winner of the general election for Mayor with a margin of victory of at least 2% of the votes cast.

Sec. 402. Purpose.

This title authorizes the Mayor to take appropriate action to assure continuity in the execution of the laws and in the conduct of the executive affairs of the District of Columbia government. The purposes of this title are to provide for the orderly transfer of the:

(1) Executive duties and responsibilities of the Executive Office of the Mayor with the expiration of the term of office of a Mayor and the assumption of those duties and responsibilities by a new Mayor; and

(2) Legal duties and responsibilities of the Attorney General with the transition from an appointed Attorney General and the assumption of those duties and responsibilities by an elected Attorney General.

Sec. 403. Transition transfers.

The Mayor, in the discharge of his duties pursuant to section 422 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 790; D.C. Official Code § 1-204.22), may make available to the Mayor-elect and the Attorney General-elect the following:

(1) Office space, furniture, furnishings, office machines, and supplies, at whatever place or places within the District as the Mayor shall designate, at no cost to the Mayor-elect and Attorney General-elect and his or her transition staff;

(2) Compensation for the transition staff of the Mayor-elect and Attorney General-elect at a rate that does not exceed the rate prescribed pursuant to the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.1 *et seq.*); provided, that any person who receives compensation as a member of the transition staff under this section does not hold a position in, nor is considered to be an employee of, the District government.

(3) Expenses for the procurement by the Mayor-elect and Attorney General-elect of services of any expert or consultant, or organization thereof;

(4) Expenses incurred by the Mayor-elect and Attorney General-elect for printing, binding, and duplicating;

(5) Postage or mailing expenses incurred by the Mayor-elect and Attorney General-elect consistent with the Official Correspondence Regulations, effective April 7, 1977 (D.C. Law 1-118; D.C. Official Code § 2-701 *et seq.*); and

(6) Expenses for communications equipment or service.

Sec. 404. Transition costs.

Upon certification by the Chief Financial Officer that appropriated funds are available and that the reprogramming of those funds has been approved by Council, there is hereby authorized the following amounts to be made available for transition costs:

(1) Up to $300,000 for the transition of the Mayor-elect; and

(2) Up to $150,000 for the transition of the Attorney General-elect.

Sec. 405. Reporting requirements.

(a)The Mayor-elect and Attorney General-elect shall each file a report, to be prepared with appropriate supporting documentation, accounting for the expenditure of funds pursuant to this title.

(b) Reports prepared pursuant to subsection (a) of this section shall be submitted to the Council and Chief Financial Officer by March 31, 2015.

TITLE V -- FISCAL IMPACT; EFFECTIVE DATE

Sec. 501. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the New Columbia Statehood Initiative and Omnibus Boards and Commissions Reform Amendment Act of 2014, passed on 2nd reading on October 28, 2014 (Enrolled version of Bill 20-71), as the

ENROLLED ORIGINAL

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. 502. 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
November 18, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-482

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 19, 2014

To amend the Housing Production Trust Fund Act of 1988 to revise the resale restrictions associated with affordable for-sale units developed or preserved in distressed neighborhoods with funding from the Housing Production Trust Fund; and to amend section 47-820.02 of the District of Columbia Official Code to make a conforming amendment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Affordable Homeownership Preservation and Equity Accumulation Amendment Act of 2014".

Sec. 2. The Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2801 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 42-2801) is amended as follows:

(1) Paragraph (1C) is repealed.

(2) A new paragraph (1E) is added to read as follows:

"(1E) "Distressed neighborhood" means a United States Census Tract that the Mayor has determined to be distressed pursuant to section 3b(e), after considering the median sales price, median home appreciation rate, poverty rate, homeownership rate, and other factors the Mayor deems reasonable.".

(3) A new paragraph (4A) is added to read as follows:

"(4A) "Future sales price" means the greater of any contract sales price or a value equal to 90% of the fair market appraised value determined within 6 months of the date of resale by a licensed appraiser of an affordable for-sale unit produced pursuant to this act.".

(4) New paragraphs (8A) and (8B) are added to read as follows:

"(8A) "Preexisting equity" means the greater of the discounted price determined as the difference between an initial contract sales price and the fair market appraised value at the time of the initial sale or the amount of public subsidy provided pursuant to this act that was invested in the creation of the affordable housing unit.

"(8B) "Resale restrictions" means the parameters that govern the allowable sale of an affordable for-sale unit produced pursuant to this act.".

(b) Section 3(d)(8) (D.C. Official Code § 42-2802(d)(8)) is amended to read as follows:

"(8) Notwithstanding any other applicable law, ensure that the provisions of section 3b

are enforced.".

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

"Sec. 3b. Maintaining affordability.

"(a) A rental unit constructed pursuant to this act shall remain affordable for a period of 40 years or a longer period selected by the developer.

"(b)(1) Except as provided in subsection (c) of this section, a for-sale unit constructed pursuant to this act shall remain affordable for 180 months or a longer period selected by the developer, in accordance with section 2218 of Title 14 of the District of Columbia Municipal Regulations (14 DCMR § 2218). If a for-sale unit is sold before the affordability period expires, the new affordability term shall begin on the date of the sale.

"(2) After the affordability period expires, there shall be no resale restrictions unless otherwise agreed to by the developer or a subsequent purchaser in an additional covenant negotiated pursuant to subsection (d) of this section. If no additional covenant exists after the affordability period expires, the purchaser shall repay all preexisting equity to the Housing Production Trust Fund established in section 3; provided, that:

"(A) Title to the property transferred from the purchaser to another party by a means other than inheritance; or

"(B) Refinancing of indebtedness secured by the property results in any withdrawals of cash or equity value from the property by the purchaser/borrower.

"(3) If the future sales price is not sufficient to pay off all deeds of trust, the customary seller's closing costs, and the preexisting equity, the amount due to the Housing Production Trust Fund for the repayment of the preexisting equity shall be the amount available from the sale of the property after payment of all deeds of trust and customary seller's closing costs.

"(4) Repayment of the preexisting equity shall not be required upon the refinancing of indebtedness resulting in withdrawal of cash or equity value if the new loan, all other indebtedness, and the preexisting equity result in an amount that is less than 80% of the appraised value of the property.

"(c)(1) A for-sale unit constructed pursuant to this act and located in a distressed neighborhood shall remain affordable for 60 months or a longer period selected by the developer, in accordance with section 2218 of Title 14 of the District of Columbia Municipal Regulations (14 DCMR § 2218). If a for-sale unit is sold before the affordability period expires, the new affordability term shall begin on the date of the sale.

"(2) After the affordability period expires, there shall be no resale restrictions unless otherwise agreed to by the developer or a subsequent purchaser in an additional covenant negotiated pursuant to subsection (d) of this section. If no additional covenant exists after the affordability period expires, the purchaser shall repay all preexisting equity to the Housing Production Trust Fund; provided, that:

"(A) Title to the property transferred to another party by a means other than inheritance; or

"(B) Refinancing of indebtedness secured by the property results in any

withdrawals of cash or equity value from the property by the purchaser/borrower.

"(3) If the future sales price is not sufficient to pay off all deeds of trust, the customary seller's closing costs, and the preexisting equity, the amount due to the Housing Production Trust Fund for the repayment of the preexisting equity shall be the amount available from the sale of the property after payment of all deeds of trust and customary seller's closing costs.

"(4) Repayment of the preexisting equity shall not be required upon the refinancing of indebtedness resulting in withdrawal of cash or equity value if the new loan, all other indebtedness, and the preexisting equity results in an amount that is less than 80% of the appraised value of the property.

"(5) When a resident or developer submits an application for development of a property with affordable for-sale units that is located in a distressed neighborhood, this subsection shall apply for a period of 3 years regardless of any subsequent changes to the determination of whether a neighborhood is distressed under subsection (e) of this section.

"(d) Nothing in this act shall prohibit a developer from making the developer's properties subject to affordability periods that are longer than those minimum affordability periods required under subsections (b) and (c) of this section, including for developments such as limited equity cooperatives, land trusts, and shared equity models. These covenants may require the developer or purchaser to repay additional amounts if terms of the covenant are not satisfied.

"(e)(1) The Mayor shall make the determination of distressed neighborhoods on an annual basis by rulemaking pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), and a map identifying all distressed neighborhoods shall be included in the annual Consolidated Action Plan submitted to the Department of Housing and Urban Development, which is the annual plan associated with the 5-Year Consolidated Plan.

"(2) For the first determination of distressed neighborhoods under this subsection, the proposed rules shall be promulgated as part of the next Consolidated Action Plan developed after the effective date of the Affordable Homeownership Preservation and Equity Accumulation Amendment Act of 2014, passed on 2nd reading on October 28, 2014 (Enrolled version of Bill 20-604), and submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

"(3) The Mayor shall use as a baseline for the determination of distressed neighborhoods those United States Census Tracts with a poverty rate of 20% and may add or remove United States Census Tracts designated as distressed considering the median sales price, median home appreciation rate, homeownership rate, and other factors deemed reasonable by the Mayor.".

ENROLLED ORIGINAL

Sec. 3. Section 47-820.02(a)(1)(B) of the District of Columbia Official Code is amended to read as follows:

"(B) The base assessment amount shall be the amount paid by the current property owner in exchange for the property, not including:

"(i) Any grants or other amounts received by the property owner from government agencies, housing organizations, and other entities that are not likely to be repaid (absent a violation of the terms of the limitations, encumbrances, or other restrictions attached to the sale); and

"(ii) Any preexisting equity as defined in section 2(8A) of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2801(8A)) ("Act"), in the case of resale restricted properties subject to the Act.".

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

Unsigned
Mayor
District of Columbia
November 18, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-483

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 19, 2014

To establish a Food Policy Council to identify regulatory burdens on the local food economy, collect and analyze data on the food economy and food equity, promote positive food policies, and guide organizations and individuals involved in the food economy and to establish a Food Policy Director in the Office of Planning who would promote food policy in the District, attract new participants to the local food economy, assist an individual already participating in the local food economy, and achieve the food goals identified in the Sustainable DC Plan.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Food Policy Council and Director Establishment Act of 2014".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Food access" means the ability of an individual or a family to consistently obtain affordable, nutritious food equitably across geography and income level.

(2) "Food assets" means any resource or capacity, whether physical or skill-based, in the growth, production, processing, distribution, disposal, or repurposing of food.

(3) "Food desert" means an area where more than 50% of the population is at or below 185% of the average median income level and where an individual cannot obtain a wide selection of fresh produce and other nutritious foods within ½ of a mile of the individual's residence.

(4) "Food procurement" means the purchasing of or contracting for large volumes of locally grown food either directly from farms or from vendors by large entities either public or private, including schools, hospitals, and prisons.

(5) "Local food economy" means an individual, organization, or business that maintains a presence in the District and is involved in the growth, production, processing, distribution, disposal, or repurposing of food within the District.

(6) "Locally grown" means from a grower in Delaware, the District, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, or West Virginia.

(7) "Urban agriculture" means the practice of growing, cultivating, processing, and distributing vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, and rootstock within the District.

Sec. 3. Establishment and duties of the Food Policy Council.

(a) The Mayor shall establish a Food Policy Council, whose purpose shall be to:

(1) Promote food access, food sustainability, and a local food economy, including non-mainstream producers, in the District;

(2) Monitor regulatory barriers to the development of a local food economy, including barriers to the operations of farmers markets, existing food assets in the local food economy, and job creation potential in the local food economy, which shall be included in the annual report submitted to the Council of the District of Columbia in accordance with subsection (c) of this section and may be reported to the Council and relevant agencies more frequently if needed;

(3) Collect and analyze data on the local food economy and food access in the District, including an assessment of food deserts; and

(4) Monitor and research national best practices in food policy, including public health policy for dietary-related illness, and determine how they could be implemented in the District.

(b) The Food Policy Council shall advise the Food Policy Director appointed pursuant to section 5(a) on how to promote food access, food sustainability, and a local food economy in the District, how to reduce regulatory barriers to the development of a local food economy, and how to implement national best practices in food policy in the District.

(c) The Food Policy Council shall provide an annual report to the Council of the District of Columbia on the state of the local food economy and food access across the District. The first report shall be due within 240 days of the effective date of this act. Thereafter, the Food Policy Council shall submit a report on December 31 of each year. The report shall identify national best practices in food policy, assess District food access, including an identification of food deserts, assess District food assets, recommend revisions to regulations and policies that affect the local food economy and food access, and identify funding priorities.

(d) The Food Policy Council may apply for any federal, public, or private grant or funding that would enhance its ability to improve food policy and equity in the District.

Sec. 4. Composition and term of the Food Policy Council.

(a) The Food Policy Council shall consist of 13 voting members appointed by the Mayor with the advice and consent of the Council of the District of Columbia, one of whom shall be the Food Policy Director appointed pursuant to section 5(a). The members shall be equally representative of established public, nonprofit, and for-profit entities and organizations involved in the local food economy or food access in the District.

(b) Voting members shall serve terms of 3 years; provided that of the initial members appointed, 4 shall serve for a term of 3 years, 4 shall serve for a term of 2 years, and 4 shall serve for a term of one year.. Members may be reappointed but may serve no more than 2 consecutive full terms. The Food Policy Director shall serve on the Food Policy Council as long as he or she remains the Food Policy Director.

(c) When a vacancy develops on the Food Policy Council, the Mayor shall, with the advice and consent of the Council of the District of Columbia, appoint a successor to fill the unexpired portion of the term within 90 days of the vacancy.

(d) Excluding the Food Policy Director, voting members shall be evenly divided into 4 working groups to address prominent food policy issues. Each working group shall include a balance among members of public, nonprofit, and for-profit entities and organizations involved in the local food economy or food access. Each working group may include between 4 to 8 additional members of the public named by the voting members with recognized expertise in the working group's policy area. The working groups shall make recommendations for food policy to the Food Policy Council to be included in the annual report. The working groups shall focus on the following policy groups:

(1) Local food business and labor development;

(2) Food equity, access, and health and nutrition education;

(3) Sustainable food procurement of locally grown food; and

(4) Urban agriculture and food system education.

(e) The voting members shall elect a chairperson of the Food Policy Council. The chairperson shall name voting members to working groups. All voting members shall serve without compensation.

(f) The Food Policy Council shall develop its own rules of procedure.

(g) The Food Policy Council shall meet at least once every other month. The meetings shall be held in the District and be open to the public, and members of the public shall be allowed to voice questions or concerns about food policy at the meetings. A quorum to transact business shall consist of a majority of the voting members.

(h) There shall be 10 ex officio nonvoting members, including Directors of the following departments or their designees:

(1) Department of Human Services;

(2) Department of Health;

(3) Department of Consumer and Regulatory Affairs;

(4) Department of Parks and Recreation;

(5) Office of the State Superintendent of Education;

(6) Office of Planning;

(7) District Department of Transportation;

(8) District Department of the Environment;

(9) Department of General Services; and

(10) Office of the Deputy Mayor for Planning and Economic Development.

(i) Ex officio members shall develop and implement policies and programs in their agencies that are consistent with the Food Policy Council's purposes. They shall meet with the Food Policy Director and the Food Policy Council at least quarterly each year to assist in coordinating plans and policies that are beneficial to the local food economy and improving food access in the District. In addition, ex officio members shall work with the Food Policy Director

and the Food Policy Council to examine existing regulations and policies that may be overly burdensome as applied to the local food economy.

Sec. 5. Appointment and duties of Food Policy Director.

(a) The Mayor shall appoint a Food Policy Director ("Director") within the Office of Planning with the advice and consent of the Council of the District of Columbia to promote equitable and sustainable food policies across the District that increase food access and build a local food economy.

(b) The Director shall:

(1) Collaborate with other jurisdictions to promote locally-grown and sustainable food production practices;

(2) Seek outside grants, recognition, and partnerships to facilitate positive food policy in the District;

(3) Provide assistance to participants in the local food economy in securing necessary permits and approvals and in navigating the regulatory process;

(4) Advocate for new local food economy ventures to locate in the District;

(5) Devise strategies for the District to meet the food goals identified in the Sustainable DC Plan issued by the Mayor in 2013; and

(6) Work with relevant agencies to reduce regulatory burdens on the local food economy.

Sec. 6. Applicability.

(a) Sections 1, 2, 3 and 4 shall apply as of the effective date of this act.

(b) Section 5 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. 7. 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. 8. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

UNSIGNED
Mayor
District of Columbia
November 18, 2014

ENROLLED ORIGINAL

A RESOLUTION

20-684

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 18, 2014

To approve the appointment of Ms. Kathleen Patterson as the District of Columbia Auditor.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Auditor Kathleen Patterson Appointment Resolution of 2014".

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

Ms. Kathleen Patterson
5228 Chevy Chase Parkway, N.W.
Washington, D.C. 20015
(Ward 3)

as the District of Columbia Auditor, established by section 455 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.55), replacing Yolanda Branche, for the 6-year term to end February 25, 2017.

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

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

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 PROPOSED LEGISLATION

BILL

B20-996 Pepco Cost-Sharing Fund for DC PLUG Establishment Act of 2014

Intro. 11-14-14 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

RESOLUTIONS

PR20-1135 Fifth Street, N.W. and I Street, N.W. Surplus Declaration Resolution of 2014

Intro. 11-14-14 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

PR20-1136 Fifth Street, N.W. and I Street, N.W. Disposition Approval Resolution of 2014

Intro. 11-14-14 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Economic Development

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

COUNCILMEMBER MURIEL BOWSER, CHAIRPERSON
COMMITTEE ON ECONOMIC DEVELOPMENT

ANNOUNCES A PUBLIC ROUNDTABLE

On

Proposed Resolution 20-1136, the Fifth Street, N.W. and I Street, N.W. Disposition Approval Resolution of 2014

DECEMBER 9, 2014
1:00 P.M.
ROOM 500
JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.

On Tuesday, December 9, 2014, Councilmember Muriel Bowser, Chairperson of the Committee on Economic Development will hold a public roundtable to consider Proposed Resolution 20-1136, the Fifth Street, N.W. and I Street, N.W. Disposition Approval Resolution of 2014.

Proposed Resolution 20-1136 will authorize the Office of the Deputy Mayor for Planning and Economic Development (DMPED) to dispose of this property located in the Mount Vernon Triangle for redevelopment. The DMPED has selected TPC 5th & I Partners, LLC to redevelop the Property into a mixed use development. The proposed redevelopment project consists of an approximately 200 key hotel, approximately 60 condominium units, 7,600 square-feet of retail, and below-grade parking. The Developer will also renovate two parks in the immediate are. In addition, the Developer will construct approximately 61 units of affordable housing for households earning at or below 60% of the area median income at 2100 Martin Luther King Jr, Avenue SE.

The public roundtable will begin at 1:00 p.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

Individuals and representatives of community organizations wishing to testify should contact Tsega Bekele, Legislative Counsel to the Committee on Economic Development, at (202) 724-8052, or tbekele@dccouncil.us and furnish his or her name, address, telephone number, and organizational affiliation, if any, by the close of business on December 8, 2014. Persons presenting testimony may be limited to 3 minutes in order to permit each witness an opportunity to be heard. Please provide the Committee with 20 copies of any written testimony.

If you are unable to testify at the public roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Economic Development, Council of the District of Columbia, Suite 110 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004 no later than December 8, 2014.

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. 20-267: Request to reprogram $750,000 of pay-as-you-go (Paygo) Capital funds budget authority and allotment to the FY 2015 Local funds budget for the Metropolitan Police Department (MPD) was filed in the Office of the Secretary on November 20, 2014. This reprogramming is needed to purchase cameras and associated technology.

RECEIVED: 14 day review begins November 21, 2014

Reprog. 20-268: Request to reprogram $7,875,000 of Fiscal Year 2015 Special Purpose Revenue funds budget authority within the D.C. Lottery and Charitable Games Control Board (DCLB) was filed in the Office of the Secretary on November 20, 2014. This reprogramming realigns the budget with projected expenditures in the Gaming Operations program.

RECEIVED: 14 day review begins November 21, 2014

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: November 28, 2014
Petition Date: January 12, 2015
Hearing Date: January 26, 2015

License No.: ABRA-060249
Licensee: Chef Geoff's, Inc.
Trade Name: Chef Geoff's
License Class: Retailer's Class "C" Restaurant
Address: 3201 New Mexico Ave., N.W.
Contact: Geoffrey Tracy, 202-285-9188

WARD 3 ANC 3D SMD 3D08

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

NATURE OF SUBSTANTIAL CHANGE:
Applicant requests to increase sidewalk café seating occupancy from 71 to 104 occupants.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES AND SIDEWALK CAFE
Sunday 10:30 am – 12 am and Monday through Saturday 11:30 am – 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

11/28/2014

Notice is hereby given that:
License Number: ABRA-096474
License Class/Type: C Tavern
Applicant: Lattice Partners LLC
Trade Name: Copycat Co.
ANC: 6A

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

1110 H ST NE, WASHINGTON, DC 20002

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

1/12/2015

HEARING WILL BE HELD ON

1/26/2015

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

ENDORSEMENTS: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am -2 am	10 am - 2 am
Monday:	10 am - 2 am	10 am - 2 am	10 am - 2 am
Tuesday:	10 am - 2 am	10 am - 2 am	10 am - 2 am
Wednesday:	10 am - 2 am	10 am - 2 am	10 am - 2 am
Thursday:	10 am - 2 am	10 am - 2 am	10 am - 2 am
Friday:	10 am - 3 am	10 am - 3 am	10 am - 3 am
Saturday:	10 am - 3 am	10 am - 3 am	10 am - 3 am

FOR FURTHER INFORMATION CALL (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	November 28, 2014
Petition Date:	January 12, 2015
Hearing Date:	January 26, 2015
Protest Hearing Date:	April 8, 2015
License No.:	ABRA-096716
Licensee:	Army Distaff Foundation, Inc.
Trade Name:	Knollwood Apartments
License Class:	Retailer's Class "C" Tavern
Address:	6200 Oregon Avenue, N.W.
Contact:	Ely Hurwitz 202-483-0001

WARD 3 ANC 3G SMD 3G02

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 April 8, 2015 at 1:30 pm.

NATURE OF OPERATION
Assisted living, nursing and apartment facility with a café room serving cocktails, beer and wine to dining residents. Entertainment will include occasional parties that may have some live music. Total occupancy load 325. Total seats 240. Summer Garden with 40 seats.

HOURS OF OPERATION
Sunday through Thursday 8am – 12am, Friday & Saturday 8am – 2am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION
Sunday through Thursday 12pm – 12am, Friday & Saturday 12pm – 2am

HOURS OF LIVE ENTERTAINMENT
Sunday through Thursday 12pm-12am, Friday & Saturday 12pm – 2 am

HOURS OF OPERATION/ ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION/SUMMER GARDEN
Sunday through Saturday 10am – 12am

HOURS OF LIVE ENTERTAINMENT/ SUMMER GARDEN
Sunday through Saturday 6pm-12am

BOARD OF ELECTIONS

NOTICE OF PUBLIC HEARING
RECEIPT AND INTENT TO REVIEW INITIATIVE MEASURE

The Board of Elections shall consider in a public hearing whether the proposed measure "D.C. Character Development and Citizenship Education Initiative of 2014" is a proper subject matter for initiative, at the Board's Meeting on Wednesday, January 7, 2015 at 10:30 a.m., One Judiciary Square, 441 4th Street, N.W., Suite 280, Washington DC.

The Board requests that written memoranda be submitted for the record no later than 4:00 p.m., Monday, January 5, 2015 to the Board of Elections, General Counsel's Office, One Judiciary Square, 441 4th Street, N.W., Suite 270, Washington, D.C. 20001.

Each individual or representative of an organization who wishes to present testimony at the public hearing is requested to furnish his or her name, address, telephone number and name of the organization represented (if any) by calling the General Counsel's office at 727-2194 no later than Monday, January 5, 2015 at 4:00p.m.

The Short Title, Summary Statement and Legislative Text of the proposed initiative read as follows:

SHORT TITLE

"D.C. CHARACTER DEVELOPMENT AND CITIZENSHIP EDUCATION INITIATIVE OF 2014"

SUMMARY STATEMENT

This initiative, if passed, would establish a Character Development and Citizenship Education Council (hereafter referred to as, "Council") in the District of Columbia (DC);

This newly created Council will be tasked with:

1. Assessing the need to integrate Character Development and Citizenship Education into public and public charter schools in the District of Columbia.
2. Making recommendations on how a non-religious Character Development and Citizenship Education curriculum can be implemented in the District of Columbia Public and Charter School systems. This curriculum will focus on critical issues facing the youths of the District of Columbia including but not limited to bullying, drug use, peer pressure, life focus, ethics, respect, health, self-esteem, and the importance of positive attitudes and influences.
3. The Council shall complete its work and submit recommendations to the Mayor, the Council of the District of Columbia, the Office of the State Superintendent for Education, the Chancellor of District of Columbia Public Schools and the Executive Director of

District of Columbia Public Charter Schools within twelve (12) months following its creation.

4. The Council shall have a sunset provision that will take effect twelve (12) months following its creation.

LEGISLATIVE TEXT

There is hereby established, in the Executive Branch of the District of Columbia government, a Character Development and Citizenship Education Council.

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, that this act may be cited as the D.C. CHARACTER DEVELOPMENT AND CITIZENSHIP EDUCATION INITIATIVE OF 2014.

Sec. 2 DEFINITIONS

For the purposes of this act, the term(s):
(1) "Character Development and Citizenship Education" refers to education and training that focuses on topics including but not limited to bullying, drug use, peer pressure, life focus, ethics, respect, health, self-esteem, and the importance of positive attitudes and influences.
(2) "Character Development and Citizenship Education Council" means the District of Columbia Character Development and Citizenship Education Council.
(3) "Sunset provision" means that this measure shall cease to exist after a specific date, unless it is extended by legislative action.
(4) "Creation" means that all of the appointments by the Mayor have been fully confirmed by the Council of the District of Columbia.

Sec. 3. APPOINTMENTS AND CONFIRMATIONS

The Council shall consist of 15 members, appointed by the Mayor and confirmed by the Council of the District of Columbia, in accordance with DC Code § 1-523.01.

The Mayor shall submit to the Council of the District of Columbia, for confirmation, within 180 days after the effective date of this act a list of appointees to fill the vacancies on the Character Development and Citizenship Education Council.

Sec. 4. ESTABLISHMENT OF THE COUNCIL

There is established the District of Columbia Character Development and Citizenship Education Council to assist and advise the Mayor, the Council of the District of Columbia, the Office of the State Superintendent for Education (OSSE), the Chancellor of the District of Columbia Public Schools and the Executive Director of the District of Columbia Public Charter Schools in promoting the character development and citizenship education for the residents of the District of Columbia.

Sec. 5. MEMBERS

(a) The Character Development and Citizenship Education Council shall consist of 15 members, appointed by the Mayor and confirmed by the Council of the District of Columbia. The composition shall be as follows:

(1) Five (5) members shall represent faith-based and secular organizations.
(2) Two (2) members shall be consumer representatives.
(3) One (1) member shall represent the law enforcement community.
(4) One (1) member shall be an educator representing the District of Columbia Public Schools.
(5) One (1) member shall be an educator representing the District of Columbia Public Charter Schools.
(6) One (1) member shall represent the Office of the State Superintendent for Education (OSSE).
(7) One (1) member shall represent the Office of the District of Columbia Public Schools.
(8) One (1) member shall represent the Office of the District of Columbia Public Charter School Board.
(9) One (1) student representative from the District of Columbia Public Charter Schools.
(10) One (1) student representative from the District of Columbia Public Schools.

(b) Members shall not be compensated for their service on the Council, but shall be eligible for reimbursement of expenses as provided in DC Code § 1-611.08(d).
(c) Members shall serve for twelve (12) months following the creation of the Council.
(d) Members shall be residents of the District of Columbia who have a demonstrated background or interest in character development and citizenship education.
(e) The Mayor shall designate one member to serve, at the Mayor's pleasure, as Chairperson of the Council.
(f) Any person appointed to fill a vacancy occurring prior to the sunset provision for which his or her predecessor was appointed shall be appointed only for the remainder of the imposed time limit(s).

Sec. 6. ORGANIZATION

(a) At the initial monthly meeting, the Council shall determine its organization and name its officers, other than the Chairperson.
(b) The Council shall meet at the invitation of the Chairperson or a majority of the members.
(c) The Council may establish subcommittees to review issues and make recommendations to the Council.

Sec. 7. MEETINGS

(a) The Council shall hold regular public meetings at least once every month, at such times and places as provided in the notice of the meeting.
(b) The Mayor, the Chairperson, or a majority of the current members of the Council may call a special meeting of the Council by sending notice of the special meeting not less than seven (7)

days in advance. The notice shall state the matters to be considered. No other matter may be considered at a special meeting except with the consent of all members of the Council present.
(c) By affirmative vote of the majority of members present, the Council may schedule or hold a closed executive session to discuss personnel or other matters of a private or confidential nature. No action may be taken in an executive session, and no records shall be kept of the session other than a record of the vote to schedule or hold the session.

Sec. 8. CONDUCT OF MEETINGS

(a) The Chairperson shall determine the order of business at meetings.
(b) The Chairperson, or the Secretary at the discretion of the Chairperson, shall prepare an agenda for each regular Council meeting. Any member of the Council or member of the public may transmit material to the Chairperson for inclusion on the agenda. This material shall be included on the agenda if it is received by the Council not later than fourteen (14) calendar days prior to the meeting.
(c) The Chairperson, or the Secretary at the discretion of the Chairperson, shall distribute the proposed agenda to the Members no later than seven (7) calendar days prior to the date of the meeting.
(d) Additional items may be placed on the agenda of a regular meeting by majority vote of members present, and if applicable notice requirement have been met.
(e) If neither the Chairperson, the Vice-Chairperson, or the Secretary is present at the time Designated for any Council meeting, any other Member shall call the roll and, if a quorum has been met, shall call the meeting to order, and preside over the election of a Chairperson *pro tempore* who shall preside until the Chairperson, the Vice-Chairperson, or the Secretary arrives.
(f) The Chairperson, the Vice-Chairperson or Secretary serving in the capacity of the Chairperson, or Chairperson *pro tempore* shall decide all questions of order at said meeting, subject to an appeal to the Council.
(g) Matters not covered by this section or other District of Columbia laws or regulations shall be decided in accordance with *Robert's Rules of Order, Newly Revised.*

Sec. 9. DUTIES

The Council shall:

(1) Meet monthly;
(2) Operate and conduct meetings using administrative rules of order;
(3) Select a Vice-Chair and Recording Secretary
(4) Perform an assessment and develop a plan, to be submitted to the Mayor, the Council of the District of Columbia, the Office of the State Superintendent for Education, the Chancellor of the District of Columbia Public Schools and the Executive Director of the District of Columbia Public Charter Schools within six (6) months after the effective date of the Council's creation, to identify issues impacting on the social and emotional outcomes of youth;
(5) Submit a final report and recommendations on how to implement the Character Development and Citizenship Education within the District of Columbia Public and Charter Schools, within twelve (12) months of the creation of this Council.
(6) In the first report, the Council shall endeavor to address, among other issues,

matters related to the high rate of disciplinary problems exhibited by the youth in the District of Columbia. The United States Department of Education recognize that character education is society's shared responsibility.[1] Horace Mann, a 19th century education reformer, believed that character development was essential to the success of moral development.[2] More than a century later, Martin Luther King Jr. stated that "intelligence plus character-that is true goal of education." Consequently, the Congress of the United States authorized the Partnership in Character Education Program in 1994 and the No Child Left Behind Act of 2001 and subsequent initiatives "to promote strong character and citizenship among our nation's youth."[3] The Character Development and Citizenship Education Initiative of 2014 shall:

(a) Provide a shared responsibility between teachers, parents and members of the community.
(b) Create a learning process that uses repetition to internalize core ethical values such as respect, justice, civic virtue and citizenship, and responsibility for self and others.
(c) Promote community involvement in designing and implementing character education in the District of Columbia Public and Charter Schools.
(7) Submit to the Mayor and the Council of the District of Columbia, the Office of the State Superintendent for Education (OSSE), the Chancellor of the District of Columbia Public Schools and the Executive Director of the District of Columbia Public Charter Schools other reports and recommendations as it considers useful for the promotion of Character Development and Citizenship Education in the District.

Sec. 10. QUORUM

(a) A majority of the sitting membership of the Council, but not less than four (4) Members shall constitute a quorum for the transaction of business at all meetings of the Council.

Sec. 11. VOTES

(a) Action shall be taken by majority vote of the Members present and voting unless provided in this act or in other District of Columbia laws or regulations.
(b) No person may vote on Council matters unless that person is a current member of the Council.
(c) A motion to reconsider a vote may be made at the same meeting at which the vote was taken or, if otherwise in order, at the next meeting, by any Member who voted with the prevailing side of a question.

Sec. 12. DESIGNATION OF COMMITTEE(S)

(a) When designating the resolution of a matter to a Committee, the Council shall designate a chairperson of the Committee. The chairperson shall preside over meetings of the committee.
(b) A majority of the members of the committee shall constitute a quorum for the transaction of business at all meetings of the committee.

---

[1] *Character Education-Our Shared Responsibility*
View the brochure online at: www.ed.gov/admins/lead/character/brochure.html
[2] Thomas C. Hunt, *Moral Education in America's Schools*, 2005) pp 31–48
[3] *Character Education-Our Shared Responsibility*
View the brochure online at: www.ed.gov/admins/lead/character/brochure.html

(c) Action shall be taken by the committee by a majority vote of the committee members present and voting.

Sec. 13. RECORDS OF MEETINGS

(a) The Secretary shall cause the proceedings of meetings to be recorded in written minutes.
(b) The minutes shall record all actions and any statements made for the record. Otherwise there shall be no verbatim written record of discussion and debate unless so ordered by the Council.
(c) Copies of the minutes shall be distributed to each Member at the next regular meeting of the Council.
(d) Upon approval by the Council, the minutes shall become the record of the proceedings.

Sec. 14. NOTICES AND CORRESPONDENCE

The Chairperson shall sign or designate a person to sign the following:

(a) All notices to Members of regular and special meetings, except for special meetings called by a majority of the Commissioners or by the Mayor; and
(b) All notices and correspondence signifying proposed and final actions of the Council.

This act shall take effect after a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-government and Government Reorganization
Act (Home Rule Act), approved December 24, 1973 (87 Stat. 813; Official D.C. Code § 1-206.02(c) (1)).

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, FEBRUARY 10, 2015
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001

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

TIME: 9:30 A.M.

WARD SIX

18915 ANC-6B — **Application of Aminta, LLC**, pursuant to 11 DCMR § 3103.2, for variances from the floor area requirements under § 771.2, the lot occupancy requirements under § 772.1, and the off-street parking requirements under § 2101.1, to allow the construction of a mixed-use residential structure with ground floor retail in the C-2-A District at premises 1330-1336 Pennsylvania Avenue, S.E. (Square 1044, Lots 29 and 802).

WARD SEVEN

18916 ANC-7E — **Application of 49th Street Developer LLC**, pursuant to 11 DCMR § 3104.1, for a special exception from the new residential developments requirements under § 353, to construct a new affordable multi-family residential development for seniors and 21 affordable single-family dwellings in the R-5-A District on undeveloped land at the intersection of East Capitol Street, S.E. and 47th Street, S.E. (Square 5348, Lots 1-8).

WARD FIVE

18917 ANC-5B — **Application of Asmus Conerman**, pursuant to 11 DCMR § 3103.2, for a variance from the side yard requirements under § 405.8, to allow the construction of a two-story rear addition to an existing single-family dwelling in the R-1-B District at premises 1214 Kearney Street N.E. (Square 3930, Lot 37).

WARD SIX

18918 ANC-6B — **Application of Edward Hertwig and Cindy Cota**, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the lot area requirements under § 401, the lot occupancy requirements under § 403, the open court requirements under § 406, and the nonconforming structure requirements under § 2001.3, to allow the construction of a three-story rear addition to an existing single-family dwelling in the R-4 District at premises 940 14th Street S.E. (Square 1065, Lot 55).

WARD THREE

18919 ANC-3F — **Application of Hillwood Estate, Museum and Gardens**, pursuant to 11 DCMR § 3103.2, for a variance to allow modification of certain previously-approved conditions under § 201, in the TSP/D/R-1-A District at premises 4155 Linnean Avenue, N.W. (Square 2245, Lot 1).

WARD SIX

18920 ANC-6B — **Application of Richard S. Parnell**, pursuant to 11 DCMR § 3104.1, for special exceptions from the lot occupancy requirements under § 403, the accessory buildings requirements under § 2500, and/or the rear yard requirements under § 404, to construct a new two-story garage and artist studio in the R-4 District at premises 750 9th Street S.E. (Square 950, Lot 65).

PLEASE NOTE:

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

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

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

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

LLOYD J. JORDAN, CHAIRMAN, S. KATHRYN ALLEN, VICE CHAIRPERSON,

MARNIQUE Y. HEATH, JEFFREY L. HINKLE AND A MEMBER OF THE ZONING COMMISSION, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

OFFICE OF THE ATTORNEY GENERAL FOR THE DISTRICT OF COLUMBIA

MAYOR'S OFFICE OF LEGAL COUNSEL

NOTICE OF FINAL RULEMAKING

Pursuant to the authority set forth in Section 861 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective April 20, 1999 (D.C. Law 12-260; D.C. Official Code § 1-608.61 (2012 Repl.)), as amended by the Elected Attorney General Implementation and Legal Service Establishment Technical Emergency Amendment Act of 2014 ("Implementation Act"), enacted July 14, 2014 (D.C. Act 20-377; 61 DCR 7598 (August 1, 2014)), and any substantially identical successor legislation, the Interim Attorney General and the Interim Director of the Mayor's Office of Legal Counsel jointly give notice of their adoption of the following amendments to Chapter 36 (Legal Service) of Title 6, Subtitle B (Government Personnel) of the District of Columbia Municipal Regulations (DCMR).

The amendments bring the rules into conformity with the recent creation of the Mayor's Office of Legal Counsel and the transfer of attorneys who work at subordinate agencies but are employed by the Office of the Attorney General (OAG) from OAG to those subordinate agencies.

A Notice of Proposed and Emergency Rulemaking was published on October 10, 2014 at 61 DCR 10587. No changes have been made to the text of the proposed rules. Final action to adopt these rules was taken on November 19, 2014, and these rules will be effective upon publication of this notice in the *D.C. Register*.

Chapter 36, LEGAL SERVICE, of Title 6-B, GOVERNMENT PERSONNEL, of the DCMR is amended to read as follows:

3600 APPLICABILITY

3600.1 This chapter applies to all attorneys appointed to the Legal Service who are employed by the Office of the Attorney General for the District of Columbia, the Mayor's Office of Legal Counsel, or a subordinate agency.

3600.2 The time limitations contained in this chapter requiring action within a specific number of days are to be complied with to the extent feasible, except that time limitations for compliance with training requirements under Sections 3610, 3611 and 3612 shall be complied with strictly.

3601 APPOINTMENT

3601.1 Attorneys employed by the Office of the Attorney General, the Mayor's Office of Legal Counsel, and subordinate agencies wherever located in the District government, shall be hired by the Attorney General, the Director of the Mayor's Office of Legal Counsel, or the relevant agency head, as applicable, in accordance

with hiring procedures jointly established by Office Order of the Attorney General and the Director.

3601.2 The Attorney General and the Director shall establish hiring procedures by Office Orders of their respective offices.

3601.3 Hiring decisions for attorneys shall take into account:

(a) Requirements of the position to be filled;

(b) Professional characteristics of the applicant, including:

(1) Analytical skill;

(2) Litigation, transactional, and/or counseling experience, if relevant;

(3) Oral skills;

(4) Writing skills; and

(5) Substantive legal knowledge; and

(c) Personal characteristics of the applicant.

3601.4 The Attorney General, or his or her designee, shall interview every candidate for an attorney position in the Office of the Attorney General.

3601.5 The relevant agency head and the Director, or their designees, shall interview every candidate for an attorney position at a subordinate agency, and the Director shall interview every candidate for an attorney position in the Mayor's Office of Legal Counsel.

3601.6 Any attorney in a position above LX-1, or in an equivalent position, who is appointed to the Senior Executive Attorney Service by the Attorney General, the Director, or an agency head shall be notified in writing by the Attorney General, the Director, or the agency head, as applicable, that he or she is being appointed to a Senior Executive Attorney Service position.

3601.7 Attorneys shall be appointed to the Legal Service non-competitively, so long as each attorney appointed meets the qualification standards established for the position.

3601.8 Each attorney shall swear or affirm an oath as follows: "I (attorney's name), do solemnly swear (or affirm) that I will faithfully execute the laws of the United States of America and of the District of Columbia, and will to the best of my

ability, preserve, protect and defend the Constitution of the United States, and will faithfully discharge the duties of the office which I am about to enter."

3601.9 An appointment to a position in the Legal Service may be for full-time employment, intermittent employment, part-time employment, or time-limited employment.

3602 TRANSFERS, STEP INCREASES, AND PROMOTIONS

3602.1 Attorneys employed by the Office of the Attorney General may request voluntary rotation to another unit within the Office of the Attorney General in accordance with rotation procedures established by Office Order of the Attorney General.

3602.2 Attorneys employed by subordinate agencies, including the Mayor's Office of Legal Counsel, may request voluntary rotation to a position in another agency in accordance with rotation procedures established by the Director of the Mayor's Office of Legal Counsel. The rotation of an attorney shall be subject to the approval of the agency heads involved and the Director.

3602.3 Changes in assignment of attorneys employed by the Office of the Attorney General may be made by the Attorney General at any time to meet the needs of the Office of the Attorney General.

3602.4 With the consent of the agency head involved, the Director may assign an attorney employed by the Mayor's Office of Legal Counsel to perform work as or for the General Counsel of a subordinate agency.

3602.5 An attorney may receive a within-grade step increase only if he or she received a rating of "successful," "excellent," or "outstanding" for the rating period immediately prior to the due date for a within-grade step increase. Failure to achieve the required rating shall result in the due date for the step increase being delayed for an additional year.

3602.6 All recommendations for promotion to grades LA 14 and above shall be submitted to the Attorney General or the Director, as applicable, once annually at a time and in a manner to be determined respectively by these officials. If the employee has not been supervised by his or her current supervisor for at least ninety (90) days, the input of the employee's prior supervisor shall be sought. An attorney may receive a promotion to a higher grade if the following criteria are met:

(a) The attorney has been at the prior grade level for at least twelve (12) months preceding the recommendation for promotion;

(b) The attorney has demonstrated consistent superior performance, as demonstrated by the two most recent performance evaluations, if available;

(c) The attorney demonstrates specialized expertise or professional distinction; and

(d) The attorney demonstrates satisfactory handling of an increasingly more complex workload.

3603 INDIVIDUAL ACCOUNTABILITY PLANS (LINE ATTORNEYS) AND PERFORMANCE PLANS (ALL OTHER ATTORNEYS)

3603.1 Each supervisor shall prepare annually, at least thirty (30) days prior to the end of the rating period, a draft Individual Accountability Plan for every line attorney under his or her supervision for the following rating period. This requirement may be satisfied by requiring the line attorney supervised to prepare a draft Individual Accountability Plan for the supervisor's approval.

3603.2 Each supervisor shall review the Job Description for every line attorney under his or her supervision annually, at least thirty (30) days prior to the end of the rating period. The supervisor may recommend changes to Job Descriptions to the Attorney General, the Director, or the agency head, as applicable. This requirement may be satisfied by requiring the line attorney supervised to review his or her Job Description and prepare recommended changes for the supervisor's approval.

3603.3 A supervisor is not required to prepare an Individual Accountability Plan or review a Job Description for any line attorney who the supervisor knows is scheduled within six (6) months after the beginning of the following rating period to leave, rotate or transfer from the legal office, or unit within the legal office, to which he or she is assigned.

3603.4 A supervisor shall provide each line attorney with a copy of his or her draft Individual Accountability Plan, along with a copy of his or her draft revised Job Description, upon completion by the supervisor.

3603.5 Each line attorney may provide written comments on the content of his or her draft Individual Accountability Plan and Job Description to the supervisor within fifteen (15) days of receiving them from his or her supervisor.

3603.6 A supervisor shall consider, but need not adopt, the comments made by a line attorney regarding a draft Individual Accountability Plan or Job Description.

3603.7 Each supervisor shall prepare a final Individual Accountability Plan and make final recommendations for changes to the Job Description for each line attorney

under his or her supervision by the first day of the rating period. A copy of each shall be transmitted to the Attorney General, the Director, or the agency head, as applicable, for approval.

3603.8 An Individual Accountability Plan shall include, but need not be limited to:

(a) Measurable goals and professional development expectations for the line attorney that parallel specific job duties and responsibilities, work behaviors, or projects within each of the categories listed in (b);

(b) Appropriate performance standards, including but not limited to those from the following list, and the weight to be accorded to each:

(1) Conduct of legal research and writing;

(2) Oral preparation and presentation;

(3) Efficiency, productivity, and work habits;

(4) Professional conduct and effectiveness in working with others;

(5) Office procedures;

(6) Job Knowledge; and

(7) Litigation, transaction and/or counseling skills (as appropriate); and

(c) Training requirements to be provided in-house and non-in-house.

3603.9 Upon approval of the Individual Accountability Plan and revised Job Description by the Attorney General, the Director, or the agency head, the applicable official shall forward the revised Job Description to the relevant personnel authority for final approval.

3603.10 Each supervisor shall provide each line attorney with a copy of his or her final Individual Accountability Plan during the first week of the rating period, and shall provide each line attorney with a copy of his or her revised Job Description as soon as practicable after the personnel authority approves it. The line attorney's previous job description shall continue to apply until the personnel authority approves any proposed revisions.

3603.11 The supervisor of a line attorney who is newly-hired, rotated, or transferred into the unit between thirty (30) days prior to the end of a rating period and one hundred- twenty (120) days prior to the end of the following rating period, shall provide the line attorney with a final Individual Accountability Plan and Job

Description within thirty (30) days after appointment, rotation or transfer. The supervisor of the line attorney may, at his or her option, provide the line attorney with an opportunity to comment on a draft Individual Accountability Plan and a draft Job Description

3603.12 During the first week of a new rating period, each supervisor shall prepare and submit to the Training Director of the Office of the Attorney General, the Director, or the agency head, as applicable, in a format specified by the Training Director, the Director, or the agency head, a report summarizing any training requirements included in Individual Accountability Plans for line attorneys under his or her supervision. The report shall identify subject-matter areas where training is needed and include suggestions as to the types of programs and courses that could be used to meet those identified training needs. Agency head shall provide the Director with copies of these reports for attorneys employed by their agency.

3603.13 Performance Plans for supervisors and non-supervisory attorneys as described in Sections 3606 and 3607 shall be prepared in accordance with Sections 1406, 1407, 1408, and 1409 of Chapter 14 of the District of Columbia Personnel Regulations.

3604 EVALUATION OF PERFORMANCE - RATING PERIODS, ELIGIBILITY FOR EVALUATION, CRITERIA FOR EVALUATION, AND RATING LEVELS

3604.1 The rating period for line attorneys shall run from September 1st to August 31st. The rating period for all other attorneys covered by these rules (supervisors and the non-supervisory attorneys described in Sections 3606 and 3607 shall run from October 1st to September 30th.

3604.2 Written evaluations shall be based on at least one hundred-twenty (120) days of experience supervising the line attorney evaluated.

(a) Line attorneys who have been employed for fewer than one hundred-twenty (120) days prior to the end of the rating period, shall not be evaluated.

(b) If a line attorney has been employed for at least one hundred-twenty (120) days prior to the end of the rating period, but the supervisor of the line attorney at the time of the evaluation lacks at least one hundred-twenty (120) days of direct experience supervising the line attorney, the supervisor shall evaluate the line attorney based on an advisory evaluation prepared by a former supervisor or any other person, who had at least one hundred-twenty (120) days of direct experience supervising the line attorney during the rating period within the agency. If no such advisory evaluation is available, the line attorney shall not be evaluated.

3604.3 Each evaluation shall assess the line attorney's achievement of the performance standards and specific goals set out in his or her Individual Accountability Plan during the rating period.

3604.4 Evaluations may, at the discretion of the supervisor, include input from citizens, customers, peers, and others with whom the line attorney had regular professional contact during the rating period.

3604.5 Beginning with the 2008-2009 rating period, the evaluation of the performance of supervisors and the non-supervisory attorneys described in Sections 3606 and 3607 shall no longer be under the District government's Performance Management Program (PMP), but instead shall be under the in-house performance evaluation system described in these rules.

3604.6 Written evaluations of supervisors and non-supervisory attorneys as described in Sections 3606 and 3607 who have been reassigned to a position with different duties and responsibilities within ninety (90) days of the end of the rating period shall be rated not later than thirty (30) days from the effective date of the reassignment. If such an attorney is promoted or demoted during the ninety (90) days prior to the end of the rating period, he or she shall be rated not later than thirty (30) days from the effective date of the promotion or demotion. If such an attorney is reinstated or restored to duty during the ninety (90) days prior to the end of the rating period, he or she shall be rated at the end of the next rating period. If such an attorney transfers to an agency under the Mayor's or the Attorney General's personnel authority from another personnel authority or is newly appointed during the ninety (90) days prior to the end of the rating period, he or she shall be rated at the end of the next rating period.

3604.7 Any supervisor or non-supervisory attorney as described in Sections 3606 and 3607 who is reinstated, restored, newly appointed, or transferred shall automatically be considered as having been assigned a rating of "successful," which shall remain the official rating of record until such time as replaced by another official rating.

3604.8 For line attorneys and non-supervisory attorneys described in Sections 3605 and 3607, each written evaluation shall assign an overall rating to the attorney of "outstanding," "excellent," "successful," "needs improvement," or "fails expectations." For all attorneys covered by these rules other than line attorneys and non-supervisory attorneys described in Sections 3605 and 3607, each written evaluation shall assign an overall rating to the attorney of "outstanding," "successful," "needs improvement," or "fails expectations."

3605 EVALUATION OF PERFORMANCE – LINE ATTORNEYS

3605.1 Each supervisor shall prepare a written evaluation for every line attorney under his or her supervision annually, within twenty (20) days after the end of the rating period. Written evaluations shall be prepared using a form that is jointly approved by the Attorney General and the Director of the Mayor's Office of Legal Counsel.

3605.2 Each supervisor shall submit evaluations of line attorneys to his or her supervisor for review, comment, or revision. Each supervisor who reviews an evaluation shall complete his or her review within five (5) days of receipt of the evaluation and shall immediately return the draft evaluation to the supervisor who prepared it.

3605.3 The supervisor who prepared the evaluation shall complete any revision requested by his or her supervisor within seven (7) days of receipt of the evaluation.

3605.4 After completion of any revisions under Subsection 3605.3, the evaluation shall be reviewed by every supervisor in the chain of command from the line attorney up to the Attorney General, the Director, or the agency head, as applicable. Each supervisor within the chain of command shall complete his or her review within five (5) days of receipt of the evaluation and forward the evaluation, along with his or her comments for revision, up the chain of command. The final supervisor in the chain of command below the Attorney General, the Director, or the agency head shall, upon completion of his or her review, return the evaluation to the supervisor who prepared it for revision prior to transmittal to the Attorney General, the Director, or the agency head.

3605.5 As soon as practicable after the receipt of the evaluations, the Attorney General, the Director, or the agency head shall complete his or her review. In reviewing evaluations of line attorneys, the Attorney General, the Director, or the agency heard may consult with the supervisor who prepared the evaluation, any person who prepared an advisory evaluation, and the supervisors in the chain of command for the relevant unit.

3605.6 If the Attorney General, the Director, or the agency head decides that an evaluation should be changed, the supervisor who prepared the evaluation shall make all changes that are directed by the Attorney General, the Director, or the agency head within five (5) days of receipt of the Attorney General's, the Director's or the agency head's directive.

3605.7 Each supervisor shall review the evaluation with the line attorney evaluated within twenty (20) days of receipt of the approved evaluation from the Attorney General, the Director, or the agency head or within twenty (20) days after completion of any revisions directed by the Attorney General, the Director, or the agency head. Both the line attorney evaluated and his or her supervisor shall sign the written evaluation to confirm that it has been reviewed.

3605.8 If a line attorney disagrees with the written evaluation, he or she may appeal it within thirty (30) days of receipt to the appropriate review committee established by the Attorney General or the Director.

3605.9 The Attorney General and the Director shall each establish a Performance Evaluation Review Committee ("Committee") for line attorneys within their jurisdiction. Line attorneys employed by subordinate agencies and the Mayor's Office of Legal Counsel are within the Director's jurisdiction. The Attorney General and the Director shall each appoint nine (9) managing attorneys to their respective Committees, which shall sit in three-member panels as designated by the Attorney General and the Director.

3605.10 The Committees shall be empowered to review the basis for the direct supervisor's rating, conduct a hearing, receive written briefs, and issue a written decision which may approve, modify, or reject the performance rating. The line attorney shall initially provide the Attorney General or the Director (or their designees) with a notice of appeal, including any request for a hearing, within thirty (30) days of receipt of the evaluation. The Committee shall circulate the notice to the line attorney's direct supervisor and to every supervisor in the chain of command between the line attorney and the Attorney General, the Director, or the agency head.

3605.11 The Committees have the discretion to decide whether to grant any request for a hearing. If a request for a hearing is granted, the committee shall circulate a hearing notice to the line attorney and to every supervisor in the chain of command between the line attorney and the Attorney General, the Director, or the agency head, which provides:

(a) The place of the hearing and a hearing date and time no more than fifteen (15) days from the date of the hearing notice;

(b) That the line attorney may review, upon request to his or her direct supervisor, all materials upon which the evaluation is based;

(c) That the line attorney may be represented by an approved attorney, or other representative at the hearing; and

(d) That the line attorney has the right to testify and present evidence at the hearing.

3605.12 The hearing shall be closed except for the line attorney, his or her representative, the line attorney's direct supervisor, and every supervisor in the chain of command between the direct supervisor and the Attorney General, the Director, or the agency head. There shall be no discovery procedures except as provided in this section. An official record shall be kept of the hearing. The Committee may hold a pre-hearing conference in order to:

(a) Formulate and simplify the issues, including the elimination of frivolous claims or defenses;

(b) Obtain admissions of fact and of documents that will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings on the admissibility of evidence;

(c) Obtain identification of all witnesses and documents, which identification shall be binding at the hearing, except as, in the discretion of the committee, the interests of justice warrant the addition of witnesses and documents at the hearing;

(d) Achieve settlement of the dispute;

(e) Dispose of any pending motions;

(f) Set reasonable limits on the time allowed for presenting evidence;

(g) Establish a post-hearing briefing schedule, which may permit written briefs or other documents to be filed by the line attorney, the line attorney's direct supervisor, and each supervisor in the chain of command between the line attorney and the Attorney General, the Director, or the agency head; and

(h) Address such other matters as may facilitate the just and efficient disposition of the matter.

3605.13 If the Committee decides, in its discretion, to reject any request for a hearing, in whole or in part, it shall so advise the line attorney, the attorney's direct supervisor, and each supervisor in the chain of command between the line attorney and the Attorney General, the Director, or the agency head. The Committee shall circulate a notice that schedules the filing of written briefs or other documents to the line attorney, the line attorney's direct supervisor, and each supervisor in the chain of command between the line attorney and the Attorney General, the Director, or the agency head. The Committee may schedule a meeting with the line attorney, the line attorney's direct supervisor, and each supervisor in the chain of command between the line attorney and the Attorney General, the Director, or the agency head in order to address the matters raised in the appeal.

3605.14 The Committee shall provide the line attorney, the line attorney's direct supervisor, and every supervisor in the chain of command between the line attorney and the Attorney General, the Director, or the agency head with a final written administrative decision within thirty (30) days of the conclusion of the appeal proceeding. The final written administrative decision shall be accompanied

by notice of the right to appeal the decision to the Attorney General, the Director, or the agency head within thirty (30) days of receipt of the decision by the line attorney.

3605.15 The Attorney General, the Director, or the agency head shall circulate the line attorney's notice of appeal to the line attorney's direct supervisor and to every supervisor in the chain of command between the direct supervisor and the Attorney General, the Director, or the agency head.

3605.16 The Attorney General, the Director, or the agency head shall review the basis for the three-person committee's decision *de novo*, without taking any additional evidence. As part of this review, the Attorney General, the Director, or the agency head may permit written appellate briefs to be filed in accordance with a schedule established by the Attorney General, the Director, or the agency head. No oral arguments shall be permitted. The Attorney General, the Director or the agency head may, in the exercise of his or her discretion, hold a pre-briefing conference for the purposes, among others, of formulating and simplifying the issues, disposing of any pending motions, attempting to settle the dispute, establishing a schedule for the filing of written briefs or other documents, and addressing such other matters as may facilitate the just and efficient disposition of the appeal.

3605.17 The Attorney General, the Director, or the agency head shall provide the line attorney, the line attorney's direct supervisor, and every supervisor in the chain of command between the direct supervisor and the Attorney General, the Director, or the agency head with a final written administrative decision within a reasonable time after the final brief is filed. The Attorney General's, the Director's, or the agency head's decision shall be final and no further appeal shall be allowed.

3605.18 Each supervisor shall perform at least one (1) interim evaluation of every attorney under his or her supervision annually, in the ninth (9^{th}) month of the rating period. An interim evaluation shall consist of an informal meeting to discuss the line attorney's performance under his or her Individual Accountability Plan. At his or her discretion, a supervisor may provide a written interim evaluation. Any written interim evaluation shall be provided to the attorney evaluated, but shall not be included in the attorney's official personnel file unless the supervisor rates the attorney as "needs improvement" or lower. At his or her discretion, or at the request of the Attorney General, Director, or agency head, a supervisor may perform interim evaluations no more frequently than once every three (3) months during the rating period. Interim evaluations rating a line attorney as "needs improvement" or lower may be changed by mutual agreement or by the filing of an appeal as provided in this section.

3605.19 Appeals from evaluations of line attorneys prepared for the rating period ending on August 31, 2014 shall be reviewed by the Attorney General and the Committee established by the Attorney General notwithstanding the attorney's transfer to a different agency prior to the conclusion of the review and appeal process.

3606 EVALUATION OF PERFORMANCE – SUPERVISORS

3606.1 Each supervisor in the Legal Service below the level of Chief Deputy Attorney General, Director of the Mayor's Office of Legal Counsel, or agency head shall prepare a written evaluation for every supervisor reporting directly to him or her annually, within ten (30) days after the end of the rating period. Written evaluations shall be prepared using a form that is jointly approved by the Attorney General and the Director of the Mayor's Office of Legal Counsel.

3606.2 The Chief Deputy shall evaluate any Special or Senior Counsel that reports to him or her in accordance with this section.

3606.3 The supervisor shall review evaluations with supervisors evaluated within fourteen (14) days of completion. As a result of this meeting, the evaluation may be changed by mutual agreement. Both the supervisor evaluated and his or her immediate supervisor shall sign the evaluation to confirm that it has been reviewed.

3606.4 If no mutual agreement to change the evaluation of a supervisor is reached, the supervisor evaluated may prepare a statement of written objections within five (5) days of the meeting and forward the evaluation and written objections to the Chief Deputy, the Director, or the agency head, as applicable, with a copy to every supervisor in the chain of command up to the Chief Deputy, the Director, or the agency head.

3606.5 If the attorney evaluated is a Deputy or a Special or Senior Counsel to the Chief Deputy, the Chief Deputy shall immediately forward the evaluation and the written objections to the Attorney General.

3606.6 In reviewing written objections of a supervisor, the Chief Deputy, the Director, or the agency head may consult with the supervisor evaluated and the supervisor who prepared the evaluation. The Chief Deputy, the Director, or the agency head shall complete his or her review within five (5) days of the receipt of the objections, and shall direct the supervisor who prepared the evaluation to make any changes based on that review.

3606.7 The supervisor evaluated or the supervisor who prepared the evaluation may submit a written appeal from the decision of the Chief Deputy, the Director, or the agency head to the Attorney General, or the Director, within five (5) days of receipt of the Chief Deputy's, the Director's, or the agency head's decision. Review by the Director of an evaluation the Director completed for a supervisor in the Mayor's Office of Legal Counsel shall take the form of a reconsideration.

3606.8 The Attorney General or the Director may consult with the supervisor evaluated, the supervisor who prepared the evaluation, and any supervisor in the chain of

command between the supervisor evaluated and the Attorney General or Director before making a decision. The decision of the Attorney General or Director shall be in writing and circulated among the supervisors in the chain of command for the supervisor evaluated within five (5) days of receipt of the appeal.

3606.9 The supervisor who prepared the evaluation shall revise the evaluation as necessary in accordance with the Attorney General's or Director's decision.

3606.10 The decision of the Attorney General or Director shall be final, and shall not be subject to further appeal.

3606.11 Each supervisor shall perform at least one interim evaluation of every supervisor under his or her supervision annually, in the ninth (9^{th}) month of the rating period. An interim evaluation shall consist of an informal meeting to discuss the attorney's performance under his or her Performance Plan. At his or her discretion, a supervisor may provide a written interim evaluation. Any written interim evaluation shall be provided to the attorney evaluated, but shall not be included in the attorney's official personnel file.

3606.12 Any supervisor who fails to meet any deadline as described in this section may be subject to disciplinary action in accordance with Section 3614.

3607 EVALUATION OF PERFORMANCE - CHIEF DEPUTY, GENERAL COUNSEL, SPECIAL DEPUTY, SPECIAL COUNSEL, AND SENIOR COUNSEL

3607.1 The Attorney General shall prepare a written evaluation of the Chief Deputy Attorney General, each Special Deputy Attorney General, each Special Counsel to the Attorney General, each Senior Counsel to the Attorney General, and any other attorney who reports directly to the Attorney General annually, within thirty (30) days after the end of the rating period.

3607.2 The head of each subordinate agency shall, in consultation with the Director of the Mayor's Office of Legal Counsel, prepare a written evaluation of the General Counsel and any attorney who reports directly to the agency head annually, within thirty (30) days after the end of the rating period.

3607.3 The Director shall prepare a written evaluation of each supervisor or other attorney who reports directly to the Director annually, within thirty (30) days after the end of the rating period.

3607.4 Written evaluations shall be prepared using a form that is jointly approved by the Attorney General and the Director.

3607.5 The Attorney General, the Director, and the agency heads shall review evaluations with attorneys evaluated within fourteen (14) days of completion. As a result of

this meeting, the evaluation may be changed by mutual agreement and made final within five (5) days. Both the attorney evaluated and the Attorney General, the Director, or the agency head shall sign the evaluation to confirm that it has been reviewed.

3607.6 The Attorney General, the Director, or the agency head shall perform at least one interim evaluation of every attorney who reports directly to the Attorney General, the Director, or the agency head annually, in the ninth month of the rating period. An interim evaluation shall consist of an informal meeting to discuss the attorney's performance under his or her Performance Plan. At his or her discretion, the Attorney General, the Director, or the agency head may provide a written interim evaluation. Any written interim evaluation shall be provided to the attorney evaluated, but shall not be included in the attorney's official personnel file.

3608 EVALUATION OF PERFORMANCE - NON-DELEGATED SUBORDINATE [REPEALED]

3609 PERFORMANCE IMPROVEMENT PLANS

3609.1 Each attorney, other than attorneys in Senior Executive Attorney Service positions, assigned an overall rating of “needs improvement” in an annual or interim evaluation shall be provided with a Performance Improvement Plan, on a form jointly approved by the Attorney General and the Director of the Mayor’s Office of Legal Counsel.

3609.2 The Performance Improvement Plan shall identify specific areas where improvement is needed in performing the attorney’s work in a manner that meets the expectations of an attorney in that grade. Each line attorney who receives either a “needs improvement” rating in any performance element or overall or a “fails expectations” rating in any performance element shall be provided with such a Performance Improvement Plan. Each line attorney who receives a “fails expectations” rating overall shall be provided with an advance written notice of proposed removal under Section 3614 of this chapter.

3609.3 The Performance Improvement Plan shall be prepared by the supervisor and shall be provided to the attorney within thirty (30) days of his or her receipt of the evaluation. A copy of all Performance Improvement Plans shall be provided to the Attorney General, the Director, or the agency head and the Director, as applicable.

3609.4 A Performance Improvement Plan shall:

(a) Identify performance standards where the attorney fails to meet job requirements;

(b) Outline specific action steps that are necessary for the attorney to improve in the deficient area(s), including training if applicable and available;

(c) Identify measures that the supervisor will use to determine whether action steps have been successfully completed, and whether performance has improved;

(d) Provide for monitoring of attorney progress as needed; and

(e) Include a time by which each action item shall be completed.

3609.5 After the Performance Improvement Plan is developed and forwarded to an attorney, he or she shall be given at least three (3) months to demonstrate improvement.

3609.6 Attorney performance under the Performance Improvement Plan shall be an additional basis for evaluation at any interim evaluation and the annual written evaluation.

3609.7 Each supervisor shall prepare and submit to the Training Director of the Office of the Attorney General, the Director, or the agency head and the Director, as applicable, a report summarizing any training requirements included in Performance Improvement Plans for attorneys under his or her supervision. This report shall be submitted at the same time that the Performance Improvement Plan is provided to the affected attorney. The report shall identify subject-matter areas where training is needed and include suggestions as to the types of programs and courses that could be used to meet those identified training needs.

3610 ANNUAL MANDATORY TRAINING – GENERALLY

3610.1 The Attorney General shall establish and administer an annual mandatory program of continuing legal education for attorneys in the Legal Service who are employed by the Office of the Attorney General.

3610.2 The Attorney General shall establish and administer an annual mandatory program of training to maintain and enhance the management supervisory skills of Legal Service supervisory attorneys employed in the Office of the Attorney General.

3610.3 The Director of the Mayor's Office of Legal Counsel shall establish and administer annual mandatory training programs comparable to those required under §§ 3610.1 and 3610.2, for Legal Service attorneys and supervisors in the Mayor's Office of Legal Counsel and the subordinate agencies.

3610.4 Training programs offered by the Office of the Attorney General shall, to the extent practicable, be made available with no charge to Legal Service attorneys

employed by the Mayor's Office of Legal Counsel and the subordinate agencies. Likewise, training programs offered by the Mayor's Office of Legal Counsel for attorneys employed by that office and the subordinate agencies shall, to the extent practicable, be made available with no charge to attorneys in the Office of the Attorney General.

3610.5 The Attorney General shall designate a Training Director to oversee, arrange, and approve mandatory training programs and requirements for attorneys in the Office of the Attorney General.

3610.6 Any decision of the Training Director is subject to direction and review by the Attorney General or the Attorney General's designee.

3610.7 Annual mandatory training requirements shall be completed during each rating period.

3610.8 Any attorney for whom compliance with any of the training requirements of this chapter is inordinately difficult due to a severe, prolonged illness, a disability, or other good cause, may seek a waiver from mandatory training requirements. An attorney may do so by submitting a request to the Training Director for attorneys employed by the Office of the Attorney General or to the Director for attorneys employed by the Mayor's Office of Legal Counsel or the subordinate agencies, as applicable. The request for a waiver shall include any appropriate or required supporting material or documentation.

3610.9 A waiver request shall be promptly submitted when the grounds for the waiver request become known to the attorney. Failure to request a waiver in a timely manner may be considered by the Training Director or the Director in determining whether to grant a waiver.

3610.10 A waiver shall be valid for a specific time period granted by the Training Director or the Director not to exceed one year, unless renewed or extended.

3610.11 Failure to comply with the training requirements of this chapter during a rating period, without receiving a waiver, shall be considered by a supervisor in evaluating an attorney and setting the overall rating.

3610.12 All training requests for credit to satisfy mandatory requirements shall be submitted to the Training Director or the Director, as applicable, for authorization and approval before participation in any in-house or other training.

3610.13 A credit hour shall be equivalent to sixty (60) minutes of instruction.

3610.14 The Training Director and Director, as applicable, shall issue written procedures with respect to making requests for training, obtaining prior approval of training, and other requirements.

3610.15 When an attorney fails to complete training for which the District has incurred an expense, the expenses incurred shall be repaid to the District by the attorney if the Training Director or Director determines that the attorney unjustifiably failed to complete the training.

3610.16 Attorneys in the Legal Service who are newly-appointed within one hundred-twenty (120) days of the end of a rating period shall not be required to complete any training during that rating period. Any attorney in the Legal Service who is newly-appointed more than one hundred-twenty (120) days prior to the end of the rating period, shall be required to complete a pro rata portion of the training requirements for the rating year in which he or she is appointed.

3610.17 Attorneys shall evaluate training programs attended on forms provided for such purpose.

3610.18 The Training Director and the Director shall maintain records of payments made for travel, tuition, and fees, and other necessary expenses of training. The official record of such expenses for the Office of the Attorney General shall be the record kept by the Financial Officer for the Office of the Attorney General.

3610.19 An attorney assigned to full-time training shall be counted as being in full pay status, up to a maximum of eight (8) hours a day or forty (40) hours a week.

3610.20 An attorney assigned to training on less than a full-time basis shall be counted as being in pay status the same number of hours spent in instruction plus necessary travel time.

3610.21 An attorney selected for non-mandatory training in a non-District facility shall agree in writing to continue in the service of the subordinate agency after the end of the training for a period of time at least equal to the length of the training period.

3611 MANDATORY CONTINUING LEGAL EDUCATION

3611.1 Subject to the availability of in-house or other training approved and paid for by the District, each attorney shall complete at least twelve (12) credit hours of legal education during each rating period.

3611.2 At least three (3) hours of the twelve (12) required credit hours of legal education shall be instruction in ethics, to the extent training is available.

3611.3 Attorneys with less than three (3) years in the Legal Service shall fulfill the ethics requirement solely by attendance at courses devoted to instruction in ethics.

3611.4 Subject to the approval of the Training Director or the Director of the Mayor's Office of Legal Counsel, attorneys with more than three (3) years in the Legal Service may fulfill the ethics requirement by attending courses addressing other subjects of the law if a specific ethical component is included that is related to the substance of the instruction involved.

3611.5 Other substantive course requirements, including the subject matter of courses and the hours of required instruction, shall be determined, arranged, and approved by the Training Director and the Director.

3611.6 In addition to in-house training programs and training programs offered by outside providers, the following activities within the rating period may, pursuant to guidelines adopted by the Training Director and the Director, be pre-approved to qualify for credit for continuing legal education:

(a) Providing instruction in a legal education program;

(b) Publication of an original work on a legal topic in a recognized legal periodical or by a legal publishing house;

(c) Self-study (for example, formal showings of audio and video tapes produced by an accredited sponsor of legal programs);

(d) Attendance at or audit of a law school class(es);

(e) Courses for self-improvement in civility, human relations, stress and time management; or

(f) Participation in meetings and conferences with a legal training component.

3612 MANDATORY MANAGEMENT TRAINING

3612.1 Subject to the availability of in-house or other training that is provided by and paid for by the District, supervisors in the Legal Service shall complete at least twelve (12) hours of management training during each rating period. In addition to this requirement, the Attorney General and the Director of the Mayor's Office of Legal Counsel may make any additional training mandatory for a supervisor, if it is provided by and paid for by the District.

3612.2 Subject to the availability of in-house or other training that is provided by and paid for by the District, attorneys appointed as supervisors on or after the effective date of this chapter shall attend a program of forty (40) hours of basic District government supervisory skills training within one hundred-sixty (160) days of appointment to a supervisory position.

3612.3 In addition to in-house management training programs or management training programs offered by outside providers, the following activities within the rating period may, pursuant to guidelines adopted by the Training Director and the Director, be pre-approved to qualify for credit toward annual management training requirements for attorneys:

(a) Providing instruction in a management program;

(b) Publication of an original work related to management issues, in a recognized business periodical or by a known publishing house; or

(c) Participation in meetings and conferences with a management training component.

3613 RESERVED

3614 DISCIPLINE

3614.1 An attorney appointed to the Legal Service, other than an attorney in a Senior Executive Attorney Service position, shall be disciplined in accordance with this section.

3614.2 An attorney appointed to a Senior Executive Attorney Service position shall be subject to discipline or termination at-will. If a termination is not for delinquency or misconduct, the Attorney General or the Director of the Mayor's Office of Legal Counsel may recommend appointment to another available position in the Legal Service.

3614.3 An attorney, other than an attorney in a Senior Executive Attorney Service position, shall be subject to discipline or termination for unacceptable performance or for any other reason that is not arbitrary or capricious.

3614.4 Discipline may include reprimand, suspension (with or without pay), reduction of grade or step, and removal.

3614.5 An attorney, other than an attorney in a Senior Executive Attorney Service position, shall be provided at least a ten (10) day written notice prior to the imposition of discipline against him or her. The notice shall contain all of the following:

(a) The reasons for the disciplinary action;

(b) The discipline to be imposed; and

(c) A statement that the stated discipline shall be imposed in ten (10) days from the date of the notice unless the attorney responds in writing to the

Attorney General, the Director, or the agency head, as applicable, within ten (10) days of receiving the notice, and that the response may include a request for a hearing.

3614.6 If the attorney submits a response as provided in Subsection 3614.5(c), the Attorney General, the Director, or the agency head, as applicable, may, within ten (10) days of receipt of the attorney's response, grant a hearing on the matter. The hearing notice shall provide:

(a) The place of the hearing and a hearing date and time not less than fifteen (15) nor more than thirty (30) days from the date of the hearing notice;

(b) That the attorney may review, upon request to his or her supervisor, all materials upon which the disciplinary action is based, including, but not limited to statements of witnesses, documents, and reports of investigations or extracts therefrom;

(c) That the attorney may be represented by an approved attorney, or other representative, at the hearing; and

(d) That the attorney has the right to present evidence at the hearing, including written statements of witnesses, affidavits, or both.

3614.7 A hearing pursuant to Subsection 3614.6 may be held before the Attorney General, the Director, or the agency head, as applicable, or their designees and shall be closed except for the attorney, his or her representative, and the supervisor who issued the disciplinary action notice. There shall be no discovery procedures except as provided in this section. An official record shall be kept of the hearing.

3614.8 The Attorney General, the Director, or the agency head, as applicable shall provide the attorney with a final written administrative decision within fifteen (15) days of the hearing date, or within fifteen (15) days of receipt of the attorney's response under Subsection 3614.5(c) if no hearing is held. The agency head shall consult with the Director in reaching a final decision.

3614.9 The decision of the Attorney General shall be final with respect to attorneys employed by the Office of the Attorney General. The final decision of the Mayor's Office of Legal Counsel or subordinate agency head shall be accompanied by notice of the right to appeal the decision to the Mayor within five (5) days of receipt of the decision. The decision of the Mayor issued in response to such an appeal shall be final.

3615 SEPARATION PAY

3615.1 An attorney in a Senior Executive Attorney Service position who is involuntarily discharged shall be paid separation pay upon separation for non-disciplinary reasons based on length of service as a Series 905 attorney in the District government as follows:

(a) 4 weeks of separation pay for persons with 1-5 years of service;

(b) 8 weeks of separation pay for persons with 6-14 years of service; or

(c) 12 weeks of separation pay for persons with more than 15 years of service.

3615.2 The number of weeks of separation pay authorized pursuant to this section shall not exceed the number of weeks between the individual's separation and the individual's appointment to another position in the District government. An individual who receives separation pay pursuant to this section, and who is subsequently appointed to any position in the District government during the period of weeks represented by that payment, shall be required to repay the amount of separation pay attributable to the period covered by such appointment. The pro-rated amount to be repaid shall be based on the entire amount of the separation pay, including all required deductions for taxes, and shall be paid to the agency that made the separation pay.

3615.3 Separation pay shall be provided at the time of separation as a lump sum, one-time payment, subject only to the withholdings of federal, District of Columbia, and State income taxes, and social security taxes, if applicable.

3615.4 When a determination is made that a Senior Executive Attorney is not entitled to receive separation pay because the employee's separation is for disciplinary reasons, the Attorney General or the Director of the Mayor’s Office of Legal Counsel, as applicable, shall provide the employee with a written notice within thirty (30) days of termination containing all of the following:

(a) Notification that the employee is not entitled to separation pay;

(b) The reasons for the determination that the employee is not entitled to separation pay; and

(c) A statement that the decision shall be final in five (5) days from the date of the notice unless the employee responds to it, in writing, within five (5) days of receiving the notice.

3615.5 If the employee submits a response as provided in Subsection 3615.4(c), the Attorney General or the Director shall issue a final administrative decision to the employee. If the final administrative decision grants severance pay, this decision shall not reverse the employee's termination.

3616 REDUCTIONS IN FORCE

3616.1 In the case of line attorneys and of supervisors and the non-supervisory attorneys described in Sections 3606 and 3607 who do not occupy a Senior Executive Attorney service position, reductions in force shall be governed by the provisions of Chapter 24 of the Personnel Regulations, except that references to Chapter 16 in Chapter 24 shall be read as a reference to Section 3614 of these rules.

3617 RESERVED

3618 ATTORNEY GOOD STANDING IN THE D.C. BAR REQUIREMENT

3618.1 The provisions of this section shall be applicable to each attorney appointed to the Legal Service who is employed by the Office of the Attorney General, the Mayor's Office of Legal Counsel, or a subordinate agency and who is required to be a member of the District of Columbia Bar as a prerequisite of employment. This section is also applicable to an individual who is a member in good standing of the bar of another jurisdiction and who has filed a timely application for admission to the District of Columbia Bar.

3618.2 An appointee to a Legal Service position shall remain a member in good standing of the District of Columbia Bar during his or her employment in the Legal Service. An appointee who is a member in good standing of the bar of another state or territory and who has filed an application with the D.C. Court of Appeals for admission to the District of Columbia Bar shall present a certificate of good standing to the Office of the Attorney General, the Director of the Mayor's Office of Legal Counsel, or the agency head, as applicable, upon notification of his or her admission to the District of Columbia Bar, within five (5) business days of such notification, and such admission shall occur within three hundred sixty (360) days of the appointee's initial employment as an attorney by the District government. The appointee shall thereafter remain a member in good standing of the District of Columbia Bar.

3618.3 An appointee to a Legal Service position shall notify the Attorney General, the Director, or the agency head, as applicable immediately of any sanction proposed by the D.C. Office of Bar Counsel, any hearing regarding any proposed disciplinary action, or any disciplinary action taken by the D.C. Court of Appeals against that attorney.

3618.4 An appointee to a Legal Service position who is suspended from practice by the D.C. Court of Appeals shall not remain in an attorney position during the suspension period. The Attorney General, the Director, or the agency head may, at his or her discretion, request the re-assignment of such an appointee to a non-attorney position in the Office of the Attorney General or another agency.

3618.5 An appointee to a Legal Service position shall not be compensated for services provided pursuant to the appointee's employment as an attorney unless such an individual is duly licensed and authorized to practice as an attorney under the law of the District of Columbia. This prohibition shall not apply to an appointee who is a member in good standing of the bar of another state or territory who has filed an application with the D.C. Court of Appeals for admission to the District of Columbia Bar and such admission has occurred within three hundred sixty (360) days of the appointee's initial employment as an attorney by the District government.

3699 DEFINITIONS

3699.1 In this chapter, the following terms shall have the following meanings:

Act – The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-610.51 *et seq.* (2012 Repl.)), as amended by the Legal Service Establishment Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-260; D.C. Official Code §§ 1-601.01, *et seq.* (2012 Repl.)); as amended by both the Technical Amendments Act of 1999, effective April 12, 2000 (D.C. Law 13-91; 47 DCR 520 (January 28, 2000)), and the Legal Service Amendment Act of 2005, effective October 20, 2005 (D.C. Law 16-33; 52 DCR 7503 (August 12, 2005)); as amended by the Elected Attorney General Implementation and Legal Service Establishment Amendment Act of 2013, effective December 13, 2013 (D.C. Law 20-60; 60 DCR 15487 (November 8, 2013)); and as amended by any subsequent laws.

Administrative hearing officer – A person whose duties, in whole or in substantial part, consist of conducting or presiding over hearings in contested matters pursuant to law or regulation, or who is engaged primarily in adjudicatory functions on behalf of an agency, rather than investigative, prosecutorial or advisory functions, including, but not limited to any person who bears the title Hearing Officer, Hearing Examiner, Attorney Examiner, Administrative Law Judge, Administrative Judge, or Adjudication Specialist.

Administrative law judge – A person whose duties, in whole or in substantial part, consist of conducting or presiding over hearings in contested matters pursuant to law or regulation, or who is engaged primarily in adjudicatory functions on behalf of an agency, rather than investigative, prosecutorial or advisory functions, including, but not limited to any person who bears the title Hearing Officer, Hearing Examiner, Attorney Examiner, Administrative Law Judge, Administrative Judge, or Adjudication Specialist.

Attorney – Any position that is classified as part of Series 905, except for any position that is occupied by a person whose duties, in whole or in substantial part, consist of hearing cases as an administrative law judge or an administrative hearing officer.

Attorney General for the District of Columbia – The chief legal officer of the District Government, elected by the voters to head the Office of the Attorney General for the District of Columbia and to conduct all law business of the District Government.

Calendar year – The period of time beginning with the first full pay period in January through the beginning of the first full pay period in January of the following year as determined by the Office of Personnel.

Chain of command – The order of authority of positions within the Office of the Attorney General for the District of Columbia, the Mayor's Office of Legal Counsel, and the offices of the General Counsels for subordinate agencies employing attorneys in the Legal Service.

Chief Deputy – An official, designated by the Attorney General for the District of Columbia, who is the highest-ranking official in the chain of command in the Office of the Attorney General for the District of Columbia other than the Attorney General.

Competencies – Behaviors demonstrated on the job by supervisors described in Sections 3606 and 3607 of these rules as follows: Program Management; Staff Supervision; Performance Management; Work Productivity; Communication; Customer Service; and Regulations Adherence. These behaviors shall have the meaning established by the Attorney General for the District of Columbia and the Director of the Mayor's Office of Legal Counsel.

Days – Calendar days.

Director – The Director of the Mayor's Office of Legal Counsel.

Equivalent position – Any attorney position at any grade in which the attorney performs work or has responsibilities that are substantially similar to the work or responsibilities of any Legal Service position that is classified at LX-2 or above.

Excellent (line attorneys and non-supervisory attorneys under Sections 3605 and 3607 of these rules) – Performance is clearly above the generally expected performance level for attorneys of comparable experience. Quality of work is consistently very good. The attorney's development is progressing rapidly and continued growth is anticipated. An attorney will

receive an overall rating of "excellent" when seventy-five percent (75%) or more of weighted categories fall within the "excellent" level without a "fails expectations" or "needs improvement" rating in any element.

Fails expectations (line attorneys and non-supervisory attorneys under Sections 3605 and 3607 of these rules) – Performance is significantly below the generally expected performance level for attorneys of comparable experience. Considerable weaknesses exist in substantive or other areas. An attorney will receive an overall rating of "fails expectations" when fifteen percent (15%) or more of weighted categories fall within the "fails expectations" level.

Fails expectations (supervisors under Section 3606 of these rules) – Performance is significantly below the generally expected performance level of supervisors of comparable experience. There are considerable weaknesses in substantive or other areas. The overall rating of "fails expectations" results from application of the formula, Overall Performance Rating = Sum of all Competency Ratings (each competency weighed equally)/Number of Competencies, where the total figure derived on the right side of this formula is in the range "1.0-1.7".

Legal Service – The service established pursuant to Title VIII-B of the Act, to include every attorney employed by the Office of the Attorney General for the District of Columbia or a non-exempt subordinate agency or independent agency in a Series 905 position.

Line attorney – Any attorney who is not a supervisor, excluding attorneys who report directly to the Attorney General for the District of Columbia, or the Chief Deputy Attorney General, or a subordinate agency head.

Mayor's Office of Legal Counsel – The Office established under Section 101 of the Elected Attorney General Implementation and Legal Service Establishment Amendment Act of 2013, effective December 13, 2013 (D.C. Law 20-60; D.C. Official Code § 1-608.51a), to, among other things, coordinate administrative and other activities related to Legal Service attorneys in subordinate agencies.

Needs improvement (line attorneys and non-supervisory attorneys under Sections 3605 and 3607 of these rules) – Performance is below the generally expected performance level for attorneys of comparable experience and requires more supervision and follow-up than is expected. Quality of work is inconsistent and/or improvement is necessary in substantive or other areas. An attorney will receive an overall "needs improvement" rating when fifteen percent (15%) or more of weighted categories fall within the "needs improvement" level.

Needs improvement (supervisors only under Section 3606 of these rules) – Performance is below the generally expected performance level for supervisors of comparable experience and requires more follow-up than is expected. Quality of work is inconsistent and/or improvement is necessary in substantive or other areas. Two (2) points are awarded to both each competency and each S.M.A.R.T. goal rated as "needs improvement." The overall rating of "needs improvement" results from application of the formula, Overall Performance Rating = (Sum of all Competency Ratings/Number of Competencies x .4) + (Sum of all S.M.A.R.T. Goal Ratings/Number of S.M.A.R.T. Goals x .6), where the total figure derived on the right side of this formula is in the range "1.8-2.8".

Outstanding (line attorneys and non-supervisory attorneys under Sections 3605 and 3607 of these rules) – Performance consistently exceeds highest expectations by a wide margin. This rating is reserved for truly exceptional individuals who are significantly above the generally expected performance level for attorneys of comparable experience. An attorney will receive an overall "outstanding" rating when eighty percent (80%) or more of the weighted categories fall within the "outstanding" level.

Outstanding (supervisors under Section 3606 of these rules) – Performance consistently exceeds highest expectations by a wide margin. This rating is reserved for truly exceptional individuals who are significantly above the generally expected performance level for supervisors of comparable experience. Four (4) points are awarded to both each competency and each S.M.A.R.T. goal rated as "outstanding." The overall rating of "outstanding" results from application of the formula, Overall Performance Rating = (Sum of all Competency Ratings/Number of Competencies x .4) + (Sum of all S.M.A.R.T. Goal Ratings/Number of S.M.A.R.T. Goals x .6), where the total figure derived on the right side of this formula is in the range "3.6-4.0".

Performance Management Program (PMP) – The systematic process by which an agency involves its employees, as individuals and members of a group, in improving performance in the accomplishment of agency mission and goals, as set out in Chapter 14 of the District of Columbia Personnel Regulations, which was in effect for attorney-supervisors and non-supervisory attorneys under Sections 3606 and 3607 of these rules for the 2002-2003 through the 2007-2008 rating periods.

Rating period – September 1st to August 31st for line attorneys under Section 3605 of these rules, and October 1st to September 30th for all other attorneys covered by these rules.

Senior Executive Attorney Service position – (A) Any attorney position that is classified above LA-15 or LX-1, or an equivalent position, and in which the employee: (i) directs the work of an organizational unit; (ii) is held accountable for the success of one or more specific programs or projects; (iii) monitors progress toward organizational goals and periodically evaluates and makes appropriate adjustments to these goals; (iv) supervises the work of employees other than personal assistants; (v) performs important legal policy-making or policy-determining functions; or (vi) provides significant leadership in legal counseling or in the trial of cases; or (B) Any attorney who is a Chief Deputy Attorney General, Deputy Attorney General, Special Deputy Attorney General, Senior Counsel to the Attorney General, Special Counsel to the Attorney General, any other attorney in the Office of the Attorney General for the District of Columbia who routinely reports directly to the Attorney General; or (C) Any attorney who is a General Counsel employed by a subordinate agency.

S.M.A.R.T. goals – Specific, measurable, attainable, realistic, and time-related goals that are established annually for a supervisory or other non-line attorney either by the Attorney General for the District of Columbia, the Director, an agency head, or another high-level supervisor.

Subordinate agency – An agency under the direct administrative control of the Mayor.

Successful (line attorneys and non-supervisory attorneys under Sections 3605 and 3607 of these rules) – Performance generally meets and occasionally exceeds the level expected for attorneys of comparable experience without the need for ongoing supervision. The attorney produces quality work. An attorney will receive an overall "successful" rating when sixty percent (60%) or more of weighted categories fall within the "successful" level without a "fails expectations" rating in any element.

Successful (supervisors only under Section 3606 of these rules) – Performance generally meets and occasionally exceeds the level expected for supervisors of comparable experience without the need for ongoing supervision. The supervisor produces quality work. Three (3) points are awarded to both each competency and each S.M.A.R.T. goal rated as "successful." The overall rating of "successful" results from application of the formula, Overall Performance Rating = (Sum of all Competency Ratings/Number of Competencies x .4) + (Sum of all S.M.A.R.T. Goal Ratings/Number of S.M.A.R.T Goals x .6), where the total figure derived on the right side of this formula is in the range "2.9-3.5".

Supervisor – A person who 1) possesses the authority to recommend the hiring, promotion, transfer, discipline, or discharge of a subordinate attorney; 2)

has the authority to direct, as well as assign work to a subordinate attorney; and 3) is responsible for the review of work, approval of leave, and evaluation of job performance of subordinate attorneys.

Training Director – The person designated by the Attorney General for the District of Columbia to oversee, arrange, and approve training, or an equivalent officer assigned by the Attorney General to supervise training.

Unit – The portion of an organization composed of all the attorneys under the direct supervision of a single supervisor.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to the authority set forth in 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 three, and for other purposes, approved July 1, 1902 (32 Stat. 627; D.C. Official Code § 47-2837 (2012 Repl.)), and D.C Official Code §§ 47-2851.03a(h) and 47-2851.20 (2012 Repl.), hereby gives notice of the adoption of the following amendments to Chapters 9 (Pawnbrokers) and 10 (Secondhand Dealers and Junk Dealers) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking amends the pawnbroker and secondhand dealer business license rules to require that pawnbrokers, secondhand dealers, and junk dealers use an Internet-based recordkeeping system and provide notice to the Metropolitan Police Department on individuals selling multiple units of the same type of electronic and other consumer goods.

The changes simplify the recordkeeping requirements for licensees and to implement safeguard provisions to deter the resale of stolen electronic consumer items.

This Notice of Final Rulemaking adopts the proposed rulemaking published at 61 DCR 5766 on June 6, 2014. No comments were received. The Director adopted these rules as final on November 5, 2014, and they will become effective upon publication.

Title 16, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, of the DCMR is amended as follows:

Chapter 9, PAWNBROKERS, is amended as follows:

Section 905, PAWN RECORD LEDGER, is amended to read as follows:

905 PAWN RECORD LEDGER

905.1 Each licensee shall use an Internet-based recordkeeping system approved by the Director to maintain a pawn record ledger and shall make a copy of the government-issued identification provided by the seller of each transaction.

905.2 Each transaction shall be entered in the approved Internet-based recordkeeping system at the time of the transaction and according to the data entry requirements of the online system.

905.3 [RESERVED]

905.4 Each entry in the approved Internet-based recordkeeping system shall contain the following information:

(a) The number of pawnticket;

(b) Date of each transaction;

(c) A description and digital photograph of the article pledged;

(d) The amount loaned;

(e) The name and address of the pledgor, as listed on a government-issued identification;

(f) A description of the pledgor, as required in D.C. Official Code § 47-2884.11 (2012 Repl.);

(g) The date redeemed;

(h) If unredeemed, the date and disposition at auction; and

(i) The amount collected by redemption or auction of each pledge.

Section 908, COOPERATION WITH POLICE INVESTIGATIONS, is amended by adding new Subsections 908.6 and 908.7 to read as follows:

908.6 Each licensee shall notify the Metropolitan Police Department's Pawn Unit of any person who, within the previous two (2) months, has sold or is seeking to sell three (3) or more units of the following types of electronic consumer goods:

(a) Cameras, cell phones, computers, laptops, or any other type of portable electronic communications device; or

(b) Televisions or personal entertainment devices such as Playstation, Xbox, Wii, or similar products.

908.7 The Chief of Police may issue a notice to any licensee advising the licensee that specific individuals have been pawning, selling, or seeking to pawn or sell multiple units of electronic consumer goods to other pawnbrokers, secondhand dealers, or auctioneers either in the District or surrounding jurisdictions.

Section 911, DANGEROUS WEAPONS, is amended to read as follows:

911 FIREARMS

911.1 No licensee shall accept a firearm (as defined by D.C. Official Code § 22-4501(2A) (2012 Repl.)) as a pledge in a pawnbroker transaction.

911.2 [RESERVED]

911.3 [RESERVED]

A new Section 914 is added to read as follows:

914 TRANSACTIONS INVOLVING MINORS

914.1 No licensee shall purchase or receive any article of secondhand personal property from a minor unless the minor's parent or legal guardian is physically present during the transaction, consents in writing to the transaction, and presents the identification required in this chapter.

Chapter 10, SECONDHAND DEALERS AND JUNK DEALERS, is amended as follows:

Section 1001, BOOKS AND RECORDS, is amended as follows:

Subsection 1001.1 is amended to read as follows:

1001.1 Each licensee shall use an Internet-based recordkeeping system approved by the Director to record an accurate account of each transaction in the course of the business (except as to the purchase of rags, bones, old iron, and paper by junk dealers) and shall make a copy of the government-issued identification provided by the seller of each transaction.

Subsection 1001.2 is amended to read as follows:

1001.2 Each transaction shall be entered in the approved Internet-based recordkeeping system at the time of the transaction and according to the data entry requirements of the online system.

Subsection 1001.4 is amended to read as follows:

1001.4 The account of each transaction shall set forth the following:

(a) An accurate and complete description of the goods, article, or thing purchased or received on account of money paid for it, giving all numbers, marks, monograms, trademarks, and manufacturer's names, an any other marks of identification appearing on the item at the time of receiving the item and a digital photograph of the item.

(b) The name, residence, race, sex, and date of birth of the person selling or delivering the item, as listed on a government-issued identification;

(c) The terms and conditions of the purchase, or receipt of the item;

(d) The place and date of the transaction;

(e) [RESERVED]; and

(f) All other facts and circumstances respecting the purchase or receipt.

Subsection 1001.6 is amended to read as follows:

1001.6 The dealer shall legibly write in English on the tag, the date of purchase or receipt of the article and a number corresponding with the property entered into the approved Internet-based recordkeeping system.

Section 1002, DEALERS RECEIVING JEWELRY OR PRECIOUS METALS, is amended as follows:

Subsection 1002.1 is amended to read as follows:

1002.1 In addition to the requirements of § 1001, a dealer purchasing or otherwise acquiring any article of jewelry or other article composed of or manufactured in whole or in significant part of a precious metal, including gold, silver, or platinum or derivatives or alloys or gold, silver, or platinum shall do the following:

(a) Require and inspect two (2) types of identification from the seller or person delivering the property, one (1) of which must be a government-issued identification that displays a photograph of the person;

(b) Record in the dealer's account of the transaction all pertinent information, including the person's date of birth, license number, social security number, height, weight, hair color, and eye color, to the extent contained in the identification provided by the seller or person delivering the property; and

(c) Pay for the articles only by check, the number and account of which are to be recorded in the dealer's book.

Subsection 1002.3 is amended to read as follows:

1002.3 Except as provided in § 1002.4, no dealer shall sell, dispose of in any manner, melt, vulcanize, or otherwise change or destroy the identity of any article of secondhand personal property purchased or taken in the course of this business until after the expiration of thirty (30) calendar days from the time at which report has been made to the Chief of Police of the purchase or receipt of the property.

Section 1003, OTHER RESTRICTIONS AND REQUIREMENTS, is amended as follows:

Subsection 1003.5 is amended to read as follows:

1003.5 A Class C secondhand dealer operating to any extent on a consignment basis, must submit an annual report to the Director which verifies the consignment purchase conditions.

Subsection 1003.6 is amended to read as follows:

1003.6 A Class C secondhand dealer which is a charitable, nonprofit organization, as defined in § 501(c)(3) of the Internal Revenue Code of 1954, shall submit an annual report to the Director which verifies that status.

Subsection 1003.7 is amended to read as follows:

1003.7 Each licensee shall secure the name and address of the person purchasing or otherwise acquiring any of the following items:

(a) [RESERVED];

(b) Cameras, cell phones, computers, laptops, or any other type of portable electronic communications device;

(c) [RESERVED];

(d) Furs;

(e) Household appliances;

(f) Jewelry, or other items composed of or manufactured in whole or in significant part of a precious metal, as defined in § 1002.1;

(g) Musical instruments;

(h) Office machines and equipment;

(i) Televisions or personal entertainment devices such as Playstation, Xbox, Wii, or similar products;

(j) Watches; and

(k) Any item other than those listed in this subsection, having a retail sales value of one hundred dollars ($100) or more.

Section 1004, REPORTS TO POLICE, is amended as follows:

Subsection 1004.1 is amended to read as follows:

1004.1 Each junk dealer, Class A, and Class B dealer in secondhand personal property shall, at the time of each transaction, enter into the approved Internet-based recordkeeping system the information required under §§ 1001, 1002, and 1003

Section 1005, COOPERATION WITH POLICE INVESTIGATIONS, is amended by adding new Subsections 1005.3 and 1005.4 to read as follows:

1005.3 Each licensee shall notify the Metropolitan Police Department's Pawn Unit of any person who, within the previous two (2) months, has sold or is seeking to see three (3) or more units of the following types of electronic consumer goods:

(a) Cameras, cell phones, computers, laptops, or any other type of portable electronic communications device; or

(b) Televisions or personal entertainment devices such as PlayStation, Xbox, Wii, or similar products.

1005.4 The Chief of Police may issue a notice to any licensee advising the licensee that specific individuals have been pawning, selling, or seeking to pawn or sell multiple units of electronic consumer goods to other pawnbrokers, secondhand dealers, or auctioneers either in the District or surrounding jurisdictions.

Section 1008, CLASS B DEALER REQUIREMENTS AND RESTRICTIONS, is amended as follows:

Subsection 1008.2 is amended to read as follows:

1008.2 Each Class B secondhand dealer shall use an Internet-based recordkeeping system approved by the Director to record each transaction involving used personal property setting forth the following:

(a) An accurate and complete description of the goods, article, or thing received in trade or in part payment for other merchandise and a digital photograph of each item;

(b) The date of receipt;

(c) The name and address of the person from whom acquired, as listed on a government-issued identification; and

(d) The name and address of the person, corporation, or firm which ultimately purchases of receives the property from the dealer.

Subsection 1008.3 is amended to read as follows:

1008.3 Whenever any secondhand personal property so acquired is to be sold at retail, is to be sent out of the District of Columbia, or is to be retained by the licensee for the licensee's own use, the licensee shall, not less than thirty (30) days prior to selling the property, removing it from the District of Columbia, or using the property for personal purposes, deliver to the Chief of Police, on blank forms prescribed by the Mayors, a legible and correct transcript from the record required under this section relating to the property to be sold at retail, removed from the District of Columbia, or retained for use by the licensee.

Subsection 1008.4 is amended to read as follows:

1008.4 All used personal property covered by this section shall be kept separate and distinct from other merchandise, and its character or identify shall not be changed or destroyed until after the expiration of thirty (30) days from the time the required report has been made to the Chief of Police.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to authority set forth in D.C. Official Code § 47-2851.20 (2012 Repl.), Section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04 (2012 Repl.)), and Mayor's Order 99-68, dated April 28,1999, hereby gives notice of the addition of a new Chapter 9 (Prohibition on Sale of Synthetic Drugs) to Title 17 (Business, Occupations, and Professionals), of the District of Columbia Municipal Regulations (DCMR).

This rulemaking is necessary to the immediate preservation of the public welfare to bring enforcement regulations in line with Section 301 of the District of Columbia's Omnibus Criminal Code Amendments Act of 2012, effective June 19, 2013 (D.C. Law 19-320; 60 DCR 3390 (March 15, 2013)), which added synthetic drugs, such as synthetic marijuana and "bath salts", to the District of Columbia's schedule of controlled substances. This rulemaking supports various Federal Drug Enforcement Administration and Department of Justice regulations that make it illegal to buy, sell, or possess Schedule I controlled substances such as K2/Spice, synthetic drugs, or their equivalents, because these substances pose an imminent hazard to public health, safety and welfare.

The rulemaking provides enforcement penalties for businesses engaged in the sale, possession, or manufacture of synthetic drugs. The penalties include business license suspensions and business license revocations.

These rules were included in a joint notice of proposed changes to Title 16 and Title 17 of the District of Columbia Municipal Regulations, published April 25, 2014 at 61 DCR 4210, and in a Notice of Second Proposed Rulemaking published August 15, 2014 at 61 DCR 8561The Department of Consumer and Regulatory Affairs received no comments on the proposed rules. The Director adopted these rules as final on October 27, 2014, and they will become effective upon publication.

A new Chapter 9, PROHIBITION ON SALE OF SYNTHETIC DRUGS, is added to Title 17, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, of the DCMR to read as follows:

CHAPTER 9 PROHIBITION ON SALE OF SYNTHETIC DRUGS

900 SALE OF SYNTHETIC DRUGS PROHIBITED

900.1 No person doing business in the District of Columbia that has or is required to have a Basic Business License issued under D.C. Official Code §§ 47-2851.01 *et seq.* (2012 Repl. & 2013 Supp.) shall sell, offer for sale, allow the sale of, display for sale, possess, market, trade, barter, give, devise, or otherwise make or attempt to make available:

(a) Synthetic Drugs;

(b) Products packaged as common non-consumable products, which contain warning notices or age restrictions not typically found on products marketed for that purpose. For example, potpourri, incense, or bath salt packages that bear a warning label, including, but not limited to: "Not for purchase by minors", "Manufacturer and retailer are not responsible for misuse of this product", "Not for human consumption", "Must be 18 years or older to purchase", or equivalent language;

(c) Products containing notices on the packaging not typically found on products marketed for that purpose. For example, potpourri or shoe oil containing notices such as "Legal in 50 states", "100% legal blend", or language affirming conformance with specific state or federal statutes or regulations. Such notices may also include, but are not limited to, "does not contain any chemical compounds prohibited by law", "contains no prohibited chemicals", "product is in accordance with State and Federal laws", "legal herbal substance", "100% chemical free", "100% synthetic free", or equivalent language;

(d) Products whose package labeling suggests the user will achieve a high, euphoria, relaxation, mood enhancement, or a hallucinogenic effect, or that the product has other mind or body-altering effects on the consumer; or

(e) Products that have been enhanced with a synthetic chemical or synthetic chemical compound that has no legitimate relation to the advertised use of the product, but mimics the effects of a controlled substance when the product, or the smoke from the burned product, is introduced into the human body and/or the product is topically applied to the human body.

901 EXEMPTIONS

901.1 The products prohibited for sale under this chapter shall not apply to:

(a) Any herbal or plant material containing synthetic chemicals or chemical compounds which:

(1) Require a prescription;

(2) Are approved by the Food and Drug Administration;

(3) Are dispensed in accordance with District and federal law; and/or

(4) Are subject to the jurisdiction of a federal entity.

(b) Any material containing synthetic chemicals or chemical compounds which:

(1) Require a prescription;

(2) Are approved by the Food and Drug Administration; and/or

(3) Are dispensed in accordance with District and federal law.

901.2 A business subject to § 900.1 that believes any of its products should not be subject to prohibition shall submit a request for an exemption on a form provided by the Department of Consumer and Regulatory Affairs (DCRA).

901.3 In its request for exemption, the business shall provide a basis for the exemption, including a description of the product(s) and an affirmation by the business licensee that, to the best of the business licensee's knowledge, the product(s) are not used by consumers to achieve a high, euphoria, relaxation, mood enhancement, hallucinogenic effect or other mind or body-altering effect.

901.4 If an exemption request is granted, DCRA:

(a) May conduct on-site inspections of the business; and

(b) Shall require the business licensee to maintain purchase and sales records for any products that have been issued an exemption, which the licensee shall provide upon request by any official from DCRA, the D.C. Metropolitan Police Department, or the D.C. Department of Health.

901.5 If DCRA denies an exemption request, the business licensee may submit to the DCRA Director or designee a request for reconsideration. The DCRA Director or designee shall have fifteen business (15) days to issue a written determination on the request for reconsideration.

901.6 In determining whether to issue an exemption under this section, DCRA may seek recommendations from the D.C. Metropolitan Police Department, the D.C. Department of Health, or other government agencies having expertise with synthetic drugs.

902 ENFORCEMENT

902.1 A credentialed DCRA investigator or inspector may, during regular business hours, enter and inspect the premises to determine whether the business is in compliance with this chapter.

902.2 Nothing in this chapter shall be construed as restricting the D.C. Metropolitan Police Department or the D.C. Department of Health from entering the premises

of any business licensee, during regular business hours, and requiring the business to:

(a) Produce their business license for inspection; and

(b) Provide any additional information that is requested.

903 PROOF OF INTENT

903.1 Any reasonable evidence may be utilized to demonstrate that a product's marketed and/or intended use causes it to fit the definition of a synthetic drug including, but not limited to, any of the following evidentiary factors:

(a) The product is not suitable for its marketed use (such as a crystalline or powder product being marketed as "glass cleaner");

(b) The individual or business providing, distributing, displaying or selling the product does not typically provide, distribute, or sell products that are used for that product's marketed use (such as liquor stores, smoke shops, or gas/convenience stores selling "plant food");

(c) The product contains a warning label that is not typically present on products that are used for that product's marketed use including, but not limited to, "Not for human consumption", "Not for purchase by minors", "Must be 18 years or older to purchase", "100% legal blend", or similar statements;

(d) The product is significantly more expensive than products that are used for that product's marketed use. For example, 0.5 grams of a substance marketed as "glass cleaner" costing $50.00, 1 gram of potpourri costing $10.00, or 0.5 grams of incense costing $15.00;

(e) The product resembles an illicit street drug (such as cocaine, methamphetamine, marijuana, or schedule 1 narcotic); or

(f) The business licensee or any employee has been warned by DCRA or has received a criminal incident report, arrest report or equivalent from any law enforcement agency that the product or a similarly labeled product contains a synthetic drug.

904 REVOCATION OF BUSINESS LICENSE

904.1 Any business licensee violating this chapter may receive a Notice of Infraction.

904.2 DCRA may issue a notice of intent to suspend or revoke the licensee's basic business license for violating this chapter.

904.3 Following an adjudication that is adverse to the business licensee, DCRA shall suspend or revoke the basic business license. In adjudicated cases where a notice of intent to revoke was issued, the basic business license shall be revoked pursuant to D.C. Official Code § 47-2844(a-1)(1), and the licensee shall be ineligible to apply for a new basic business license for a substantially similar business for two (2) years.

999 DEFINITIONS

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

Synthetic Drug – Any product possessed, provided, distributed, sold, and/or marketed with the intent that it be used as a recreational drug, such that its consumption or ingestion is intended to produce effects on the central nervous system or brain function to change perception, mood, consciousness, cognition and/or behavior in ways that are similar to the effects of marijuana, cocaine, amphetamines or Schedule 1 narcotics. Additionally, any chemically synthesized product (including products that contain both a chemically synthesized ingredient and herbal or plant material) possessed, provided, distributed, sold and/or marketed with the intent that the product produce effects substantially similar to the effects created by compounds banned by District or Federal synthetic drug laws or by the U.S. Drug Enforcement Administration pursuant to its authority under the Controlled Substances Act.

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

NOTICE OF FINAL RULEMAKING

The Board of Ethics and Government Accountability ("Ethics Board"), pursuant to the authority set forth in Section 209 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.09 (2014 Supp.)), hereby gives notice of final rulemaking action to add a new Chapter 59 (Non-Public Admonitions and Negotiated Dispositions) to Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations ("DCMR").

The rulemaking will establish the procedures, sanctions, and penalties for nonpublic informal dispositions and for negotiated dispositions.

The proposed rulemaking was adopted by the Ethics Board on June 5, 2014, and was published in the *D.C. Register* on July 4, 2014, at 61 DCR 006831. No written comments were received and no changes have been made to the text of the proposed rules. The Ethics Board adopted the rulemaking as final on November 13, 2014. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

Title 3, ELECTIONS AND ETHICS, of the DCMR is amended by adding a new Chapter 59 to read as follows:

CHAPTER 59 NON-PUBLIC ADMONITIONS AND NEGOTIATED DISPOSITIONS

5900 APPLICABILITY

5900.1 The provisions of this chapter shall establish the procedures for non-public, informal admonitions and for negotiated dispositions, authorized by Section 221(a)(4) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective February 22, 2014 (D.C. Law 20-75; D.C. Official Code § 1-1162.21(a)(4)).

5901 NON-PUBLIC ADMONITIONS

5901.1 The Director of Government Ethics may impose a non-public, informal admonition for low-level violations of the Code of Conduct, including or similar to the following:

(a) A one-time, minor misuse of government property;

(b) A time and leave issue, where it is not habitual and did not have a specific harmful impact;

(c) A non-uniform application of a regulation or policy by a supervisor, where

it is not a regular occurrence and was not for an unlawful purpose;

(d) A relatively minor action based, at least in part, on advice or guidance sought in good faith from another, such as a supervisor, and given in good faith, though erroneous; or

(e) Any minor, incidental ethics violation where the person made amends and rectified the situation.

5901.2 Respondents who receive a non-public, informal admonition imposed by the Director of Government Ethics may request the Director to reconsider the imposition of a non-public, informal admonition by submitting a written application therefore within fifteen (15) days of being served with the admonition. Except for good cause shown, the Director shall not review any late-filed application.

5901.3 An application for reconsideration shall include the following items and information:

(a) A detailed statement that respondent did not commit the conduct at issue or a detailed statement explaining why the conduct at issue does not violate the Code of Conduct;

(b) Any evidence supporting respondent's statement; and

(c) The names and contact information of any fact witnesses who may be able to provide relevant and material evidence regarding the conduct at issue or the circumstances surrounding the conduct.

5901.4 All the materials required by § 5901.3 shall be submitted with the application for reconsideration. The Director of Government Ethics is not required to accept materials submitted subsequent to the filing of the application except upon a showing of good cause by respondent. The decision of the Director not to review items and information submitted by respondent is not appealable to the Ethics Board.

5901.5 The Director of Government Ethics shall respond, in writing, with a determination on the request for reconsideration within thirty (30) days of the receipt of the application; provided, that, if the Director accepts any late-filed item or piece of information as provided in § 5901.4, he or she shall determine the request for reconsideration within thirty (30) days of the receipt of the last-filed item or piece of information.

5901.6 If the Director of Government Ethics requires additional time to determine a request for reconsideration for any reason other than as provided in § 5901.5, he or she shall notify respondent, in writing, of the need for an additional thirty (30)

to ninety (90) days to reach a determination of the request.

5901.7 Respondent may appeal the denial of a request for reconsideration to the Ethics Board. The appeal shall be in writing, set forth the specific reasons why the respondent disagrees with the denial, and shall be filed with the Ethics Board within fifteen (15) days of service of the denial on respondent.

5901.8 The Ethics Board shall consider on appeal only the items and information that were part of the Director of Government Ethic's final determination of the request for reconsideration.

5901.9 Within sixty (60) days after the filing of the appeal, the Ethics Board shall render its decision, which shall set forth the reasons for the decision and, if the Director's denial of reconsideration is upheld, shall also instruct respondent to refer to § 5404 to determine his or her right to appeal.

5902 NEGOTIATED DISPOSITIONS

5902.1 A violation of the Code of Conduct may result in the negotiated disposition of a matter offered by the Director of Government Ethics, and accepted by respondent, subject to approval by the Ethics Board.

5902.2 The Director of Government Ethics or respondent can initiate a negotiated disposition at any point after an investigation has been opened by the Director and prior to the issuance of a final Order of the Ethics Board.

5902.3 A negotiated disposition shall be drafted by the Director of Government Ethics, who may, in his or her sole discretion, share the draft with respondent for any comments or suggested revisions. The decision of the Director of Government Ethics not to share a draft negotiated disposition with respondent for comments and changes is not appealable to the Ethics Board.

5902.4 The Director of Government Ethics and respondent may engage in discussions, including face-to-face meetings, telephone conversations, email exchanges, and other methods of communication, as often as necessary to negotiate a disposition.

5902.5 In the event that discussions between the Director of Government Ethics and respondent do not lead to a finalized negotiated disposition, the following shall be inadmissible as evidence in an open and adversarial hearing before the Ethics Board in the same matter:

(a) The fact that a negotiated disposition had been initiated or discussed; and

(b) Any oral statements of fact or admissions made by respondent to the Director solely during the discussions related to a negotiated disposition.

5902.6 In the event that discussions between the Director of Government Ethics and respondent do not lead to a finalized negotiated disposition, any documents provided by or on behalf of respondent to the Director shall not satisfy respondent's discovery obligations in the event that a hearing notice is issued to respondent by the Ethics Board in the same matter.

5902.7 In the event that discussions between the Director of Government Ethics and respondent do not lead to a finalized negotiated disposition, any documents provided by or on behalf of respondent to the Director may be used by the Director in an open and adversarial hearing before the Ethics Board in the same matter.

5902.8 A negotiated disposition of a matter shall be subject to approval by the Ethics Board.

5902.9 Prior to the Ethics Board's approval of a negotiated disposition, respondent shall not communicate with the Ethics Board *ex parte* on any substantive matters related to the negotiated disposition, or appear before the Ethics Board in closed session regarding the negotiated disposition without the express leave of the Ethics Board.

5902.10 Prior to the Ethics Board's approval of a negotiated disposition, the Ethics Board may, in its sole discretion, grant respondent's request to appear before it in open session on any substantive matter related to the negotiated disposition; provided, that respondent specify, in writing, the reason for the appearance request. The decision of the Ethics Board to deny respondent's request to appear before it in an open session on any substantive matter related to the negotiated dispositions is not a final order of the Ethics Board and is not appealable to D.C. Superior Court.

5902.11 The document memorializing a negotiated disposition shall include the following:

(a) A summary of the facts that show, by substantial evidence, respondent's violation of those provisions of the Code of Conduct set forth in the negotiated disposition;

(b) All penalties agreed upon by the Director of Government Ethics and respondent;

(c) A provision that any fine or restitution payable by respondent shall be due and owing at the time the negotiated disposition is approved by the Ethics Board; provided, that the Director of Government Ethics and respondent may agree that any fine or restitution be paid in certain installments over a period not to exceed one (1) year from the date of the Board's approval; and

(d) The terms of any expungement provision; and

(e) Any other provisions as may be agreed upon by the Director of Government Ethics and respondent so as to fully and fairly reflect the terms of the negotiated disposition.

5902.12 A negotiated disposition may include, but not be limited to, one or more of the following sanctions:

(a) Fines of not more than $5,000 per violation or three (3) times the amount of an unlawful contribution, expenditure, gift, honorarium, or receipt of outside income for each violation;

(b) Fines of not more than $25,000 for a violation of the Code of Conduct that substantially threatens the public trust;

(c) Public censure;

(d) Public reprimand;

(e) Public admonition;

(f) Non-public, informal admonition;

(g) Community service; provided, that the nature of the community service, the required number of service hours, the time period in which the required service hours are to be performed, and the location at (or the entity through which) the service is to be performed shall be specified in the negotiated disposition and that the information provided by respondent to show completion of the community service be verifiable by the Director of Government Ethics;

(h) Restitution; provided, that the amount of restitution, the identity of the recipient of the restitution, and the form of respondent's proof of payment shall be specified in the negotiated disposition;

(i) Remediation; or

(j) Any other sanction or penalty, as agreed to by the Director of Government Ethics and respondent.

5902.13 Respondent may request the Director of Government Ethics to include a provision in the negotiated disposition that respondent may be eligible to apply for expungement of the negotiated disposition after a specified period of time.

5902.14 The decision to include an expungement provision in the negotiated disposition and the establishment of the period of time for respondent's expungement

application rest solely in the discretion of the Director of Government Ethics, is not appealable to the Ethics Board, and may be based upon one or more of the following factors:

(a) The seriousness of respondent's conduct;

(b) The impact of respondent's conduct on members of the public;

(c) The deterrent value to other District government employees;

(d) Respondent's prior and subsequent conduct;

(e) Respondent's efforts at rehabilitation; or

(f) Any other factors, as determined by the Director of Government Ethics.

5902.15 Where an expungement provision is included in the negotiated disposition, the Director of Government Ethics shall specify a period between six (6) months and one (1) year from the effective date of the negotiated disposition as the time after which respondent may apply for expungement.

5902.16 After the specified period, respondent may apply, in writing, for the negotiated disposition to be expunged; provided, that respondent includes with the application a written certification, signed under oath, that all of the following have occurred:

(a) Respondent has satisfactorily fulfilled all the terms of the negotiated disposition;

(b) There are no new or pending allegations of ethical misconduct against respondent; and

(c) There have been no additional findings of ethical misconduct against respondent between the effective date of the negotiated disposition and the date of the expungement application.

5902.17 The Director of Government Ethics shall respond, in writing, to respondent's expungement application within fifteen (15) days of its receipt. The Director shall specify the reasons for denying an expungement application.

5902.18 Respondent may appeal the decision of the Director of Government Ethics to deny the expungement request to the Ethics Board. The appeal shall be in writing, set forth the specific reasons why respondent disagrees with the denial, and shall be filed with the Board within fifteen (15) days of service of the denial on respondent.

5902.19 Within sixty (60) days after the filing of the appeal, the Ethics Board shall render its decision, which shall set forth the reasons for the decision and, if the Director's denial of expungement is upheld, shall also instruct respondent to refer to § 5404 to determine his or her right to appeal.

5902.20 Where the Director of Government Ethics, or the Ethics Board on appeal, grants respondent's expungement application, the document memorializing the negotiated disposition shall be removed from the Ethics Board's website and, along with any other documents in the possession of the Director or the Board concerning the expunged matter, shall be retained by the Director of Government Ethics, but treated as non-public confidential documents.

5902.21 Except as provided in §§ 5902.22 and 5902.23, responses to inquiries for, or concerning the existence of, records that have been expunged will be: "No records are available."

5902.22 Expunged records will be available, upon written request, to any court, prosecutor, or law enforcement agency for any lawful purpose concerning the investigation or prosecution of any offense.

5902.23 Expunged records will not be available to any person, entity, or government agency for the purpose of making employment decisions, unless the records are demanded by a lawfully issued administrative, grand jury, or court-ordered subpoena.

5902.24 The Director of Government Ethics will take no action to remove references to, or records concerning, an expunged matter that are in the possession of other persons, entities, government agencies, or the news media, from private or public access.

5902.25 A negotiated disposition, except where the result is a non-public, informal disposition, shall be made available to the public by posting on the Ethics Board's website within thirty (30) days after the Board's approval.

5902.26 The Director of Government Ethics, in his or her sole discretion, may redact any negotiated disposition before posting to prevent the public disclosure of confidential or protected information, such as respondent's home address, the full names of persons other than respondent, Social Security numbers, and medical information. The decisions of the Director of Government Ethics regarding redactions are not appealable to the Ethics Board.

5902.27 A negotiated disposition that has been approved by the Ethics Board shall operate as a final order of the Ethics Board.

5902.28 Respondent's acceptance of a negotiated disposition shall be deemed a waiver of the right to appeal the negotiated disposition upon its approval by the Ethics

Board.

5902.29 Upon a determination that respondent has breached the terms of a negotiated disposition, the Director of Government Ethics may do the following:

(a) Allow respondent to cure the breach and continue with the terms of the negotiated disposition;

(b) Recommend that the Ethics Board nullify the negotiated disposition and hold an open and adversarial hearing on the matter; or

(c) Seek authorization from the Ethics Board to file, on the Board's behalf, a petition in the Superior Court of the District of Columbia for enforcement of any civil penalty provided for in the negotiated disposition.

5902.30 The Director of Government Ethics' determination that respondent has breached the terms of the negotiated disposition is appealable to the Ethics Board:

(a) Respondent shall file such appeal with the Ethics Board within 30 days of notification that Respondent is in breach of the negotiated disposition; and

(b) Respondent may provide any pertinent materials for review by the Ethics Board.

5902.31 Respondent's acceptance of a negotiated disposition shall be deemed a waiver of any statute of limitation defenses in the event that the Ethics Board decides to hold an open and adversarial hearing on the matter as a result of respondent's breach.

5999 DEFINITIONS

5999.1 The terms and phrases used in this chapter shall have the meanings set forth in the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 ("Ethics Act"), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01), and this section, unless the text or context of the particular section, subsection, or paragraph provides otherwise.

Ethics Board – the Board of Ethics and Government Accountability, established by Section 202 of the Ethics Act (D.C. Official Code § 1-1162.02).

Expunged - records of a particular matter retained by the Director of Government Ethics and that are closed against the inspection of their contents.

Document – writings, drawings, graphs, charts, photographs, electronic records, and any other data compilations from which information can be obtained

or translated, if necessary, through detection devices into reasonably usable form.

Respondent – the person who is the subject of an investigation, enforcement action, non-public, informal admonition, or a negotiated disposition.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL 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. 744; 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 adoption of an amendment to Chapter 41 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled "Medicaid Reimbursement for Intermediate Care Facilities for Individuals with Intellectual Disabilities".

These rules amend the methodology used to calculate Medicaid reimbursement for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) and update the current reimbursement rates. The current rate methodology, as approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for implementation in Fiscal Year (FY) 2013, authorizes adjustments for inflation beginning in FY2014 and annually thereafter. This emergency and proposed rulemaking reflects inflation-adjusted rates for FY2014. This rulemaking also supports a proposed amendment to the District of Columbia State Plan for Medical Assistance (State Plan) intended to clarify the methodology with respect to: 1) calculating holiday pay for direct service personnel and active treatment providers; 2) aligning the non-emergency transportation rate with providers' actual costs; 3) implementing the previously approved option for annual rate adjustments – independent of rebasing years; 4) incorporating Capital rates that account for fully depreciated premises and assets; 5) ensuring the ICFs/IID understand DHCF's right to review records and confirm compliance with the District's living wage standards; 6) clarifying the relationship between this reimbursement methodology and the fee-for-service Durable Medical Equipment, Prosthetics, Orthotics, and Supplies benefit; and 7) implementing a uniform Administrative rate. This rulemaking also updates the title of a Qualified Intellectual Disabilities Professional to comport with Rosa's Law (Pub. L. 111-256, 42 U.S.C. § 1400 note) and 42 C.F.R. § 483.430. Finally, by clarifying the annual renewal process for acuity level assignments, this rulemaking offers providers the flexibility to produce evidence of the interdisciplinary team's consensus around the appropriate acuity level assignment for a beneficiary, without having to delay recertification submissions while awaiting the Individual Service Plan. In providing this enhanced flexibility, this rulemaking also clarifies that DHCF will not retroactively adjust payments made at the Base level, if the provider failed to submit the documentation necessary for recertification within the prescribed timeframe. The increase in total expenditures related to these updates is approximately $6.5 million for FY2014.

The corresponding State Plan amendment was approved by CMS on June 26, 2014 with an effective date of January 1, 2014. An initial Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on December 20, 2013 at 60 DCR 017052. No comments were received. A Notice of Second Emergency and Proposed Rulemaking was published in the *D.C. Register* on June 27, 2014 at 61 DCR 006476. No comments were received and no

substantive changes have been made. The Director adopted these rules as final on October 23, 2014 and they shall become effective on the date of publication of this rulemaking in the *D.C. Register*.

Chapter 41 of Title 29, PUBLIC WELFARE, DCMR, is amended to read as follows:

CHAPTER 41 MEDICAID REIMBURSEMENT FOR INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES

4100 GENERAL PROVISIONS

4100.1 This chapter shall establish principles of reimbursement that shall apply to each intermediate care facility for individuals with intellectual disabilities (ICF/IID) participating in the District of Columbia Medicaid program.

4100.2 For an ICF/IID to be eligible to receive reimbursement under this chapter, it shall be certified as an Intermediate Care Facility by the Health Regulation and Licensing Administration (HRLA) in the Department of Health (DOH), pursuant to 22 DCMR §§ 3100 *et seq.* for a period up to fifteen (15) months.

4100.3 Medicaid reimbursement to ICFs/IID for services provided beginning on or after October 1, 2012, shall be on a prospective payment system consistent with the requirements set forth in this chapter.

4100.4 The Department of Health Care Finance (DHCF) shall pay for ICF/IID services through the use of rates that are reasonable and adequate to meet the costs that are incurred by efficiently, economically operated facilities in order to provide services in conformity with applicable District and federal laws, regulations, and quality and safety standards. DHCF used the following financial principles in developing the reimbursement methodology described in this chapter:

(a) Basing payment rates on the acuity of each individual;

(b) Establishing uniform reimbursement of services constituting the active treatment program for individuals who meet the requirements of 42 C.F.R. § 483.440(a);

(c) Establishing consistent payment rates for the same classes of facilities serving individuals with comparable levels of need; and

(d) Establishing one (1) day, inclusive of residential care and active treatment, as the unit of service.

4100.5 The reimbursement rates paid to ICFs/IID for Medicaid individuals residing in the facility shall be equal to one hundred percent (100%) of the following components:

(a) Residential component base rate determined by acuity level, as defined in § 4101 of this chapter, and inclusive of the following:

(1) Direct service;

(2) All other health care and program related expenses;

(3) Non-personnel operations;

(4) Administration;

(5) Non-Emergency Transportation;

(6) Capital; and

(7) Allowable share of the Stevie Sellows Intermediate Care Facility for the Intellectually and Developmentally Disabled Quality Improvement Fund Assessment.

(b) Services constituting an active treatment program, described in § 4103, as set forth in the individual's Individual Service Plan (ISP); and

(c) Payments associated with participation in quality improvement initiatives, as set forth in § 4104.

4100.6 The reimbursement rates paid to ICFs/IID shall exclude all of the following services that are provided outside of the ICF/IID:

(a) Inpatient and outpatient hospital visits;

(b) Physician and specialty services;

(c) Clinic services;

(d) Emergency department services;

(e) Services delivered by any other long-term care facility;

(f) Durable medical equipment, prosthetic, orthotic, and supply items that either require prior authorization or are solely for the use of one (1) individual (such as a wheelchair); and

(g) Prescription drug costs, excluding copays for individuals who are also subject to the *Evans* court order.

4100.7 Medicaid reimbursement to each ICF/IID shall comply with the "Policy on Reserved Beds," as set forth on page 2 of Attachment 4.19C of the State Plan for Medical Assistance.

4100.8 An organization related to an enrolled ICF/IID ("related organization") may furnish services and supplies under the prudent buyer concept, provided the costs of such services and supplies are consistent with costs of such items furnished by independent third party providers in the same geographic area. These requirements shall apply to the sale, transfer, leaseback, or rental of property, plant, or equipment or purchase of services of any facility or organization.

4100.9 In accordance with 42 C.F.R. § 456.360, the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq*.), and implementing rules, a qualified physician shall certify that an individual needs ICF/IID services. The certification shall be made at the time of admission for current Medicaid individuals, or for individuals who apply for Medicaid while residing in an ICF/IID, before any payment is made to the facility.

4100.10 Recertification of an individual's need for continued ICF/IID services is required, at minimum, twelve (12) months following the date of the previous certification, pursuant to 42 C.F.R. § 456.360(b).

4100.11 A Medicaid individual shall be assessed by an interdisciplinary team within thirty (30) days of admission to an ICF/IID. This determination shall provide the foundation for requests to elevate an acuity level assignment beyond Acuity Level 1.

4101 ACUITY LEVEL ASSIGNMENTS

4101.1 Reimbursement rates shall be differentiated based on the individual's acuity level, as recommended by DDS, through the Level of Need Assessment and Risk Screening Tool (LON), and interdisciplinary teams of health and habilitation professionals, pursuant to the Individual Service Plan (ISP).

4101.2 Acuity levels higher than Acuity Level 1 (Base), specific to the medical and health needs of each qualified individual, shall be requested by the ICF/IID, recommended by DDS, and approved by DHCF.

4101.3 Reimbursement under this chapter shall be governed according to the following acuity levels:

(a) Acuity Level 1 (Base) shall represent the health, habilitation, and support needs of a beneficiary whose level of care determination (LOC) reflects a need for ICF/IID services. Acuity Level 1 shall be the base acuity level.

(b) Acuity Level 2 (Moderate) shall represent the health, habilitation, and support needs of a beneficiary who:

(1) Meets the requirements of § 4101.3(a); and

(2) Requires moderate levels of services in order to effectively support functional impairments, as described in § 4101.6.

(c) Acuity Level 3 (Extensive – Behavioral) shall represent the health, habilitation, and support needs of a beneficiary who:

(1) Meets the requirements of § 4101.3(a); and

(2) Requires services and interventions that can address conditions associated with an extensive intellectual and developmental disability and significant behavioral challenges as described in § 4101.7.

(d) Acuity Level 4 (Extensive – Medical) shall represent the health, habilitation, and support needs of a beneficiary who:

(1) Meets the requirements of § 4101.3(a); and

(2) Requires services and interventions that can address conditions associated with a significant intellectual and developmental disability and significant medical and support challenges as described in § 4101.8.

(e) Acuity Level 5 (Pervasive) shall represent the health, habilitation, and support needs of a beneficiary who:

(1) Meets the requirements of § 4101.3(a);

(2) Requires services and interventions that can address conditions associated with a significant intellectual and developmental disability; and

(3) Exhibits dangerous behaviors or conditions that require one-to-one (1:1) supervision for twenty-four (24) hours per day or less, as described in § 4101.9.

(f) Acuity Level 6 (Pervasive Plus Skilled Nursing) shall represent the health, habilitation, and support needs of a beneficiary who:

(1) Meets the requirements of § 4101.3(a);

(2) Requires services and interventions that can address conditions associated with a pervasive level of care to accommodate individuals with dangerous behaviors or conditions that require one to one (1:1) supervision twenty-four (24) hours per day; and

(3) Requires extensive skilled nursing services as described in § 4101.10.

4101.4 For purposes of reimbursement, a beneficiary admitted on or after October 1, 2012, shall be assumed to be at Acuity Level 1 (Base). An ICF/IID may request through, and with supporting documentation by, DDS that DHCF assign a beneficiary to an enhanced level, above Acuity Level 1. This request must be accompanied by documentation submitted by the ICF/IID that justifies the enhanced acuity level.

4101.5 In order for a beneficiary to qualify at an acuity level beyond Acuity Level 1 (Base), the ICF/IID shall ensure that qualified health and habilitation practitioners assess each beneficiary using the LON.

4101.6 A beneficiary shall qualify for Acuity Level 2 (Moderate) when assessed to have at least one (1) of the following characteristics:

(a) Is unable to perform two (2) or more activities of daily living (ADL);

(b) Is non-ambulatory;

(c) Is unable to evacuate self without assistance in the event of a fire or other emergency situation;

(d) Is assessed to lack life safety skills to ensure self-preservation; or

(e) Has a diagnosis of one (1) of the following conditions:

(1) Blindness;

(2) Deafness;

(3) Autism Spectrum Disorder; or

(4) Epilepsy.

4101.7 A beneficiary shall qualify for Acuity Level 3 (Extensive – Behavioral) when he or she is dually diagnosed with an intellectual and developmental disability and with one (1) or more behavioral disorders that:

(a) Are assaultive, self-abusive, including pica, or aggressive;

(b) Require a Behavior Support Plan (BSP) which shall be based on current data and targets the identified behaviors; and

(c) Require intensive staff intervention and additional staff resources to manage the behaviors set forth in § 4101.8(a).

4101.8 A beneficiary shall qualify for Acuity Level 4 (Extensive – Medical) when he or she requires skilled nursing and extensive health and habilitation supports on a daily basis. Skilled nursing and extensive health and habilitation supports shall be prescribed by the individual's primary care physician or advanced practice registered nurse (APRN).

4101.9 A beneficiary shall qualify for Acuity Level 5 (Pervasive) when he or she requires one-to-one (1:1) staffing and exhibits one (1) or more of the following characteristics:

(a) Has a history of, or is at high risk for, elopement resulting in risk to the beneficiary or others;

(b) Exhibits behavior that is life-threatening to the beneficiary or others;

(c) Exhibits destructive behavior that poses serious property damage, including fire-setting;

(d) Is a sexual predator; or

(e) Has a history of, or is at high risk for, falls with injury and a primary care physician or advanced practice registered nurse order for one-to-one (1:1) supervision.

4101.10 A beneficiary shall qualify for Level 6 (Pervasive Plus Skilled Nursing) if the beneficiary requires at least one (1) type of skilled nursing that shall be ordered by a primary care physician or advanced practice registered nurse and provided, at a minimum, on an hourly basis.

4101.11 For a beneficiary who requires services at or above Acuity Level 4, the prescription of the physician or advanced practice registered nurse, shall specify the type, frequency, scope, and duration of the skilled nursing and health and habilitation support services required.

4101.12 The number of one-to-one (1:1) staffing hours shall be approved by DHCF using results from assessments conducted by ICFs/IID. Under Levels 5 and 6 (Pervasive and Pervasive Plus Skilled Nursing), DHCF's approval shall be based on having staff member(s) assigned to the beneficiary who have no other duties while assigned to the beneficiary.

4101.13 Each ICF/IID shall have responsible direct care staff on duty and awake on a twenty-four (24) hour basis when residents are present in the facility to ensure prompt, appropriate action in the event of injury, illness, fire, or other emergency.

4101.14 Acuity level assignments shall be renewed annually. Each ICF/IID shall be responsible for requesting renewal of the beneficiary's acuity level assignment by compiling and submitting the beneficiary's information in the required format(s) at least twenty (20) days before the ISP effective date. Each ICF/IID shall ensure that the individual has an approved acuity level assignment by the ISP effective date. At minimum, the ICF/IID shall provide DHCF with the following:

(a) Level of Need Assessment and Risk Screening Tool (LON); and

(b) Current ISP document including medical, psychological, occupational or physical therapy assessment, or in the absence of a current ISP document, evidence of consensus by a majority of the members of the beneficiary's interdisciplinary team for the proposed acuity level assignment.

4101.15 Late submission of the documentation required for renewals as set forth in § 4101.14 shall result in payment at the rates that correspond to Acuity Level 1 (Base) beginning on the first day following the expiration of the assignment. DHCF shall not make retroactive adjustments to the reimbursement rates for late submissions of renewal documentation.

4101.16 Additional documentation shall be required to support the acuity level assignment for a beneficiary. Depending on acuity level, additional documentation shall be required as follows:

(a) For Acuity Level 3 (Extensive – Behavioral) the following additional documentation is required:

(1) A BSP addressing the targeted behaviors;

(2) A written behavior plan that shall be based on current data and which targets the identified behaviors; and

(3) A concise statement that summarizes thirty (30) days of behavioral data prior to the date of the request and justification of the need for intensive staff intervention and additional staff resources to manage targeted behaviors.

(b) For Acuity Level 4 (Extensive – Medical) documentation that includes an order for daily skilled nursing and extensive health supports prepared by the beneficiary's primary care physician or an advance practice registered nurse is required.

(c) For Acuity Level 5 (Pervasive) the following additional documentation is required:

(1) A concise statement setting forth the presenting problem that necessitates one to one (1:1) supervision and the number of requested one to one (1:1) hours;

(2) Evidence of a history or risk of elopement that results in risk to the beneficiary and/or others;

(3) Evidence of behavior that is life threatening to self and/or others;

(4) Evidence of destructive behavior causing serious property damage, including fire starting;

(5) Evidence of sexually predatory behavior;

(6) Evidence of a history of, or risk of, falls with injury, and an order from the beneficiary's primary care physician or APRN;

(7) A BSP that shall be based on current data and targets the behaviors identified;

(8) A job description for one to one (1:1) staff based on the beneficiary's individual needs; and

(9) Thirty (30) days of behavioral data prior to the date of the request in support of the targeted behaviors.

(d) For Acuity Level 6 (Pervasive plus Skilled Nursing) the following additional documentation is required:

(1) An order for skilled nursing services prepared by the beneficiary's primary care physician or APRN;

(2) A concise statement setting forth the presenting problem that necessitates one to one (1:1) supervision and skilled nursing and the number of requested one to one (1:1) hours; and

(3) A job description for one to one (1:1) staff based on the beneficiary's individual needs.

4101.17 Documentation required to review a beneficiary's acuity level shall be submitted to DHCF within sixty (60) days of the event that necessitates assignment to a higher acuity level.

4101.18 On a case-by-case basis, DHCF shall consider requests for retroactive adjustment to a beneficiary's acuity level that may result in a change to the reimbursement rate. DHCF decisions shall be based on the facility's submission of required documentation as set forth below:

(a) A concise statement setting forth the situation that necessitates retroactive adjustment;

(b) Evidence of the higher acuity level for the specified period of time for which the change in acuity level is requested. This evidence shall include the LON and other clinical and professional documentation such as discharge planning notes, physician's notes, other clinician's notes, interdisciplinary team meeting notes, and healthcare reports for the same defined period of time; and

(c) Evidence that a higher level of service was delivered for the defined period and that the higher level of service delivered is that required for the higher acuity level. This evidence shall include documentation of staffing levels detailing hours and types of services delivered for each day in the defined period of time. Evidence shall also include the identity of the specific staff delivering the higher acuity services and an attestation from the staff of the higher acuity service they delivered.

4101.19 Any retroactive adjustment based on § 4101.18 shall be limited to the time that has lapsed since the date of the beneficiary's last continuous stay review, as set forth in § 4109.

4101.20 DHCF, or its designee, shall have access to all approved ISP documents.

4101.21 Each ICF/IID shall notify DHCF of the transfer or death of a beneficiary at least seven (7) business days after the date of the event.

4102 REIMBURSEMENT METHODOLOGY

4102.1 The rates for ICF/IID services were developed based on Fiscal Year (FY) 2010 cost data reported by providers of different sizes serving individuals at varying acuity levels. The rates shall vary based on staffing ratios, facility size, and beneficiary acuity level.

4102.2 For the purposes of rate-setting, and independent of the classification used by the Department of Health for licensing, DHCF shall classify ICFs/IID as follows:

(a) Class I - A facility with five (5) or fewer licensed beds; and

(b) Class II - A facility with six (6) or more licensed beds.

4102.3 The residential component of the rate, as described in § 4100.5(a), shall be based on a model that includes the following seven (7) cost centers:

(a) The "Direct Service" cost center, which shall include expenditures as follows:

(1) Nurses, including registered nurses (RNs), licensed practical nurses (LPNs), and certified nursing assistants (CNAs);

(2) Qualified Intellectual Disabilities Professionals (QIDPs);

(3) House managers;

(4) Direct Support Personnel;

(5) Allocated time of staff with administrative duties and who are also utilized in direct service support, subject to the results of a time study or time sheet process that has been approved by DHCF; and

(6) Fringe benefits, including but not limited to required taxes, health insurance, retirement benefits, vacation days, paid holidays, and sick leave.

(b) The "All Other Health Care and Program Related" cost center, which shall include expenditures for:

(1) Pharmacy co-pays and over-the-counter medications;

(2) Medical supplies;

(3) Therapy costs, including physical therapy, occupational therapy, and speech therapy;

(4) Physician services;

(5) Behavioral health services provided by psychologists or psychiatrists;

(6) Nutrition and food;

(7) Medical record maintenance and review;

(8) Insurance for non-direct care health staff;

(9) Quality Assurance;

(10) Training for direct care staff;

(11) Program development and management, including recreation;

(12) Incident management; and

(13) Clothing for beneficiaries.

(c) The "Non-Personnel Operations" cost center, which shall include expenditures for:

(1) Food service and supplies related to food service;

(2) Laundry;

(3) Housekeeping and linen; and

(4) Non-capital repair and maintenance.

(d) The "Administration" cost center which shall include expenditures for:

(1) Payroll taxes;

(2) Salaries and consulting fees to non-direct care staff;

(3) Insurance for administrators and executives;

(4) Travel and entertainment;

(5) Training costs;

(6) Office expenses;

(7) Licenses;

(8) Office space rent or depreciation;

(9) Clerical staff;

(10) Interest on working capital; and

(11) Staff transportation.

(e) The "Non-Emergency Transportation" cost center, which shall include expenditures for:

(1) Vehicle license, lease, and fees;

(2) Vehicle maintenance;

(3) Depreciation of vehicle;

(4) Staffing costs for drivers and aides not otherwise covered by, or in excess of costs for, direct support personnel;

(5) Fuel; and

(6) Vehicle insurance.

(f) The "Capital" cost center, which shall include expenditures for leased, owned, or fully depreciated properties, less all amounts received for days reimbursed pursuant to the "Policy on Reserved Beds," as set forth on page 2 of Attachment 4.19C of the State Plan for Medical Assistance, for the following:

(1) Depreciation and amortization;

(2) Interest on capital debt;

(3) Rent;

(4) Minor equipment;

(5) Real estate taxes;

(6) Property insurance;

(7) Other capital; and

(8) Utilities, including electricity, gas, telephone, cable, and water.

(g) The "Stevie Sellows Intermediate Care Facility for the Intellectually and Developmentally Disabled Quality Improvement Fund Assessment" cost center shall include only the allowable share of the Assessment

expenditure consistent with 42 U.S.C. § 1396(b)(w) and 42 C.F.R. §§ 433.68, 433.70 and 433.72.

4102.4 Fiscal Year (FY) 2013 rates shall be based on Fiscal Year (FY) 2010 cost data reported by providers, legal requirements, and industry standards, and shall be paid for services delivered beginning on October 1, 2012 through September 30, 2013. FY 2013 rates, and all rates thereafter, shall be set forth in this Chapter. FY 2013 rates were developed based upon the following assumptions:

(a) FY 2013 Non-Personnel Operations per diem rates shall be based on FY 2010 costs, inflated twelve percent (12%);

(b) FY 2013 Capital per diem rates shall be based on FY 2010 costs, inflated fifteen percent (15%);

(c) FY 2013 rates for the cost centers described in § 4102.4(a) and (b) shall be calculated as the quotient of total industry expenditures divided by the total number of industry licensed bed days as reported for FY 2010;

(d) The FY 2013 rate for Non-Emergency Transportation shall be eighteen dollars ($18) per person, per day; and

(e) Capital expenditures for Class I and Class II facilities shall be calculated separately.

4102.5 FY 2014 rates shall be based on the reported FY 2013 cost reports, adjusted for inflation, in accordance with the index described in § 4102.13. In establishing the rates for FY 2014, DHCF shall use FY 2013 rates as a baseline to compare to the FY 2013 cost reports. After inflationary adjustments, DHCF may make operational adjustments as described in this section to each cost center based on the provider's actual reported costs. These adjustments may increase or decrease the per diem rates for each cost center. For services rendered on or after January 1, 2014, DHCF shall also incorporate the following rate setting principles:

(a) Effective January 1, 2014, and on October 1, annually thereafter, DHCF may make appropriate outlier adjustments when the entire ICF/IID provider community experiences uncharacteristically low or high costs (*e.g.*, wage increases) experienced by the entire ICF/IID provider community and supported by legislative or other unanticipated changes. With respect to the Capital cost center, market induced fluctuations in the cost of items comprising that rate (e.g., property appreciation/depreciation, significant increase in the cost of utilities, etc.) shall be documented and confirmed using information from the Bureau of Labor Statistics, the Consumer Price Index, the District of Columbia Office of Tax and Revenue, and other relevant indices or reports;

(1) All adjustments shall be limited to one (1) time in any given fiscal year.

(2) Except for the Capital cost center, operational adjustments shall be subject to a five percent (5%) maximum. Operational adjustments to the Capital cost center shall be subject to a maximum of ten percent (10%);

(3) An outlier adjustment shall not exceed the amount of the rebased cost center, subject to the upper payment limit;

(4) Except for inflationary adjustments, all other adjustments under this section shall be supported through provider documentation and data reflecting the economic landscape of the Washington, D.C. Metropolitan area;

(5) All adjustments described in § 4102.5 shall be limited to fiscal years when rebasing does not occur;

(6) "Operational Adjustment" shall refer to an adjustment made to any cost center based on information reflected in an ICF/IIDs cost report (*i.e.*, actual reported costs). These reported costs will be compared to the actual reported aggregate costs for all ICF/IIDs. An operational adjustment provides a mechanism for DHCF to address under- or over-payments that are identified after comparing the projections used to determine the rate with the provider's actual costs; and

(7) "Outlier Adjustment" shall refer to an adjustment made after the ICF/IID submits a cost report and the actual reported costs reflect uncharacteristically low or high costs. In order to qualify for an outlier adjustment, the unexpected expense must impact all of the District's ICF/IIDs.

(b) Effective January 1, 2014, the rate for Non-Emergency Transportation shall be twelve dollars and sixteen cents ($12.16).

4102.6 For dates of service on or after October 1, 2016, final reimbursement rates for the residential component will be based on providers' FY 2014 cost reports subject to audit and adjustment by DHCF.

4102.7 Direct Service cost center reimbursement rates shall be calculated based on staffing ratios, facility size, and individuals' acuity levels. All rates shall accommodate the following staffing patterns:

(a) Two (2) Direct Support Personnel (DSP) at three (3) shifts per day for three hundred sixty-five (365) days per year, at the following staffing ratios:

(1) Class I Facilities: One (1) DSP to every two (2) individuals (1:2); and

(2) Class II Facilities: One (1) DSP to every three (3) individuals (1:3).

(b) One (1) LPN for each facility at one (1) shift per day for three hundred sixty-five (365) days per year, for all ICFs/IID;

(c) One (1) additional LPN for each ICF/IID at one (1) shift per weekend day (Saturday and Sunday) for fifty-two (52) weeks per year. This staffing pattern shall apply only to Class II facilities;

(d) One (1) RN, one (1) QIDP, and one (1) house manager, each at one (1) shift per day for two hundred sixty (260) days per year, at a ratio of one (1) staff person to every twelve (12) individuals (1:12) for all ICFs/IID;

(e) For services provided to individuals assigned to acuity levels higher than Acuity Level I, an ICF/IID shall be paid rates that can accommodate additional staffing needs as follows:

(1) Acuity Level 2 (Moderate) rates shall also include one (1) additional DSP at three (3) shifts per day for three hundred sixty-five (365) days per year, at a staffing ratio of one (1) DSP for every two (2) individuals (1:2) for all ICFs/IID;

(2) Acuity Level 3 (Extensive – Behavioral) rates shall also include costs associated with two (2) additional DSPs. The rates for Acuity Level 3 shall include one (1) DSP at three (3) shifts per day for three hundred sixty-five (365) days per year, at a staffing ratio of one (1) DSP staff member for every two (2) individuals for all ICFs/IID. The rate shall also include one (1) DSP at two (2) shifts per day for three hundred sixty-five (365) days per year, at a staffing ratio of one (1) DSP staff member for every two (2) individuals for all ICFs/IID;

(3) Acuity Level 4 (Extensive – Medical) rates shall also include costs associated with one (1) additional LPN at two (2) shifts per day for three hundred sixty-five (365) days per year, for all ICFs/IID. Class II facilities shall also receive a rate that includes one (1) certified nurse aide (CNA) at two (2) shifts per day for three hundred sixty-five (365) days per year;

(4) Acuity Level 5 (Pervasive) rates shall vary based on the number of one-to-one services prescribed for a beneficiary. Acuity Level 5 rates shall also include one (1) DSP at two (2) or three (3) shifts per day, for five (5) or seven (7) days per week for fifty-two (52) weeks per year, at a staffing ratio of one (1) DSP to one (1) beneficiary (1:1); and

(5) Acuity Level 6 (Pervasive Plus Skilled Nursing) rates shall vary based on the number of one-to-one services prescribed for a beneficiary. Acuity Level 6 rates shall also include one (1) LPN at one (1), two (2), or three (3) shifts per day for seven (7) days per week for fifty-two (52) weeks per year, at a staffing ratio of one (1) LPN to one (1) beneficiary (1:1).

(f) The base salaries used in the development of FY 2013 rates for direct care staff wages and salaries, subject to adjustment for inflation using the Centers for Medicare and Medicaid Services (CMS) Skilled Nursing Facility Market Basket Index, shall be as follows:

(1) DSP: Twelve dollars and fifty cents ($12.50) per hour;

(2) LPN: Twenty one dollars ($21.00) per hour;

(3) CNA: Sixteen dollars and eighty-three cents ($16.83) per hour;

(4) House Manager: Forty-five thousand dollars ($45,000) per year;

(5) RN: Seventy thousand dollars ($70,000) per year; and

(6) QIDP: Sixty thousand dollars ($60,000) per year.

(g) Salaries set forth in Section 4102.7(f) shall be treated as follows:

(1) "Paid time off" shall include the addition of eighty (80) hours of paid leave. Holiday pay shall include the addition of forty-four (44) hours to ensure that the rate includes the rate of pay plus one-half (1/2) the rate of pay (time and one-half) for holidays worked;

(2) Salaries shall be inflated by twenty percent (20%) and paid leave and holiday pay shall be inflated by twelve percent (12%), to accommodate fringe benefits; and

(3) All rates shall include paid time off and holiday pay for all hourly full-time equivalents (FTEs).

(h) Beginning in FY 2014 and each fiscal year thereafter, Direct Care Staff Compensation shall be inflated by the greater of any adjustment to the

living wage or the associated costs of benefits and inflation based on the CMS Skilled Nursing Facility Market Basket Index or other appropriate index if the CMS Skilled Nursing Facility Market Basket Index is discontinued.

4102.8 The "All Other Health Care and Program Related Expenses" cost center reimbursement rates shall be calculated based on the facility size and the direct care cost center rate, which varies by staffing ratios and individuals' acuity levels. The rate for this cost center shall be calculated as a fixed percentage of the rate for direct services, at twelve percent (12%) for Class I facilities and at seventeen percent (17%) for Class II facilities.

4102.9 The "Non-Personnel Operations" cost center reimbursement rates shall be calculated based on industry average reported costs. The Non-Personnel Operations reimbursement rate shall be equal to the industry average reported expenses per licensed bed day for the line items included in the cost center, and shall be uniformly set for all providers.

4102.10 During FY 2013, the "Administration" cost center reimbursement rates shall be calculated based on the staffing ratios, facility size, and individuals' acuity levels. The Administration reimbursement rate shall vary based on the nature of ownership of the physical premises where the ICF/IID is housed. The Administration rate shall be a uniform percentage of the sum of the rates for all other cost centers and acuity levels. Beginning January 1, 2014, and on October 1, 2014 and annually thereafter, reimbursement rates for the Administration cost center shall be uniform for Class I and Class II facilities. The Administration rate shall be a uniform percentage of the sum of the Acuity Level I (Base) rates comprising the Residential cost center for leased, Class I facilities, as set forth in this Chapter

4102.11 The "Non-Emergency Transportation" cost center reimbursement rates shall be based on the industry average expenses divided by the total number of licensed bed days. Beginning January 1, 2014, and on October 1, 2014 and annually thereafter, Non-Emergency Transportation cost center reimbursement rates shall be based on actual, reported costs.

4102.12 The "Capital" cost center reimbursement rates shall be determined in accordance with 42 C.F.R. § 413.130 and based on the industry average reported expenses per licensed bed day for the line items included in this cost center as described in § 4102.3. The rate shall vary based on the nature of ownership of the physical premises where the ICF/IID is housed. The Capital rate for leased premises shall be equal to the industry average reported expenses per licensed bed day for the line items included. The Capital rate for provider-owned premises shall be equal to fifty percent (50%) of the rate for leased premises. The Capital rate for fully depreciated premises shall be equal to fifty percent (50%) of the rate for provider

owned premises. The Capital rate shall also be subject to the following principles:

(a) When a sale/leaseback of an existing ICF/IID facility occurs, the ICF/IID's allowable capital related cost may not exceed the amount that the seller/lessor would have recorded had the seller/lessor retained legal title;

(b) Depreciation shall incorporate the following principles:

(1) When depreciated buildings and building improvements are acquired, the cost basis of the depreciable asset shall be the lesser of the cost or acquisition value of the previous owner(s) less all reimbursement attributable to the asset as determined by DHCF or the fair market value of the asset at time of acquisition. Notwithstanding, if the seller makes the full payback in accordance with § 4102.12(b)(6), the cost basis to the new owner shall be the lesser of the fair market value or the purchase price;

(2) Facilities shall employ the straight-line method for calculating depreciation subject to the limits set forth in §§ 4102.12(b)(3)-(6) below. Accelerated methods for calculating depreciation shall not be allowed. Subject to the limits set forth in §§ 4102.12(b)(3)-(6), the annual depreciation expense of an asset shall be determined by dividing the basis of the asset reduced by any estimated salvage or resale value by the estimated years of useful life of the asset at the time it is placed in service;

(3) Depreciation expense of buildings and building improvements shall be limited to the basis of each asset and shall not exceed the basis of such assets less the aggregate amount received in reimbursement for such assets in the current and prior years;

(4) Fully depreciated buildings and building improvements subsequently sold or disposed of shall be subject to payback by the owner to the program of all depreciation expense paid to the owner and all previous owners when such assets are no longer used to provide ICF/IID services or have been transferred to new owners in an arm's length transaction, provided that such payback shall be reduced by all amounts previously paid back, if any, by prior owners;

(5) ICFs/IID shall estimate assets' years of useful life in accordance with the most recent edition of "Estimated Useful Lives of Depreciable Hospital Assets" published by the American Hospital Association, or if not applicable, relevant guidance issued by the

U.S. Internal Revenue Service. Subject to the limits set forth in paragraphs (d) and (e), depreciation expense for the year of disposal can be computed by using either the half-year method or the actual time method;

(6) Assets shall be recorded using historical cost, except for donated assets which shall be recorded at fair market value at the time received and based on the lesser of at least two (2) bona fide appraisals. Costs during the construction of an asset, consulting and legal fees, interest, and fund raising, should be capitalized as a part of the cost of the asset;

(7) When an asset is acquired by a trade-in, the cost of the new asset shall be the sum of the book value of the old asset and any cash or issuance of debt as consideration paid;

(8) Facilities that previously did not maintain fixed asset records and did not record depreciation in prior years shall be entitled to any straight-line depreciation of the remaining useful life of the asset. The depreciation shall be based on the cost of the asset or fair market value of a donated asset at the time of purchase, construction or donation over its normal useful life. Fully depreciated assets shall not be included in the Capital cost center, except for the costs associated with utilities and relevant leasehold improvements. No depreciation may be taken on an asset that would have been fully depreciated if it had been properly recorded at the time of acquisition;

(9) Leasehold improvements made to rental property by the lessor shall be depreciated over the lesser of the asset's useful life or the remaining life of the lease;

(c) On a case by case basis, DHCF may reimburse an ICF/IID by providing an offset to capital costs that shall be equal to the daily amount computed under this subsection in situations when DDS has not filled vacant bed space(s). The ICF/IID shall receive the product of the capital cost multiplied by the administrative rate anytime this payment is made;

(d) The daily cost described in § 4102.12(c) shall be computed as the capital component of the daily per-diem rate, multiplied by the number of vacant bed space(s); and

(e) ICFs/IID shall incur costs and provide DHCF with proof of the vacant bed space in order to be eligible.

4102.13 Effective October 1, 2013, and annually thereafter, the per diem rates for "Non-Personnel Operations", "Non-Emergency Transportation", "Capital", and "Active Treatment" cost centers shall be adjusted for inflation in accordance with the Centers for Medicare and Medicaid Services (CMS) Skilled Nursing Facility Market Basket Index or other appropriate index if the CMS Skilled Nursing Facility Market Basket Index is discontinued.

4102.14 The Stevie Sellows Intermediate Care Facility for the Intellectually and Developmentally Disabled Quality Improvement Fund Assessment shall be a broad based assessment on all ICF/IID providers in the District of Columbia at a uniform rate of five and one-half percent (5.5%) of each ICF/IID's gross revenue. The allowable cost of the Assessment shall be calculated consistently with 42 U.S.C. § 1396(b)(w) and 42 C.F.R. §§ 433.68, 433.70, and 433.72.

4102.15 Beginning January 1, 2014, ICF/IID reimbursement rates, shall be as follows:

Acuity	Beds	Facility	Direct care staffing	Other health care & program Total	Non-Pers Oper	Transp.	Capital	Admin	Active Tx	Total Rate	Tax	Total rate paid
Base	4 - 5	Leased	$345.34	$44.89	$19.12	$12.16	$59.27	$62.50	$87.15	$630.43	$34.67	$665.11
		Owned	$345.34	$44.89	$19.12	$12.16	$29.64	$62.50	$87.15	$600.80	$33.04	$633.84
		Depreciated	$345.34	$44.89	$19.12	$12.16	$14.82	$62.50	$87.15	$585.98	$32.23	$618.21
	6	Leased	$257.88	$46.42	$19.12	$12.16	$54.14	$62.50	$87.15	$539.36	$29.66	$569.02
		Owned	$257.88	$46.42	$19.12	$12.16	$27.07	$62.50	$87.15	$512.29	$28.18	$540.46
		Depreciated	$257.88	$46.42	$19.12	$12.16	$13.53	$62.50	$87.15	$498.75	$27.43	$526.19
Moderate	4 - 5	Leased	$345.34	$44.89	$19.12	$12.16	$59.27	$62.50	$87.15	$630.43	$34.67	$665.11
		Owned	$345.34	$44.89	$19.12	$12.16	$29.64	$62.50	$87.15	$600.80	$33.04	$633.84
		Depreciated	$345.34	$44.89	$19.12	$12.16	$14.82	$62.50	$87.15	$585.98	$32.23	$618.21
	6	Leased	$338.46	$60.92	$19.12	$12.16	$54.14	$62.50	$87.15	$634.44	$34.89	$669.33
		Owned	$338.46	$60.92	$19.12	$12.16	$27.07	$62.50	$87.15	$607.37	$33.41	$640.77
		Depreciated	$338.46	$60.92	$19.12	$12.16	$13.53	$62.50	$87.15	$593.83	$32.66	$626.50
Extensive behavioral	4 - 5	Leased	$420.82	$54.71	$19.12	$12.16	$59.27	$62.50	$87.15	$715.72	$39.36	$755.09
		Owned	$420.82	$54.71	$19.12	$12.16	$29.64	$62.50	$87.15	$686.09	$37.73	$723.82
		Depreciated	$420.82	$54.71	$19.12	$12.16	$14.82	$62.50	$87.15	$671.27	$36.92	$708.19
	6	Leased	$388.78	$69.98	$19.12	$12.16	$54.14	$62.50	$87.15	$693.81	$38.16	$731.97
		Owned	$388.78	$69.98	$19.12	$12.16	$27.07	$62.50	$87.15	$666.75	$36.67	$703.42
		Depreciated	$388.78	$69.98	$19.12	$12.16	$13.53	$62.50	$87.15	$653.21	$35.93	$689.14

Acuity	Beds	Facility	Direct care staffing	Other health care & program Total	Non-Pers Oper	Transp.	Capital	Admin	Active Tx	Total Rate	Tax	Total rate paid
Extensive medical	4 - 5	Leased	$463.41	$60.24	$19.12	$12.16	$59.27	$62.50	$87.15	$763.84	$42.01	$805.85
		Owned	$463.41	$60.24	$19.12	$12.16	$29.64	$62.50	$87.15	$734.21	$40.38	$774.59
		Depreciated	$463.41	$60.24	$19.12	$12.16	$14.82	$62.50	$87.15	$719.39	$39.57	$758.95
	6	Leased	$399.67	$71.94	$19.12	$12.16	$54.14	$62.50	$87.15	$706.67	$38.87	$745.53
		Owned	$399.67	$71.94	$19.12	$12.16	$27.07	$62.50	$87.15	$679.60	$37.38	$716.97
		Depreciated	$399.67	$71.94	$19.12	$12.16	$13.53	$62.50	$87.15	$666.06	$36.63	$702.70
Pervasive 8 h / 7 d	4 - 5	Leased	$486.10	$63.19	$19.12	$12.16	$59.27	$62.50	$87.15	$789.49	$43.42	$832.91
		Owned	$486.10	$63.19	$19.12	$12.16	$29.64	$62.50	$87.15	$759.85	$41.79	$801.64
		Depreciated	$486.10	$57.09	$19.12	$12.16	$14.82	$62.50	$87.15	$738.93	$40.64	$779.57
	6	Leased	$398.64	$71.75	$19.12	$12.16	$54.14	$62.50	$87.15	$705.45	$38.80	$744.25
		Owned	$398.64	$71.75	$19.12	$12.16	$27.07	$62.50	$87.15	$678.38	$37.31	$715.69
		Depreciated	$398.64	$71.75	$19.12	$12.16	$13.53	$62.50	$87.15	$664.85	$36.57	$701.41
Pervasive 8 h / 5 d	4 - 5	Leased	$439.16	$57.09	$19.12	$12.16	$59.27	$62.50	$87.15	$736.44	$40.50	$776.95
		Owned	$439.16	$57.09	$19.12	$12.16	$29.64	$62.50	$87.15	$706.80	$38.87	$745.68
		Depreciated	$439.16	$57.09	$19.12	$12.16	$14.82	$62.50	$87.15	$691.99	$38.06	$730.05
	6	Leased	$351.69	$63.30	$19.12	$12.16	$54.14	$62.50	$87.15	$650.06	$35.75	$685.81
		Owned	$351.69	$63.30	$19.12	$12.16	$27.07	$62.50	$87.15	$622.99	$34.26	$657.25
		Depreciated	$351.69	$63.30	$19.12	$12.16	$13.53	$62.50	$87.15	$609.45	$33.52	$642.97
Pervasive 16 h	4 - 5	Leased	$647.26	$84.14	$19.12	$12.16	$59.27	$62.50	$87.15	$971.59	$53.44	$1,025.03
		Owned	$647.26	$84.14	$19.12	$12.16	$29.64	$62.50	$87.15	$941.96	$51.81	$993.77
		Depreciated	$647.26	$84.14	$19.12	$12.16	$14.82	$62.50	$87.15	$927.14	$50.99	$978.13
	6	Leased	$559.79	$100.76	$19.12	$12.16	$54.14	$62.50	$87.15	$895.61	$49.26	$944.87
		Owned	$559.79	$100.76	$19.12	$12.16	$27.07	$62.50	$87.15	$868.55	$47.77	$916.32
		Depreciated	$559.79	$100.76	$19.12	$12.16	$13.53	$62.50	$87.15	$855.01	$47.03	$902.04

Acuity	Beds	Facility	Direct care staffing	Other health care & program Total	Non-Pers Oper	Transp.	Capital	Admin	Active Tx	Total Rate	Tax	Total rate paid
Pervasive 24 h	4 - 5	Leased	$828.81	$107.75	$19.12	$12.16	$59.27	$62.50	$87.15	$1,176.75	$64.72	$1,241.47
		Owned	$828.81	$107.75	$19.12	$12.16	$29.64	$62.50	$87.15	$1,147.11	$63.09	$1,210.20
		Depreciated	$828.81	$107.75	$19.12	$12.16	$14.82	$62.50	$87.15	$1,132.29	$62.28	$1,194.57
	6	Leased	$741.34	$133.44	$19.12	$12.16	$54.14	$62.50	$87.15	$1,109.84	$61.04	$1,170.89
		Owned	$741.34	$133.44	$19.12	$12.16	$27.07	$62.50	$87.15	$1,082.78	$59.55	$1,142.33
		Depreciated	$741.34	$133.44	$19.12	$12.16	$13.53	$62.50	$87.15	$1,069.24	$58.81	$1,128.05
Nursing 1:1 8 h / 7 d	4 - 5	Leased	$565.52	$73.52	$19.12	$12.16	$59.27	$62.50	$87.15	$879.23	$48.36	$927.58
		Owned	$565.52	$73.52	$19.12	$12.16	$29.64	$62.50	$87.15	$849.59	$46.73	$896.32
		Depreciated	$565.52	$73.52	$19.12	$12.16	$14.82	$62.50	$87.15	$834.77	$45.91	$880.69
	6	Leased	$478.05	$86.05	$19.12	$12.16	$54.14	$62.50	$87.15	$799.16	$43.95	$843.11
		Owned	$478.05	$86.05	$19.12	$12.16	$27.07	$62.50	$87.15	$772.09	$42.47	$814.56
		Depreciated	$478.05	$86.05	$19.12	$12.16	$13.53	$62.50	$87.15	$758.56	$41.72	$800.28
Nursing 1:1 8 h / 5 d	4 - 5	Leased	$492.09	$63.97	$19.12	$12.16	$59.27	$62.50	$87.15	$796.25	$43.79	$840.04
		Owned	$492.09	$63.97	$19.12	$12.16	$29.64	$62.50	$87.15	$766.61	$42.16	$808.78
		Depreciated	$492.09	$63.97	$19.12	$12.16	$14.82	$62.50	$87.15	$751.80	$41.35	$793.14
	6	Leased	$404.62	$72.83	$19.12	$12.16	$54.14	$62.50	$87.15	$712.51	$39.19	$751.70
		Owned	$404.62	$72.83	$19.12	$12.16	$27.07	$62.50	$87.15	$685.44	$37.70	$723.14
		Depreciated	$404.62	$72.83	$19.12	$12.16	$13.53	$62.50	$87.15	$671.91	$36.95	$708.86
Nursing 1:1 16 hours	4 - 5	Leased	$817.59	$106.29	$19.12	$12.16	$59.27	$62.50	$87.15	$1,164.07	$64.02	$1,228.10
		Owned	$817.59	$106.29	$19.12	$12.16	$29.64	$62.50	$87.15	$1,134.44	$62.39	$1,196.83
		Depreciated	$817.59	$106.29	$19.12	$12.16	$14.82	$62.50	$87.15	$1,119.62	$61.58	$1,181.20
	6	Leased	$730.13	$131.42	$19.12	$12.16	$54.14	$62.50	$87.15	$1,096.61	$60.31	$1,156.92
		Owned	$730.13	$131.42	$19.12	$12.16	$27.07	$62.50	$87.15	$1,069.54	$58.82	$1,128.37
		Depreciated	$730.13	$131.42	$19.12	$12.16	$13.53	$62.50	$87.15	$1,056.01	$58.08	$1,114.09

Acuity	Beds	Facility	Direct care staffing	Other health care & program Total	Non-Pers Oper	Transp.	Capital	Admin	Active Tx	Total Rate	Tax	Total rate paid
Nursing 1:1 24 hours	4 - 5	Leased	$1,101.57	$143.20	$19.12	$12.16	$59.27	$62.50	$87.15	$1,484.97	$81.67	$1,566.65
		Owned	$1,101.57	$143.20	$19.12	$12.16	$29.64	$62.50	$87.15	$1,455.34	$80.04	$1,535.38
		Depreciated	$1,101.57	$143.20	$19.12	$12.16	$14.82	$62.50	$87.15	$1,440.52	$79.23	$1,519.75
	6	Leased	$1,014.11	$182.54	$19.12	$12.16	$54.14	$62.50	$87.15	$1,431.71	$78.74	$1,510.45
		Owned	$1,014.11	$182.54	$19.12	$12.16	$27.07	$62.50	$87.15	$1,404.64	$77.26	$1,481.89
		Depreciated	$1,014.11	$182.54	$19.12	$12.16	$13.53	$62.50	$87.15	$1,391.11	$76.51	$1,467.62

4103 ACTIVE TREATMENT SERVICES

4103.1 An individual residing in an ICF/IID shall receive continuous active treatment services, consistent with the requirements set forth in 42 CFR § 483.440. Active treatment services shall vary depending on the needs of the beneficiary, as determined by the interdisciplinary team.

4103.2 An ICF/IID shall ensure that a beneficiary receives active treatment services on a daily basis. The ICF/IID may affiliate with outside resources to assist with program planning and service delivery or the facility may provide active treatment services directly.

4103.3 A program of active treatment services shall include aggressive, consistent implementation of a program of specialized training, treatment, health services, and other related services that is directed towards:

(a) The acquisition of the behaviors necessary for the individual to function with as much self-determination and independence as possible; and

(b) The prevention or deceleration of regression or loss of current optimal functional status.

4103.4 In accordance with 42 C.F.R. §§ 483.440(c) - (d), an interdisciplinary team shall determine the type of active treatment services that a beneficiary needs based on preliminary evaluations, assessments, and re-assessments. Each beneficiary's active treatment requirements shall be described in his Individual Program Plan (IPP), pursuant to 42 C.F.R. § 483.440(c). The ICF/IID shall ensure that each beneficiary receives all of the services described in the IPP.

4103.5 For dates of service on or after January 1, 2014, the per diem reimbursement rate for active treatment shall equal the average of FY13 active treatment rates multiplied by two hundred sixty (260) days of service, to account for the maximum days of service provided, inclusive of holidays, and divided by three hundred sixty-five (365).

4104 SUPPLEMENTAL PAYMENT FOR QUALITY OF CARE IMPROVEMENTS

4104.1 Consistent with the requirements set forth in the Stevie Sellows Intermediate Care Facility for the Intellectually and Developmentally Disabled Quality Improvement Act of 2005, effective March 8, 2006 (D.C. Law 16-68; D.C. Official Code §§ 47-1270 *et seq.*), implementing rules, and subsequent amendments, beginning in FY 2014 an ICF/IID that meets the criteria in this section shall be eligible to receive a supplemental payment based on the cost of training provided to employees other than managers, administrators, and contract employees.

4104.2 In addition to the aggregate per diem described in § 4102, an ICF/IID may receive an additional payment for participation in quality improvement initiatives that are intended to increase the qualifications of employees by making available educational opportunities.

4104.3 To qualify for a supplemental payment for quality improvements under this Section for a fiscal year, an ICF/IID shall, by June 30 of the preceding fiscal year, provide DHCF with documentation verifying that it:

(a) Has a legally binding written agreement with its employees to fund quality of care improvements through measurable efforts to develop and improve staff skills by increasing staff training and educational opportunities;

(b) Has written procedures outlining the process, such as arbitration, for employees to follow to enforce this agreement. The process shall:

(1) Be expeditious;

(2) Be economical for the employees; and

(3) Provide for a neutral decision maker to resolve disputes; and

(c) Has provided copies of the agreement and the written procedures to its employees and their representatives.

4104.4 To establish the cost amount for purposes of determining the facility's supplemental payment amount, an ICF/IID shall provide DHCF with documentation verifying the amount of training costs no later than June 30 of the preceding fiscal year.

4104.5 The training cost amount shall include the cost of providing training for employees other than managers, administrators, and contractors, and shall be the actual costs incurred by the facility in providing training to these employees. For training costs to be included, the training shall be:

(a) Related to patient care;

(b) Related to improving the skills, competency, and qualifications of employees in providing care; and

(c) Approved by DHCF.

4104.6 In order to be eligible for the supplemental payment, an ICF/IID shall incur costs and provide DHCF with evidence that payment has been made in full. Acceptable forms of evidence shall include a copy of any invoice(s) for training costs and cancelled check(s) reflecting the facility's payment of the invoice(s).

4104.7 All supplemental payments shall be subject to a uniform percentage of thirteen percent (13%) for administrative costs for FY 2013. The administrative cost percentage may be adjusted in subsequent fiscal years. Adjusted rates will be set forth in the *D.C. Register*.

4104.8 Supplemental payments associated with the costs of implementing quality improvement initiatives shall be recorded as an offset to the costs incurred, and shall be included in the cost report submitted annually.

4104.9 The supplemental payments described in this section shall not be used to enhance training or educational opportunities for management, administration, and contractual staff.

4104.10 The amount and availability of the supplemental payment shall be contingent upon the availability of funding from DHCF. If the total amount of payments to be made to all eligible providers exceeds the amount of available funds, then payments made to all eligible facilities shall be proportionately reduced.

4104.11 DHCF shall issue a Notice of Eligibility and Proposed Reimbursement to each provider within sixty (60) days of receipt of all required information. The written notice shall contain at a minimum all of the following information:

(a) A determination indicating whether the provider is eligible or ineligible to receive the supplemental payment;

(b) If a provider is determined to be ineligible to receive the supplemental payment, a written statement explaining why the facility is ineligible; and

(c) Language describing the procedures and timeframes for requesting an administrative review with DHCF.

4104.12 A provider who disagrees with the Notice of Eligibility and Proposed Reimbursement may request an administrative review by submitting a written request for an administrative review to DHCF within thirty (30) days after the date of the Notice of Eligibility and Proposed Reimbursement.

4104.13 The written request for an administrative review shall include:

(a) The reason(s) for the request, including an identification of the specific item(s) to be reviewed; and

(b) Supporting documentation.

4104.14 No later than ninety (90) days after receipt of all requests for administrative review DHCF shall issue a Final Notice of Eligibility and Reimbursement to each

provider that has applied for the supplemental payment. The notice shall contain at a minimum the following information:

(a) A final determination indicating whether the provider is eligible to receive the supplemental payment. If ineligible, the notice shall contain a written statement explaining why the provider is ineligible;

(b) The total amount of the supplemental payment, including the annual salary, benefit, and training cost amounts;

(c) The annul number of employee hours excluding managers, administrators, and contract employees;

(d) The timeframe for payment of the supplemental payment; and

(e) Language describing the procedures and timeframes for requesting an appeal with the Office of Administrative Hearings (OAH).

4104.15 A provider who disagrees with the Final Notice of Eligibility and Reimbursement may file an appeal with the OAH within forty-five (45) days of the date of the Final Notice of Eligibility and Reimbursement.

4104.16 Any adjustments to the supplemental payment as a result of a decision rendered by the OAH shall be offset against payments the following fiscal year.

4105 REBASING

4105.1 Effective October 1, 2016, final reimbursement rates for the residential component will be based on providers' FY 2014 cost reports subject to audit and adjustment by DHCF. Subsequent rebasing to adjust the residential component will occur every three (3) years thereafter.

4106 COST REPORTING AND RECORD MAINTENANCE

4106.1 Each ICF/IID shall report costs annually to DHCF no later than ninety (90) days after the end of the provider's cost reporting period, which shall correspond to the fiscal year used by the provider for all other financial reporting purposes, unless DHCF has approved an exception. All cost reports shall cover a twelve (12) month cost reporting period unless the facility obtains advance permission from DHCF to allow an alternative reporting period, for good cause.

4106.2 In accordance with instructions from DHCF, providers shall file an initial interim cost report.

4106.3 A cost report that is not completed in accordance with the requirements of this section shall be considered an incomplete filing, and DHCF shall notify the

ICF/IID within thirty (30) days of the date on which DHCF received the incomplete cost report.

4106.4 DHCF shall issue a delinquency notice if the ICF/IID does not submit the cost report as specified in § 4106.1 and has not previously received an extension of the deadline for good cause.

4106.5 Late submission of cost reports shall result in a refundable withholding of an amount equal to seventy-five percent (75%) of the facility's total payment for the month that the cost report was due, and the same amount shall be withheld each month until the cost report is received.

4106.6 The costs described in § 4102 shall be reported on a cost report template developed by DHCF. The cost report shall be completed in accordance with accompanying instructions. The cost report instructions shall include, at minimum, guidelines and standards for determining and reporting allowable costs.

4106.7 If the ICF/IID utilizes outside resources pursuant to § 4103.2, the ICF/IID shall submit the cost reports or invoices provided by the outside resources as an attachment to the submitted cost report required under § 4106.6. Where the active treatment program is provided in house, the provider shall provide its own cost report in the active treatment section of the cost report.

4106.8 In the absence of specific instructions or definitions contained in the accompanying regulations, cost report forms, and instructions, the treatment and allowability of costs shall be determined in accordance with the Medicare Principles of Reimbursement, 42 C.F.R. Part 413, and the interpretation found in the relevant Provider Reimbursement Manual.

4106.9 A facility reporting expenditures associated with holiday pay within the Direct Service cost center, as described under §§ 4102.7 and 4103.5, shall submit supporting documentation, along with the cost report, to DHCF, or its designee. Supporting documentation required under this section shall include employee timesheets or comparable document(s)

4106.10 Any allocated time claimed under § 4102.3(a)(5) shall be supported by contemporaneous time sheets attested to by the persons concerned, or a random moment time study designed and reviewed by an independent firm. Such documentation shall be submitted with the cost report in support of all amounts claimed.

4106.11 All of the facility's accounting and related records, including the general ledger and records of original entry, and all transaction documents and statistical data, shall be permanent records and be retained for a period of not less than five (5) years after the filing of a cost report.

4106.12 If the records relate to a cost reporting period under audit or appeal, records shall be retained until the audit or appeal is complete.

4106.13 In accordance with § 4100.9, the ICF/IID shall disclose a list of related organizations, associated amounts, and the reason(s) for payment to each related organization in the cost report.

4106.14 Costs incurred during a period when an ICF/IID is subject to denial of payment for new admissions, described in § 4112, shall be included on the cost report for the period during which payment was denied, in order to accurately determine rates in subsequent periods.

4107 FISCAL ACCOUNTABILITY

4107.1 Beginning in FY 2014, except for the Administration, Capital, and Active Treatment cost centers, each facility shall spend at least ninety-five percent (95%) of the rate under each cost center on service delivery to Medicaid individuals. Facilities expending less than ninety-five percent (95%) of each cost center shall be subject to repayment requirements.

4107.2 Beginning in FY 2014, each ICF/IID shall spend one hundred percent (100%) of the rate for Active Treatment on service delivery to Medicaid individuals. Facilities expending less than one hundred percent (100%) of the rate for Active Treatment shall be subject to repayment requirements. Effective January 1, 2014, each ICF/IID shall spend one hundred percent (100%) of the rate associated with the Capital cost center. A facility that fails to expend one hundred percent (100%) on capital shall be subject to repayment requirements.

4107.3 The repayment amount described in § 4107.1 shall be the difference between ninety-five percent (95%) of the rate component and the facility's reported expenses. The repayment amount for Active Treatment described in § 4107.2 shall be the difference between one hundred percent (100%) of the payments made for active treatment services and reported expenses for active treatment services. The repayment amount for Capital costs shall be the difference between 100 hundred percent (100%) of the payments made for Capital costs and reported Capital expenses.

4107.4 In accordance with D.C. Official Code § 47-1272(c), DHCF, or its designee, has the right to inspect payroll and personnel records to support the Department's obligations pursuant to the Living Wage Act of 2006, effective March 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 47-1270 *et seq.*), and implementing regulations.

4107.5 DHCF shall evaluate expenditures subject to the requirements in this section through annual review of cost reports. DHCF, or its designee, shall review each cost report for completeness, accuracy, compliance, and reasonableness through a desk audit.

4107.6 On-site audits shall be conducted not less than once every three (3) years. Each ICF/IID shall allow access, during on-site audits or review by DHCF or U.S. Department of Health and Human Services auditors, to relevant financial records and statistical data to verify costs previously reported to DHCF.

4107.7 DHCF shall issue a notice to each ICF/IID that is required to repay as set forth in this section. The notice shall set forth the repayment amount and include language describing the procedure and timeframes for requesting an appeal before OAH. Filing an appeal with OAH shall not stay any action to recover the amounts prescribed in this section.

4108 RIGHT TO APPEAL

4108.1 DHCF shall issue a notice to each beneficiary when DHCF disapproves the acuity level assignment submitted by the provider. The notice shall comply with District and federal law and rules. A copy of the notice shall also be sent to the provider. If the beneficiary consents, a provider may appeal the determination described in this section on behalf of the beneficiary.

4108.2 For Fiscal Years 2013 and after, DHCF shall send a transmittal to all providers notifying them of the rates.

4108.3 Provider appeals shall be limited to challenges based on acuity level assignments and audit adjustments.

4108.4 At the conclusion of each rebasing year audit or any other required audit, an ICF/IID facility shall receive an audited cost report including a description of each audit adjustment and the reason for each adjustment. An ICF/IID facility that disagrees with the audited cost report may request an administrative review of the audited cost report by sending a written request for administrative review to DHCF within thirty (30) days of the date of receipt of the audited cost report.

4108.5 For annual cost reports submitted by the ICF/IID facility, any determinations made following reviews conducted by DHCF shall be communicated to the ICF/IID Facility within thirty (30) days. Within thirty (30) days of the date of receipt of the DHCF communication on the submitted annual cost report, an ICF/IID facility that disagrees with the determination may request an administrative review by sending a written request for administrative review to DHCF.

4108.6 The written request for an administrative review shall include an identification of the specific audit adjustment to be reviewed, the reason for the request for review of each audit adjustment and supporting documentation.

4108.7 DHCF shall mail a formal response to the ICF/IID facility no later than forty-five (45) days from the date of receipt of the written request for administrative review.

4108.8 Decisions made by DHCF and communicated in the formal response may be appealed, within thirty (30) days of the date of DHCF's letter notifying the facility of the decision, to OAH.

4108.9 Filing an appeal with OAH pursuant to this section shall not stay any action to recover any overpayment to the ICF/IID, and the provider shall be immediately liable to the program for overpayments set forth in the Department's decision.

4109 UTILIZATION REVIEW REQUIREMENTS

4109.1 In accordance with 42 C.F.R. § 456.401, each ICF/IID shall develop, implement, and maintain a written Utilization Review Plan (URP) for each Medicaid beneficiary receiving services furnished by the ICF/IID. The URP shall provide for a review of each beneficiary's need for the services that the ICF furnished him or her.

4109.2 Utilization review for ICFs/IID enrolled in D.C. Medicaid may be conducted by any of the following:

(a) The ICF/IID;

(b) DHCF or its designee; or

(c) Any other approved method.

4109.3 The URP shall, at minimum, include the following:

(a) A description of how utilization review shall be performed;

(b) The frequency of utilization review;

(c) Assurances and documentation establishing that the personnel who shall perform utilization review meet the requirements of 42 C.F.R. § 456.406;

(d) Administrative staff responsibilities related to utilization review;

(e) The types of records maintained by the utilization review team;

(f) The types and frequency of any reports developed by the utilization review team, and related plan for dissemination; and

(g) The procedures that shall be used when corrective action is necessary.

4109.4 In accordance with 42 C.F.R. §§ 456.431 - 456.438, each URP shall establish a process whereby each individual residing in the ICF/IID receives continued stay reviews, at minimum, every six (6) months.

4109.5 The URP shall establish written methods and criteria used to conduct continued stay reviews. The URP shall also set forth enhanced criteria used to assess a case if the individual's circumstances reflect any of the following associations:

(a) High costs;

(b) Frequent and excessive services; or

(c) Attended by a physician or other practitioner whose practices reflect questionable billing patterns or misrepresentation of facts needed in order to secure claims reimbursement, including but not limited to ordering and/or providing services that are not medically necessary or that fail to meet professionally recognized standards of care.

4110 TERMINATION AND ALTERNATIVE SANCTIONS FOR ICF/IID NONCOMPLIANCE

4110.1 In order to qualify for Medicaid reimbursement, intermediate care facilities for persons with intellectual and developmental disabilities (ICFs/IID) shall comply with federal conditions of participation (CoPs), pursuant to 42 C.F.R. §§ 483.400-483.480. The CoPs include adherence to acceptable standards in the following areas:

(a) Governing body and management;

(b) Client protections;

(c) Facility staffing;

(d) Active treatment services;

(e) Client behavior and facility practices;

(f) Health care services;

(g) Physical environment; and

(h) Dietetic services.

4110.2 An ICF/IID that fails to maintain compliance with the CoPs may be subject to alternative sanctions and/or termination of its participation in the Medicaid program.

4111 ALTERNATIVE SANCTIONS FOR ICFs/IID – NON-IMMEDIATE JEOPARDY

4111.1 In accordance with Section 1902(i)(1)(B) of the Social Security Act, the District of Columbia may impose alternative sanctions against an ICF/IID when that facility fails to meet the CoPs, but the violation does not place beneficiary health or safety in immediate jeopardy.

4111.2 In lieu of terminating the provider agreement, DHCF may impose one (1) or more alternative sanctions against an ICF/IID as set forth below:

(a) Denial of payment, as described in § 4112;

(b) Directed Plan of Correction (DPoC), as described in § 4113;

(c) Directed In-Service Training (DIST), as described in § 4114; or

(d) State Monitoring, as described in § 4115.

4111.3 DHCF shall determine the appropriateness of alternative sanctions against an ICF/IID upon notification by the Department of Health that an ICF/IID is not in compliance with any of the federal CoPs. A determination to terminate a provider from the Medicaid program, or to impose an alternative sanction shall be made based on the following factors:

(a) Seriousness of the violation(s);

(b) Number and nature of the violation(s);

(c) Potential for immediate and serious threat(s) to ICF/IID residents;

(d) Potential for serious harm to ICF/IID residents;

(e) Any history of prior violation(s) and/or sanction(s);

(f) Actions or recommendations of DDS, developmental disability advocacy groups, or health care entities;

(g) Mitigating circumstances; and

(h) Other relevant factors.

4111.4 DHCF shall issue a written notice to each ICF/IID notifying the facility of termination of the Medicaid provider agreement or the imposition of an alternative sanction. The written notice shall comply with District and federal law and rules.

4111.5 All costs associated with the imposition of an alternative sanction against an ICF/IID pursuant to these rules shall be borne by the facility.

4112 DENIAL OF PAYMENT

4112.1 Pursuant to Section 1902(i) of the Act and 42 C.F.R. § 442.118, and in lieu of termination in situations where residents are not in immediate jeopardy, DHCF may initiate a one-time denial of payment for claims associated with new admissions at ICFs/IID that fail to comply with one (1) or more of the CoPs for Medicaid enrollment.

4112.2 The denial of payment term shall be eleven (11) months in duration, beginning on the first day of the month after DHCF imposes the denial of payments.

4112.3 DHCF shall also deny payment to ICFs/IID if DOH previously initiated enforcement actions due to immediate jeopardy, and the facility has failed to mitigate the circumstances that caused immediate jeopardy.

4112.4 DHCF, in coordination with DOH, shall notify the ICF/IID that it is subject to denial of payment. The written notification shall indicate the following:

(a) The ICF/IID has up to sixty (60) days to correct the cited deficiencies; and

(b) The procedures that shall commence once the sixty (60) days have lapsed, pursuant to § 4112.5.

4112.5 If the ICF/IID does not correct the violations within the sixty (60) day timeframe, DHCF shall notify the facility of its intention to deny payment. This written notification shall include:

(a) Reasons for denial of payment;

(b) Information on the right to request a hearing though OAH, pursuant to 29 DCMR §§ 1300 *et seq.*;

(c) Details of public notice; and

(d) The effective date for denial of payments.

4112.6 If an ICF/IID appeals DHCF's decision to deny payment, DHCF shall notify the provider that the effective date of the sanction, established in § 4112.2, shall be suspended until the appeal is resolved.

4112.7 If denial of payment is upheld at the appeal, the DHCF shall notify the facility and the public at least thirty (30) days before the newly established effective date of the sanction.

4112.8 DHCF, in coordination with other District agencies, shall monitor the facility's progress in improving cited violation(s) throughout the eleven (11) month period.

4112.9 The Director of DHCF shall consider modifying or rescinding denial of payment upon the occurrence of one of the following:

(a) Circumstances have changed and resulted in alterations of the CoPs violation(s) in such a manner as to immediately jeopardize patient health and safety; or

(b) The ICF/IID achieves full compliance with the CoPs in fewer than eleven (11) months; or

(c) The ICF/IID makes significant progress in achieving compliance with the CoPs through good faith efforts.

4112.10 DHCF shall terminate the provider agreement of an ICF/IID that has been unable to achieve compliance with the CoPs during the full eleven (11) month period of denial of payment. Termination shall be effective on the first day following the last day of the denial payment period.

4112.11 An ICF/IID provider agreement that is subject to denial of payment shall be automatically extended for the eleven (11) month period if the provider agreement does not lapse on or before the effective date of denial of payments.

4112.12 ICF/IID provider agreements that are subject to denial of payment may only be renewed when the denial period expires or is rescinded.

4113 DIRECTED PLAN OF CORRECTION (DPoC)

4113.1 In lieu of termination in situations where the ICF/IID is not in compliance with the federal CoPs, and residents are not in immediate jeopardy, DHCF may require an ICF/IID to take prompt, timely action specified by DHCF to achieve and maintain compliance with CoPs and other District of Columbia Medicaid requirements. These actions specified by DHCF shall constitute a Directed Plan of Correction (DPoC).

4113.2 The DPoC shall be developed in coordination with and approved by DOH, DHCF, and DDS, incorporating findings from DDS' Continuous Quality Improvement Plan.

4113.3 The DPoC shall specify:

(a) How corrective action shall be accomplished for beneficiaries found to have been affected by the deficient practice and include remedies that shall be implemented;

(b) How the facility shall identify other individuals who may have been affected by the same deficient practice but not previously identified, and how the facility shall act to remedy the effect of the deficient practices for these individuals;

(c) What measures and actions shall be put into place to ensure that the deficient practice(s) is/are being corrected and future noncompliance prevented;

(d) Timelines, including major milestones for completion of all corrective action in the DCoP;

(e) How compliance shall be determined; and

(f) How the DPoC relates to other alternative sanctions.

4113.4 A state monitor shall oversee implementation of the DPoC and evaluate compliance with the plan.

4113.5 DHCF may terminate the Medicaid provider agreement of an ICF/IID that is unable to meet the timeline for completion of all corrective actions in the DCoP.

4114 DIRECTED IN-SERVICE TRAINING (DIST)

4114.1 In lieu of termination in situations where the ICF/IID is not in compliance with federal CoPs, but residents are not in immediate jeopardy, DHCF may require an ICF/IID to implement Directed In-Service Training (DIST) for deficiencies determined by the District to be correctable through education. This alternative sanction shall require the staff and relevant contractors of the ICF/IID to attend in-service trainings and demonstrate competency in the knowledge and skills presented during the trainings.

4114.2 DHCF, in consultation with DOH and DDS, shall develop the areas for ICF/IID staff and contractor training by incorporating the findings from the Continuous Quality Improvement Plan.

4114.3 Facilities shall use training programs developed by well-established organizations with prior experience and expertise in training, services for individuals with intellectual disabilities, and the operation of ICF/IID to meet training requirements described in this section. All programs and personnel used to deliver the training shall be approved by DHCF prior to their use.

4114.4 The ICF/IID shall bear the expense of the DIST.

4114.5 A state monitor shall oversee implementation of DIST, and shall ensure compliance with the requirements.

4114.6 DHCF may terminate the provider agreement of an ICF/IID that is unable to meet the timeline for full and successful completion of the DIST.

4115 STATE MONITORING

4115.1 State monitoring shall be the District's oversight of efforts made by the ICF/IID to correct cited deficiencies. State monitoring shall be a safeguard against the facility's further noncompliance.

4115.2 The following entities may serve as the State Monitor:

(a) DOH;

(b) DHCF;

(c) DDS; or

(d) A District of Columbia contractor that meets the following requirements:

(1) Is not a designee or current contractor of the monitored facility;

(2) Does not have an immediate family member who is a resident of the facility;

(3) Is not a person who has been terminated for cause by the facility; and

(4) Is not a former contractor who has had a contract canceled, for cause, by the facility.

4115.3 State monitoring shall be discontinued under the following circumstances:

(a) The facility's provider agreement is terminated;

(b) The facility has demonstrated to the satisfaction of the District of Columbia that it substantially complies with the CoPs as described in § 4113; or

(c) The facility has demonstrated to the satisfaction of the District of Columbia that it has substantially implemented the DIST as described in § 4114.

4116 ACCESS TO RECORDS

4116.1 Each ICF/IID shall grant full access to all records during announced and unannounced audits and reviews by DHCF personnel, representatives of the U.S. Department of Health and Human Services, and any authorized agent(s) or official(s) of the federal or District of Columbia government.

4199 DEFINITIONS

4199.1 For purposes of this chapter, the following terms shall have the meanings ascribed:

Active Treatment - A program of specialized and generic training, treatment, health services, and related services designed toward the acquisition of the behaviors necessary for the individual to function with as much self-determination and independence as possible, and the prevention or deceleration of regression or loss of current optimal functional status. These services shall be provided consistent with Federal standards.

Activities of Daily Living - The ability to bathe, transfer, dress, eat and feed oneself, engage in toileting, and maintain bowel and bladder control (continence).

Acuity Level - The intensity of services required for a Medicaid beneficiary residing in an ICF/IID. Individuals with a high acuity level require more care; those with lower acuity levels require less care.

Administrator - An individual responsible for the administration or implementation of ICF/IID policies or procedures, and other roles other than delivering services directly related to resident treatment and care, food service, or maintenance of the facility.

Allowable costs - Actual costs, after appropriate adjustments, incurred by an ICF/IID, which are reimbursable under the Medicaid program.

Base year - The standardized year on which rates for all facilities are calculated to derive a prospective reimbursement rate.

Behavior Support Plan - A written document requested by the Individual Support Team that is developed by a psychologist or psychology associate and incorporated into the Individual Support Plan. If developed by a psychology associate, the plan shall be approved by the psychologist.

Current Individual Support Plan (ISP) - An Individual Support Plan with a range of effective dates that includes the date on which the plan is being reviewed.

Depreciation - The systematic distribution of the cost or other basis of depreciable assets, less salvage value, over the estimated useful life of the assets.

Direct service costs - Costs incurred by a provider that are attributable to the operation of providing services to individuals.

Elopement - To run away; abscond.

Employee - A worker in an ICF/IID that does not serve as a manager or administrator, and is not under contract to provide professional services.

Facility - An intermediate care facility for individuals with intellectual disabilities.

Habilitation – The process by which an individual is assisted to acquire and maintain those life skills which enable him or her to cope more effectively with the demands of his or her own person and of his or her own environment, including, in the case of a person committed under D.C. Official Code § 7-1304.06a, to refrain from committing crimes of violence or sex offenses, and to raise the level of his or her physical, intellectual, social, emotional, and economic efficiency.

Holiday pay – The term used in a labor agreement, provider policy, or in the absence of either, by the U.S. Department of Labor.

Individual Support Plan (ISP) - The document produced through coordinated efforts of ICFs/IID and DDS. The ISP is the successor to the Individual Habilitation Plan as defined in the court-approved *Joy Evans* Exit Plan. For purposes of Medicaid reimbursement, the individual program plan, as described in 42 C.F.R. § 483.440(c), shall be included within the ISP.

Industry Average - The sum of total industry expenditures divided by total industry licensed bed days per reported fiscal year costs.

Interdisciplinary team - A group of persons, with special training and experience in the diagnosis and habilitation of individuals with

intellectual and developmental disabilities, with the responsibility to perform a comprehensive evaluation of each beneficiary and participating in the development, implementation, and monitoring of the beneficiary's individual habilitation plan. The "core team" shall include the individual, the individual's representative, the service coordinator, and relevant clinical staff.

Level of Care Determination (LOC) - The assessment used by DDS to determine a beneficiary's eligibility for ICF/IID services.

Level of Need Assessment and Risk Screening Tool (LON) - The comprehensive and uniform assessment tool developed by DDS that determines the beneficiary's individual support needs and identifies potential risks to be addressed by the interdisciplinary team.

Licensed bed days - Three hundred and sixty-five (365) days or the number of days of that calendar year.

Life safety skills - An individual's ability to protect oneself from perceived and apparent risks and life-threatening situations such as fires, evacuation emergencies, traffic, and ingestion of toxic substances.

Manager - An individual who is responsible for the administration of an ICF/IID facility inclusive of human resources, maintenance, and policy management.

Non-ambulatory - A beneficiary who spends all of his or her time out of bed in a wheelchair or a chair.

One-to-One - An altered staffing pattern that allows one staff to provide services to an individual with intellectual disabilities exclusively for an authorized period of time.

Owner - A person who is a sole proprietor, partner, or corporate stockholder-employee owning any of the outstanding stock of the contracted provider.

Per diem rate - The rate per day established by DHCF.

Professional services - Services provided pursuant to any legal arrangement, which include occupational and speech therapies and nursing care services provided by an individual or a corporation.

Quality of care improvements - The same definition as set forth in D.C. Official Code § 47-1270, and any subsequent amendments thereto.

Related organization - In accordance with 42 C.F.R. § 413.17(b)(1), an organization is related to an ICF/IID when the ICF/IID, to a significant extent, is associated or affiliated with, or has control over, or is controlled by the organization furnishing the services, facilities, or supplies.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 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. 691, § 1; D.C. Official Code § 7-131 (2012 Repl.)), and § 2 of Mayor's Order 98-141, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 2 of Subtitle B of Title 22 of the District of Columbia Municipal Regulations (DCMR).

The rule revises the requirements for maintaining students in school, and returning them to school, after having been diagnosed with a communicable disease.

A Notice of Emergency and Proposed Rulemaking was published August 22, 2014 at 61 DCR 8820. No comments were received in response to the notice of emergency and proposed rules, and no changes have been made since publication.

The Director adopted the rules as final on November 3, 2014. The rule shall become effective on the date of publication of this notice in the *D.C. Register*.

Title 22, HEALTH, Subtitle B, PUBLIC HEALTH AND MEDICINE, DCMR is amended as follows:

Amend the title by striking the phrase "209 RESERVED" and inserting the phrase "209 COMMUNICABLE DISEASES CONTRACTED BY STUDENTS"

Amend Chapter 2 by adding a new Section 209 to read as follows:

209 COMMUNICABLE DISEASES CONTRACTED BY STUDENTS

209.1 Each school shall encourage its students to adhere to the following preventive measures designed to minimize the transmission of communicable diseases:

(a) Use tissues for coughs and sneezes, or cough and sneeze into the elbow;

(b) Wash hands with soap and water before eating and after using the toilet; and

(c) Do not share combs, brushes, hair accessories, and hats.

209.2 Each school shall provide students with developmentally appropriate information regarding communicable diseases including Chlamydia, Gonorrhea, Human Papillomavirus (HPV), Human Immunodeficiency Virus (HIV), and other sexually transmitted infections. This information shall include instruction in measures designed to prevent the spread of communicable diseases.

209.3 Each school shall contact the parent or guardian of a minor student who exhibits any of the following symptoms, which may indicate the beginning of a communicable disease, for possible referral for medical examination:

(a) Sore throat;

(b) Runny eyes;

(c) Headache;

(d) Nausea;

(e) Vomiting;

(f) Diarrhea;

(g) Fever;

(h) Chills;

(i) Severe or chronic cough;

(j) Rash;

(k) Jaundice; and

(l) Weeping or draining sores that cannot be covered.

209.4 A school official who suspects that a student has one of the following communicable diseases shall refer the student to the school nurse [or contact a parent or guardian if the school nurse is unavailable]. A school shall exclude a student diagnosed with a communicable disease and re-admit the student as follows:

(a) Conjunctivitis ("pink eye"):

(1) A student diagnosed with a viral infection may return to school after any redness and discharge have disappeared;

(2) A student diagnosed with a bacterial infection may return to school twenty-four (24) hours after commencing antibiotic treatment if a licensed practitioner provides a note attesting to the diagnosis, the onset of treatment, and that the child is cleared to return to school; or

(3) A student diagnosed with allergic conjunctivitis may return to school upon submitting a licensed practitioner's note stating the diagnosis;

(b) Acute diarrhea:

(1) A student with infectious diarrhea (*e.g.*, Salmonella, Shigella, E. *coli*) may return to school when diarrhea ends or upon submitting a health care provider's note providing medical clearance to return to school;

(2) A student with non-infectious diarrhea (*e.g.*, inflammatory bowel disease, food allergy, reaction to medication) may return to school when diarrhea ends and with instruction to thoroughly wash hands with soap and water after using the toilet and before handling food;

(c) A student with a clinical syndrome such as meningitis or pneumonia resulting from Haemophilus influenza type B (Hib) may return to school twenty-four (24) hours after completing [antibiotic] treatment and submitting a licensed practitioner's note attesting to the diagnosis and completion of treatment;

(d) Hepatitis:

(1) A student with Hepatitis A may return to school one (1) week after onset of illness or jaundice and upon submitting a licensed practitioner's note providing medical clearance to return to school;

(2) A student with Hepatitis B or C may return to school upon submitting a licensed practitioner's note providing medical clearance to return to school;

(e) A student diagnosed with Impetigo (bacterial infection of the skin) may return to school twenty-four (24) hours after beginning antibiotic therapy, provided all lesions are covered, and upon submitting a licensed practitioner's note stating that the student is undergoing treatment;

(f) A student diagnosed with Measles may return to school four (4) days after the appearance of rash and upon submitting a licensed practitioner's note providing medical clearance to return to school;

(g) A student diagnosed with Meningitis may return to school upon submitting a licensed practitioner's note providing medical clearance to return to school;

(h) A student diagnosed with Methicillin-resistant *Staphylococcus aureus*

(MRSA) may return to school provided that all wound drainage ("pus") is covered and contained;

(i) A student diagnosed with Mumps may return to school five (5) days after the onset of swelling and upon submitting a licensed practitioner's note providing medical clearance to return to school;

(j) A student diagnosed with Pediculosis (infestation by live head lice) may remain in class that day; however parents or guardians should commence treatment at the conclusion of the school day. The child may return to school upon submitting to the school nurse a parent's or guardian's note attesting to the fact that the student is undergoing treatment. A student with only Nits (eggs) shall not be excluded from school; however the school nurse, principal or designee shall send a note to the parents or guardians advising them to monitor the child for re-infestation.

(k) A student diagnosed with Pertussis ("whooping cough") may return to school three (3) weeks after the onset of symptoms, if untreated, or five (5) days after beginning antibiotic therapy and submitting a licensed practitioner's note attesting to the beginning of therapy;

(l) A student diagnosed with Pinworms may return to school twenty-four (24) hours after the first treatment and upon submitting a licensed practitioner's note stating that the student is under treatment;

(m) A student diagnosed with Ringworm may return to school upon submitting a licensed practitioner's note stating that the student is under treatment;

(n) A student diagnosed with Rubella (German measles) may return to school seven (7) days after the rash appears;

(o) A student diagnosed with Scabies ("itch mite") may return to school upon submitting a licensed practitioner's note stating that the student's treatment for scabies with a prescription lotion has been completed;

(p) A student diagnosed with Strep infection (scarlet fever, strep throat) may return to school twenty-four (24) hours after beginning antibiotic treatment, provided the student is without fever for twenty-four (24) hours, and upon submitting a licensed practitioner's note affirming the start of treatment, and providing medical clearance for the student to return to school;

(q) Tuberculosis:

(1) A student diagnosed with active Tuberculosis may return to school upon providing a written recommendation to return to school from

the Tuberculosis Control Program of the Department of Health; and

(2) A student diagnosed with latent Tuberculosis may return to school after initiating treatment and upon submission of a licensed practitioner's note giving medical clearance to return; or

(r) A student diagnosed with Varicella (chickenpox), even if previously vaccinated, may return to school after lesions have crusted and upon submission of a licensed practitioner's note giving medical clearance to return.

209.5 A person shall not disclose a student's individually identifiable health information without written authorization from the parent or guardian of a minor student or from a student eighteen (18) years of age or older to anyone other than:

(a) The Department of Health;

(b) A school nurse;

(c) A school physician;

(d) The student's primary health care provider; or

(e) A school principal or designee.

209.6 A school shall inform the Director of the Department of Health within two (2) hours when any student has contracted any of the following diseases:

(a) Measles;

(b) Meningococcal meningitis;

(c) Mumps;

(d) Pertussis;

(e) Rubella;

(f) Tuberculosis; or

(g) Hepatitis A or any other food-borne illness.

209.7 To the extent permitted by law or regulation, a school shall report cases of Chlamydia, Gonorrhea, HIV, and other communicable diseases contracted by students to the Director of the Department of Health.

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)(3),(5) and (19); 14, and 20 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) (3), (5) and (19); 50-313, and 50-319, (2012 Repl. & 2013 Supp.)) hereby gives notice of its intent to amend Chapter 6 (Taxicab Parts and Equipment) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

The proposed rules for Chapter 6 were approved by the Commission for publication on December 11, 2013 and were published in the *D.C. Register* on December 20, 2013 at 60 DCR 17095. No comments were received during the comment period which ended on January 19, 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 proposed rules for Chapter 6 published in the *D.C. Register* on December 20, 2013 proposed that the vehicles affected by the removal dates of January 1, 2015, January 1, 2016, and January 1, 2017, be removed not later than such dates; these amendments lessen the burdens of the proposed removal dates by allowing vehicles to be removed on the removal date, or by the next regularly scheduled Department of Motor Vehicles vehicle inspection required by D.C. Official Code § 50-1101(a), whichever is later.

These amendments do not establish an earlier removal date for vehicles placed into service during calendar year 2014 in compliance with § 609.1. These amendments: (1) clarify the remaining removal schedule for taxicab vehicles for the period of January 1, 2014 through January 1, 2017; (2) permanently extend the removal requirement for 1997 and older vehicles which appeared in rulemaking adopted as final on May 23, 2012, and which became effective upon publication in the *D.C. Register* on June 1, 2012 at 59 DCR 6317; and (3) correct an associated cross-reference within the chapter.

The Commission voted to adopt this rule as final on November 12, 2014, and they will become effective upon publication it the *D.C. Register*.

Chapter 6, TAXICAB PARTS AND EQUIPMENT, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended to read as follows:

Section 609, AGE OF TAXICAB, is amended as follows:

Subsection 609.2 is amended to read as follows:

609.2 The Commission establishes the following schedule to implement the vehicle age policy in § 609.4. The purpose of the schedule is to gradually remove older

vehicles from service in order to prevent a significant loss of service that would result if the age policy were immediately implemented in full. The schedule applies to all public vehicles for hire serving as taxicabs in the District, whether owned, rented, or leased. For purposes of the schedule, mileage of the vehicle is not a factor.

(a) Not later than January 1, 2014, or the next regularly scheduled DMV vehicle inspection required by D.C. Official Code § 50-1101(a), whichever is later, all vehicles manufactured in model years 1997 and earlier must be removed from service.

(b) Not later than January 1, 2015, or the next regularly scheduled DMV vehicle inspection required by D.C. Official Code § 50-1101(a), whichever is later, all vehicles manufactured in model years 2004 and earlier must be removed from service.

(c) Not later than January 1, 2016, or the next regularly scheduled DMV vehicle inspection required by D.C. Official Code § 50-1101(a), whichever is later, all vehicles manufactured in model years 2007 and earlier must be removed from service.

(d) Not later than January 1, 2017, or the next regularly scheduled DMV vehicle inspection required by D.C. Official Code § 50-1101(a), whichever is later, all vehicles manufactured in model years 2010 and earlier must be removed from service.

Subsection 609.3 is amended as follows:

The lead-in language to § 609.3 now reads as follows:

609.3 A Waiver Petition may be filed with the Commission to request a one (1) time extension of time or waiver from the removal schedule at § 609.2 only. The following provisions apply to a request for a waiver:

Subsection 609.4 is amended to read as follows:

609.4 Beginning in 2018, and thereafter, no vehicle may remain in service as a taxicab in the District as of January 1st or the next regularly scheduled DMV vehicle inspection required by D.C. Official Code § 50-1101(a), whichever is later if it:

(a) Is more than seven (7) model years old on January 1st; or

(b) Has accumulated mileage in excess of four hundred thousand miles (400,000 mi.), whether owned, rented, or leased.

Subsections 609.6 through 609.10 are REPEALED.

DISTRICT DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

The Director of the District Department of Transportation (DDOT), pursuant to the authority in Section 8 of the Bicycle Commuter and Parking Expansion Act of 2007, effective February 2, 2008 (D.C. Law 17-103; D.C. Official Code § 50-1641.07) (2012 Repl.)), and Mayor's Order 2011-149, dated September 6, 2011, hereby gives notice of adoption of rules that amend Chapter 12 (Bicycles, Motorized Bicycles, and Miscellaneous Vehicles) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

The final rules establish requirements for residential buildings with eight (8) or more units to provide sheltered and secure bicycle parking.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on March 21, 2014, at 61 DCR 2474. DDOT received comments from the public concerning the proposed rules, and no substantive changes were made. Pursuant to D.C. Official Code § 50-1641.07(b), these rules have been submitted to Council for review and approval. The Long Term Bicycle Parking Rulemaking Approval Resolution of 2014 (PR 20-1029) was passed on October 28, 2014. The Director adopted these rules as final on November 28, 2014, and they shall become effective upon publication of this notice in the *D.C. Register*.

Title 18, VEHICLES AND TRAFFIC, of the DCMR is amended as follows:

Chapter 12, BICYCLES, MOTORIZED BICYCLES, AND MISCELLANEOUS VEHICLES, is amended as follows:

New Sections 1214, 1215, and 1216 are added to read as follows:

1214 BICYCLE PARKING REQUIREMENTS FOR RESIDENTIAL BUILDINGS

1214.1 All existing residential buildings with eight (8) or more units shall provide secure bicycle parking spaces for the storage of bicycles in operable condition.

1214.2 Each existing residential building covered by § 1214.1 shall provide a reasonable number of bicycle parking spaces within thirty (30) days after written request from one (1) or more tenants or property owners. A reasonable number shall be defined as the lesser of either:

(a) One (1) bicycle parking space for each three (3) residential units; or

(b) Enough bicycle parking to meet the requested demand.

1214.3 If a complaint of noncompliance with this requirement is filed with the District Department of Transportation (DDOT) by one or more residents, DDOT shall

facilitate discussions between the parties to determine the number of bicycle parking spaces that the residential building will provide. If the resident(s) and residential building cannot reach an agreement, DDOT shall make a determination of the number of bicycle parking spaces that the residential building shall provide.

1214.4 All new residential buildings with eight (8) or more units shall have at least one (1) secure bicycle parking space for each three (3) residential units.

1214.5 All substantially rehabilitated buildings with eight (8) or more units shall have at least one (1) secure bicycle parking space for each three (3) residential units or the same number of secure parking spaces as were in the building before the rehabilitation, whichever is greater.

1214.6 Where it can be demonstrated that providing sufficient bicycle parking spaces required under § 1214.2 or § 1214.4 is not physically practical, that undue economic hardship would result from strict compliance with the regulation, or that the nature of the building use is such that bicycle parking spaces would not be used, the District Department of Transportation Bicycle Program Office may grant, upon written application of the owner of the building, an appropriate exemption or reduced level of compliance. In such cases, the Bicycle Program Office shall issue to the building owner a written certificate documenting the exemption or reduced level of compliance.

1214.7 Any residential buildings that have been exempted from the requirements of this section due to the nature of the use of the building shall provide a minimum number of bicycle parking spaces equal to at least five percent (5%) of the number of people employed in the building or one (1) space, whichever is greater.

1214.8 The following types of buildings are exempt from the requirements of this section, in addition to those exempted under § 1214.6:

(a) Elderly housing buildings;

(b) Assisted living facilities; and

(c) Nursing homes.

1214.9 A residential building shall be deemed new or substantially rehabilitated if the building permit is issued on or after the date of the publication of these rules.

1215 BICYCLE PARKING IN RESIDENTIAL BUILDINGS: SPACE REQUIREMENTS

1215.1 If possible, all required bicycle parking spaces in a residential building shall be located within the building.

1215.2 If bicycle parking spaces must be located outside of the building, the spaces shall be secure, covered, and adjacent to the building.

1215.3 Interior bicycle parking spaces shall be located no lower than the first cellar level or the first complete parking level below grade, and no higher than the first above-grade level.

1215.4 Spaces shall be available to employees, residents, and other building occupants.

1215.5 Required bicycle parking shall be provided as racks or lockers.

1215.6 Interior bicycle racks for required parking shall be provided in a parking garage or a bicycle storage room.

1215.7 Where required bicycle parking is provided in a garage, it shall be clearly marked and separated from adjacent motor vehicle parking spaces by wheel stops or other physical automobile barriers.

1215.8 For a bicycle room with solid walls, the entirety of the interior of the bicycle room shall be visible from the entry door. A motion-activated security light enclosed in a tamper-proof housing shall be provided in each bicycle room, unless otherwise illuminated in such a manner as to allow the bicycles to be clearly visible.

1215.9 Where required bicycle parking is provided in lockers, the lockers shall be securely anchored and meet the following minimum dimensions:

(a) Twenty-four inches (24 in.) in width at the door end;

(b) Eight inches (8 in.) in width at the opposite end;

(c) Seventy-two inches (72 in.) in length; and

(d) Forty-eight inches (48 in.) in height.

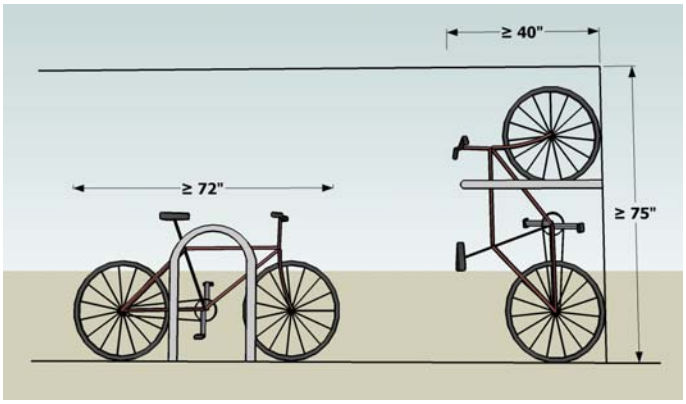
1215.10 Each required bicycle parking space shall be directly accessible by means of an aisle of a minimum width of forty-eight inches (48 in.) and have a minimum vertical clearance of seventy-five inches (75 in.). Aisles shall be kept clear of obstructions at all times.

1215.11 Bicycle parking spaces shall allow the bicycles to be placed horizontally on the floor or ground. In addition, vertical bicycle space racks may be utilized provided they support the bicycle without the bicycle being suspended. Bicycle parking spaces may not exclusively consist of vertical bicycle space racks.

1215.12 Each required bicycle parking space shall be a minimum width of twenty-four inches (24 in.), and shall be:

(a) A minimum of seventy-two inches (72 in.) in length if the bicycles are to be placed horizontally; or

(b) A minimum of forty inches (40 in.) in length if the bicycles are to be placed vertically.



1216 BICYCLE PARKING IN RESIDENTIAL BUILDINGS: FINES

1216.1 A violation of Section 1214 or 1215 shall be a Class 4 civil infraction pursuant to Chapter 32 of Title 16 of the DC Municipal Regulations.

1216.2 Adjudication of any infraction of Section 1214 or 1215 shall be pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985.

A new Section 1299 is added to read as follows:

1299 **DEFINITIONS**

1299.1 For the purposes of this chapter, the following terms and phrases shall have the meanings ascribed:

Assisted living facility – an Assisted Living Residence as defined by § 102.01(4) of the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code § 44-102.01(4));

Elderly housing building – a building intended and operated for elderly residential occupancy.

New residential building – a residential building for which an application of construction was submitted after the publication date of these rules.

Nursing home – a building used for the purposes described in Section 2(a)(3) of 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(a)(3)).

Substantially rehabilitated – any improvement to or renovation of a residential building permitted after the publication date of these rules, for which the improvement or renovation equals or exceeds fifty percent (50%) of the assessed value of the building before the rehabilitation.

DISTRICT DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

The Director of the District Department of Transportation ("DDOT"), pursuant to the authority set forth in Sections 5(2)(N) and 11r of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.04(2)(N) and 50-921.76 (2012 Repl. & 2014 Supp.)), and Mayor's Order 2013-198, dated October 24, 2013, rules hereby gives notice of adoption of rules that amend Chapter 16 (DC Streetcar) and Chapter 22 (Moving Violations) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations ("DCMR").

The final rules establish routes and hours of operations for the DC Streetcar system, prohibit actions that impede the operation of the DC Streetcar system, and allow vehicles to safely pass streetcars on the left side when a travel lane on that side is available.

An initial Notice of Proposed Rulemaking was published in the *D.C. Register* on August 29, 2014, at 61 DCR 8979. In response to public comments received, the proposed rulemaking was revised to strike the provision that prohibited riding a bicycle within a streetcar guideway. Additional comments were received to revise the definition of a streetcar guideway, but DDOT determined that the definition is sufficiently clear.

A Notice of Second Proposed Rulemaking was published in the *D.C. Register* on October 24, 2014, at 61 DCR 11241. DDOT received no comments from the public concerning the proposed rules, and no substantive changes were made. The Director adopted these rules as final on November 28, 2014, and they shall become effective upon publication of this notice in the *D.C. Register*.

Title 18, VEHICLES AND TRAFFIC, of the DCMR is amended as follows:

Chapter 16, DC STREETCAR, is amended to read as follows:

1600 GENERAL PROVISIONS

1600.1 This chapter applies to the passenger light rail transit service operated by the District Department of Transportation ("DDOT"), known as the DC Streetcar.

1601 IMPEDING THE STREETCAR SYSTEM

1601.1 It shall be unlawful to park, stop, or stand a vehicle:

(a) On a streetcar guideway; or

(b) Adjacent to a streetcar platform.

1601.2 A vehicle in violation of this section shall be subject to removal or impoundment at the vehicle owner's expense, pursuant to 18 DCMR § 2421.

1602 ROUTES AND HOURS OF OPERATION

1602.1 The following routes are established for the DC Streetcar:

(a) H Street – Hopscotch Bridge to the intersection of Benning Road and Oklahoma Avenue., N.E.

1602.2 The standard operating hours for the routes established in Subsection 1602.1 may operate seven (7) days a week during the hours listed below are:

(a) Monday through Thursday – 6:00 a.m. to 12:00 midnight;

(b) Friday – 6:00 a.m. to 2:00 a.m.;

(c) Saturday – 8:00 a.m. to 2:00 a.m.; and

(d) Sunday and holidays – 8:00 a.m. to 10:00 p.m.

1602.3 The Director of DDOT ("DDOT Director"), or the operator of the DC Streetcar system with the consent of the DDOT Director, may expand or reduce the hours of operation of the DC Streetcar on specific days due to special events or unusual circumstances.

1603 [RESERVED]

1604 DAMAGING OR TAMPERING WITH THE STREETCAR SYSTEM

1604.1 The following acts are prohibited:

(a) Breaking, damaging, defacing, tampering with, or removing any part of a streetcar, streetcar guideway, or streetcar platform; or

(b) Interfering with or preventing the operation of a streetcar, streetcar platform, or streetcar guideway.

1604.2 Except as provided in Subsection 1604.3, only a person authorized by DDOT may manipulate any of the levers, buttons, cranks, brakes, or other mechanisms of a streetcar, including the emergency stop device, or to set a streetcar into motion.

1604.3 An act that is otherwise prohibited under Subsection 1604.2 may be taken:

(a) To respond to an emergency or in furtherance of public safety; but only to the extent a reasonable person would perform the act in such a situation, or

(b) By or under the direction of a person authorized as part of his or her official duties to take or direct such action.

1605 CONDUCT IN THE STREETCAR SYSTEM

1605.1 While on a streetcar, the following acts are prohibited:

(a) Transporting any item that blocks the aisle or the areas of the streetcar reserved for passengers in wheelchairs or who use mobility aids;

(b) Transporting a bicycle on a streetcar between 7:00 a.m. and 10:00 a.m. or between 4:00 p.m. and 7:00 p.m. Monday through Friday, except holidays;

(c) Transporting a bicycle on a streetcar in a manner that blocks access to any seats;

(d) Bringing or carrying food or beverages in open containers;

(e) Consuming food or beverages;

(f) Bringing or carrying any animal upon the streetcar, except in the case of a guide or service animal, including a service animal in training, that has been individually trained to assist persons with disabilities and is under the control of its handler, housebroken and restrained by leash, harness, or other device made for the purpose of controlling the movement of an animal;

(g) Soliciting signatures or circulating petitions; and

(h) Distributing with or without charge any goods, wares, merchandise, books, magazines, newspapers, bills, or other literature of a commercial or non-commercial nature.

1605.2 While on a streetcar or a streetcar platform, the following acts are prohibited:

(a) Operating a sound-emitting device, unless the only sound produced by such item is emitted by a personal listening attachment (earphone) audible only to the person carrying the device producing the sound;

(b) Riding a skateboard, in-line skates, roller-skates, or a bicycle;

(c) Smoking tobacco, an electronic cigarette, or any other substance, or carrying any lighted or smoldering substance, in any form;

(d) Engaging in commercial activity, including selling or offering to sell any goods, wares, merchandise, books, magazines, newspapers, or any article of value, or taking orders for or selling subscriptions to same for future delivery, or distributing commercial advertising matter; and

(e) Soliciting donations.

1605.3 The following acts are prohibited at any time:

(a) Hanging onto or attaching oneself to any exterior part of a streetcar or touching a moving streetcar vehicle from outside the vehicle;

(b) Walking between coupled streetcar vehicles;

(c) Throwing an object at or from any streetcar or at any person or thing on or in any streetcar or streetcar platform; and

(d) Posting signs or notices on a streetcar vehicle, streetcar platform, or streetcar guideway.

1699 DEFINITIONS

1699.1 When used in this chapter, the following terms shall have the meaning ascribed:

Streetcar guideway – the area where streetcars operate, including the streetcar track, overhead wiring, and the airspace between, above, and surrounding the streetcar tracks through which the streetcar or its appurtenances will pass while operating on the streetcar track.

Streetcar platform – the public right of way designated for public use as an embarkation/disembarkation or waiting area for the streetcar, the stairways, ramps, and sidewalks that provide direct access to the embarkation/disembarkation or waiting area; and all equipment and fixtures, including streetcar shelters, in the embarkation/disembarkation or waiting area.

Valid fare media – a printed slip of paper or other official means of indicating purchase of a transit fare.

Chapter 22, MOVING VIOLATIONS, is amended as follows:

Section 2211 is amended as follows:

Subsection 2211.1 is amended by amending paragraph (c) to read as follows:

(c) When there are other travel lanes to the left of the streetcar tracks for vehicles to proceed in the same direction.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in Sections 3(b)(7) and (11) of the State Education Office Establishment Act of 2000, as amended, effective October 21, 2000 (D.C. Law 13-176, D.C. Official Code §§ 38-2602(b)(7) and (11) (2012 Repl.)); Section 403 of the Public Education Reform Amendment Act of 2007, as amended, effective June 12, 2007 (D.C. Law 17-9, D.C. Official Code § 38-2652(a)(3) (2012 Repl.)); Articles I and II of An Act to provide for compulsory school attendance, for the taking of school census in the District of Columbia, and for other purposes, as amended, approved February 4, 1925 (43 Stat. 806; D.C. Official Code §§ 38-201 *et seq*.(2012 Repl.)); and Section 402 of the Healthy Schools Act of 2010, as amended, effective July 27, 2010 (D.C. Law 18-209; D.C. Official Code § 38-824.02(c) (2012 Repl.)), hereby gives notice of his intent to adopt, in not less than thirty (30) days after the publication of this notice in the *D.C. Register*, amendments to Title 5 (Education), Subtitle E (Original Title 5), Chapter 22 (Grades, Promotion, and Graduation), and to add a new Chapter 22 (Graduation) to Title 5 (Education), Subtitle A (Office of the State Superintendent of Education), of the District of Columbia Municipal Regulations (DCMR).

The amended rules govern methods to obtain credits toward graduation from a District of Columbia school, and the new rules govern the issuance of state-level high school diplomas.

The Office of the State Superintendent of Education (OSSE), pursuant to D.C. Official Code § 38-2602(b)(7) (2012 Repl.), is responsible for establishing the minimum credits that must be achieved in order to graduate from any independent, private, public, public charter school, and private instruction, with the advice and approval of the State Board of Education (SBOE), pursuant to §§ 38-2652(a)(3) and (4). In developing the regulations, OSSE and SBOE engaged in an extensive period of public engagement and solicitation of public comments.

The purposes of this new Chapter 22 (Graduation) within Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the DCMR are to (1) ensure that all students graduate with the knowledge, skills, and work habits that will prepare them for postsecondary education and modern careers; (2) encourage and support the creativity of local education agencies as they develop and expand high-quality educational experiences that are an integral part of secondary education in the evolving 21st Century classroom; and (3) allow students multiple, equally rigorous and valued ways to demonstrate competency of the knowledge and skills necessary for postsecondary education and meaningful careers.

These proposed rules build on amendments of the existing rules of graduation set forth in Title 5-E (Original Title 5) DCMR Chapter 22 (Grades, Promotion, and Graduation) to replace the existing term 'Carnegie Units' with the term 'credit', and then implement, in the new Title 5-A DCMR Chapter 22 provision, multiple methods for educational institutions to award students credit toward graduation requirements. At the same time, OSSE has maintained the elements of Title 5-E DCMR Section 2201 to avoid unnecessary shifts and inconsistency, transposed fundamental provisions in Sections 5-E DCMR Sections 2202 through 2208 to 5-A DCMR Sections 2200 through 2208, and deleted Title 5-E DCMR Sections 2202 through 2208.

The proposed rules will also establish a State High School diploma that will be provided to the District's nontraditional students such as adult students, students attending alternative schools, state-run schools, and the District's home-schooled students who do not currently have access to a diploma but have demonstrated competency through alternative graduation requirements.

This notice therefore proposes: (1) amendment of Section 2201 of Title 5-EDCMR to amend and replace the term 'Carnegie Unit' with the term 'credit'; (2) amendment of Title 5-A by adding a new Chapter 22, to implement multiple methods of earning credit toward graduation; and (3) amendment of Title 5-E to delete Sections 2202 (Graduation: General Policy), 2203 (Graduation: Academic Requirements), 2204 (Graduation Status of Students), 2205 (Official List of Graduates), 2206 (Diplomas and Graduation Exercises), 2207 (Class Fees), and 2208 (Class Gifts). This notice is being circulated throughout the District for a thirty (30) day period, including an opportunity to submit written comments on these proposals, as is set forth in detail below.

Amend Title 5, EDUCATION, Subtitle E, ORIGINAL TITLE 5, Chapter 22, GRADES, PROMOTION, AND GRADUATION, Section 2201, PROMOTION, to read as follows:

2201 PROMOTION

2201.1 Promotion shall be defined as the movement of students to higher grade levels or/course levels and to graduation from high school in accordance with D.C. School Board Policy.

2201.2 Promotions shall be made at the end of the school year. Special promotions may be made at any time with the documented assessment conducted and certified by the Chief Academic Officer and the written approval of the Regional Superintendent whose jurisdiction encompasses the school that the student attends.

2201.3 Students with disabilities, identified through the Individuals with Disabilities in Education Act (IDEA) 2004, are eligible for promotion as determined in accordance with the goals and objectives, accommodations and modifications as it relates to the content standards developed and agreed upon by the IEP Team. For English Language Learners, any decision on retention must be made in conjunction with the bilingual/ English Second Learner (ESL) teacher (*cf*., 5-E DCMR Chapter 31 (Education of Language Minority Students)).

2201.4 A student may be retained in any grade, with the following requirements:

(a) A student cannot be retained more than once during his enrollment in the District of Columbia Public Schools unless there is a comprehensive review by multiple school personnel and approval from the Regional Superintendent whose jurisdiction encompasses the school the student attends; and

(b) If a student does not meet all requirements for promotion, but moves on to middle or high school because s/he has been previously retained, the principal must submit a report to the receiving school detailing all unmet requirements. This report must be received by June 30 and updated at the close of summer school. For students who move prior to the end of the school year, the report must be provided to the receiving school within thirty (30) calendar days of the student's enrollment in the school. Students in this situation will be enrolled in support services in the receiving school.

2201.5 [REPEALED].

2201.6 Promotion of students in pre-kindergarten through eighth (8th) grade to the next level shall include consideration of the following criteria. Students shall receive:

(a) Proficient or advanced marks in the core subjects of:

(1) Reading/language arts;

(2) Mathematics;

(3) Science; and

(4) Social studies.

(b) Achievement of the goals of the intervention learning plan where applicable;

(c) Meet the requirements of the system's attendance policy;

(d) If a student in pre-kindergarten or kindergarten has met the proficiency requirements in the core subject areas but is not functioning at a skill level deemed ready for promotion to kindergarten or first grade by a teacher or a parent in the areas of physical, social or emotional development, the option of repeating a pre-kindergarten or kindergarten may be considered without being regarded as a retention.

2201.7 [REPEALED].

2201.8 Students may complete the high school graduation requirements over a three (3), four (4), or five (5) year period, depending upon the time and support they need to complete graduation requirements as stated in their individualized graduation plan signed and verified by the counselor. The following guidelines shall apply for testing purposes where a grade definition is required:

(a) Any student who earns six (6) credits by completing content standards of the required courses including units in ninth (9th) grade English and Algebra I, shall be eligible to be classified as a tenth (10th) grade student.

(b) Any student who earns twelve (12) credits by completing content standards of the required courses including tenth (10th) grade English, shall be eligible to be classified as an eleventh (11th) grade student.

(c) Any student who earns eighteen (18) credits by completing content standards of the required courses including eleventh (11th) grade English, shall be eligible to be classified as a twelfth (12th) grade student.

Amend Title 5, EDUCATION, Subtitle E, ORIGINAL TITLE 5, Chapter 22, GRADES, PROMOTION, AND GRADUATION, by deleting Sections 2202, GRADUATION: GENERAL POLICY, 2203, GRADUATION: ACADEMIC REQUIREMENTS, 2204, GRADUATION STATUS OF STUDENTS, 2205, OFFICIAL LIST OF GRADUATES, 2206, DIPLOMAS AND GRADUATION EXERCISES, 2207, CLASS FEES, and 2208, CLASS GIFTS.

Amend Title 5, EDUCATION, Subtitle A, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, by adding Chapter 22, GRADUATION, to read as follows:

CHAPTER 22 GRADUATION

2200 AUTHORITY AND PURPOSE

2200.1 The following rules are issued pursuant to authority set forth in Sections 7 and 11 of the State Education Office Establishment Act of 2000, as amended, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(7) and (11) (2012 Repl.)); Section 403 of the Public Education Reform Amendment Act of 2007, as amended, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-2652(a)(3) (2012 Repl.)); Articles I and II of An Act to provide for compulsory school attendance, for the taking of school census in the District of Columbia, and for other purposes, as amended, approved February 4, 1925 (43 Stat. 806; D.C. Official Code §§ 38-201 *et seq*. (2012 Repl.)); and Section 402 of the Healthy Schools Act of 2010, as amended, effective July 27, 2010 (D.C. Law 18-209; D.C. Official Code § 38-824.02(c) (2012 Repl.)).

2200.2 The purpose of this chapter is to establish the requirements governing acceptable credits to be granted for studies leading to graduation and issuance of a diploma in District of Columbia educational institutions offering high school instruction, including independent schools, private schools, District of Columbia Public Schools, public charter schools, state-run schools, private instruction, and home schooling. Further, this chapter establishes the requirements governing acceptable credits to be granted for studies leading to graduation and issuance of a diploma by the State Superintendent of Education.

2201 GENERAL POLICY

2201.1 This chapter shall apply to an educational institution as defined in this chapter to include any elementary or secondary educational program operating in the District of Columbia.

2201.2 This chapter shall also apply to a nonpublic educational institution, as defined in this chapter, that provides educational services to special education students pursuant to Section 3 of the Placement of Students with Disabilities in Nonpublic Schools Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-269; D.C. Official Code § 38-2561.03 (2012 Repl.)).

2201.3 At the beginning of each school year, educational institutions shall notify parents and guardians of enrolled students of the educational institution's graduation policies and procedures and any course credit flexibility options an educational institution will provide to students, in accordance with this chapter.

2201.4 Educational institutions shall have the flexibility to design and implement their own curricula and instructional methods so long as curricula meet and exceed state approved standards.

2202 GRADUATION: ACADEMIC REQUIREMENTS

2202.1 At the beginning of the ninth (9^{th}) grade, students shall develop a graduation plan pacing the courses they will take to complete high school. This shall be done with the assistance and signed approval of the school counselor.

2202.2 **Subject Area Course Requirements**
Beginning with the graduating class of 2016, in School Year 2015-2016, and every graduating class thereafter, each high school student shall complete the following coursework:

A total of twenty-four (24) credits in corresponding subjects and required volunteer community service hours shall have been satisfactorily completed for graduation.

(a) The following credits in the following subjects shall be required:

COURSES	CREDITS(S)
English	4.0
Mathematics; must include Algebra 1, Geometry, and Algebra II at a minimum	4.0
Science; must include three (3) lab sciences	4.0
Social Studies; must include World History 1 and 2, United States History; United States Government, and	4.0

District of Columbia History	
World Language	2.0
Art	0.5
Music	0.5
Physical Education/Health	1.5
Electives	3.5
Total	**24.0**

(b) At least two (2) of the twenty four (24) credits for graduation shall include a College Level or Career Preparatory (CLCP) course approved by the educational institution and successfully completed by the student. The course may fulfill subject matter or elective unit requirements as deemed appropriate by the educational institution. CLCP courses approved by the educational institution may include courses at other institutions.

(c) All students shall enroll in Algebra no later than ninth (9^{th}) grade commencing with the 2007-2008 School Year.

(d) For all students entering the ninth (9^{th}) grade beginning School Year 2009-2010, one (1) of the three (3) lab science units, required by paragraph (a) of this subsection, shall be a course in Biology.

(e) In addition to the twenty-four (24) credits, one hundred (100) hours of volunteer community service shall be satisfactorily completed. The specific volunteer community service projects shall be established by the educational institution.

(f) One and one half (1.5) credits in health and physical education shall not be required for the evening program high school diploma.

2202.3 **Course Credit Flexibility**

(a) Beginning with the School Year 2015-2016, an educational institution shall award course credit toward high school graduation, on the condition that the course activities incorporate all applicable state content standards, through the any of the following methods:

(1) Seat-time: An educational institution may award one credit toward high school graduation for a course that requires a minimum of one hundred-twenty (120) hours of instruction or one hundred-fifty (150) hours of laboratory instruction. An educational institution may award one-half unit (1/2) of credit toward high school graduation for a course of sixty (60) hours of instruction and one-fourth (1/4) unit of credit toward high school graduation for a course requiring a minimum of thirty (30) hours of instruction; or

(2) Competency Based Learning: An educational institution may award credit toward high school graduation for a competency-based learning course or course equivalent that has been approved by the Office of the State Superintendent of Education (OSSE). Each educational institution that seeks to implement a competency-based learning course or course equivalent shall submit an application to OSSE through the educational institution. The applications shall provide procedures for establishing and developing a competency-based course or course equivalent including the method for determining competency. OSSE shall approve the submitted plan prior to the educational institution's implementing the competency-based learning course or course equivalent. Achievement shall be demonstrated by evidence documented by course and learning experiences using multiple measures, such as, but not limited to, examinations, quizzes, portfolios, performances, exhibitions, projects and community service; or

(3) Credit Advancement: An educational institution may award credit toward high school graduation to a student who is not enrolled in the course, or who has not completed the course, if the student attains a passing score on the corresponding OSSE approved assessment. OSSE will annually issue a list of approved assessments. In order to award credit towards graduation in this manner, an educational institution shall comply with notice and reporting requirements in this chapter; or

(4) Credit Recovery**:** An educational institution may award credit toward high school graduation to a student who previously failed a required course if the student demonstrates mastery of targeted standards. Course content for credit recovery courses shall be composed of standards in which students proved deficient rather than all standards of the original course. Educational Institutions may develop credit recovery programs which are self-paced and competency-based. Educational Institutions offering credit recovery may offer these courses using self-paced digital content programs, online courses, or course remediation programs that result in accrual of credits. In order to award credit towards graduation in this manner, an educational institution shall comply with notice and reporting requirements in this chapter.

(b) Notice and Reporting Requirement:

Each educational institution awarding credit toward graduation through credit advancement or credit recovery shall provide to OSSE:

(1) Notice Requirement: Notice of how many students will attempt to receive credit through credit recovery or credit advancement, and the respective assessments or methods the students will use, in conformance with this chapter.

(2) Reporting Requirement: A report detailing, among others, how many students received credit through credit recovery or credit advancement and the respective assessments or methods used, in conformance with this chapter.

The reports required under this section shall, to the extent practicable, conform to the format requested by OSSE.

2202.4 The head of an educational institution may establish specialized or career focused programs or courses of study, which lead to the high school diploma in accordance with § 2202.5. These courses of study can include academic, performing arts, science and mathematics, career or vocational education focuses or other areas of concentration. The programs or courses of study may require additional coursework.

2202.5 Electives taken to fulfill the requirements of § 2202.2 shall be required to be taken in courses established by the head of the educational institution for each area of concentration in order to receive certification in the area of concentration.

2202.6 Each student who completes the requirements for specialized courses of study shall receive appropriate recognition on the student's diploma.

2202.7 **Graduation Requirements for the Graduating Class of 2015**: The following coursework shall be required of students who enrolled in ninth (9th) grade for the first time in School Year 2011-2012 or a prior school year and are eligible to graduate at the end of School Year 2014-2015, in order to be certified as eligible to receive a high school diploma:

(a) A total of twenty-four (24) Carnegie Units in corresponding subjects and required volunteer community service hours shall have been satisfactorily completed for graduation.

(b) The following Carnegie Units in the following subjects shall be required:

COURSES	UNIT(S)
English	4.0
Mathematics; must include Algebra 1, Geometry, and Algebra II at a minimum	4.0
Science; must include three (3) lab sciences	4.0
Social Studies; must include World History 1 and 2, United States History; United States Government, and	4.0

District of Columbia History	
World Language	2.0
Art	0.5
Music	0.5
Physical Education/Health	1.5
Electives	3.5
Total	24.0

(c) At least two (2) of the twenty four (24) Carnegie Units for graduation must include a College Level or Career Preparatory (CLCP) course approved by the LEA and successfully completed by the student. The course may fulfill subject matter or elective unit requirements as deemed appropriate by the LEA. CLCP courses approved by the LEA may include courses at other institutions.

(d) All students must enroll in Algebra no later than ninth (9th) grade commencing with the 2007-2008 School Year.

(e) For all students entering the ninth (9th) grade beginning School Year 2009-2010, one (1) of the three (3) lab science units, required by paragraph (a) of this subsection, shall be a course in Biology.

(e) In addition to the twenty-four (24) Carnegie Units, one hundred (100) hours of volunteer community service shall be satisfactorily completed. The specific volunteer community service projects shall be established by the LEA.

(f) One and one half (1.5) Carnegie Units in health and physical education shall not be required for the evening program high school diploma.

2203 SPECIAL POPULATIONS

2203.1 For students eligible for special education services under the Individuals with Disabilities Education Act (IDEA) or protected by section 504 of the federal Rehabilitation Act, the student shall meet the same graduation requirements as non-disabled peers in an accommodated and/or modified manner. These modifications will be documented in each student's Individualized Education Program (IEP).

2203.2 A student with special needs who does not achieve a diploma, as set forth in §§ 2202 *et seq*. shall be eligible to receive a Certificate of Individual Educational Program Completion. The decision to pursue a program leading to a Certificate of Individual Educational Program Completion shall be made by the IEP team including the parent(s) and where possible, the student. The decision shall be made no earlier than the ninth (9^{th}) grade and shall be attached to the student's IEP. Educational institutions shall comply with IDEA as addressed in Title 5-E

DCMR Chapter 30 (Special Education Policy) with regards to appropriate transition assessments.

2203.3 For students who transfer to the District from another state, country, school, program, or home-schooling situation, the educational institution shall evaluate the value of the student's prior educational experiences and determine to what degree the student has met the school's graduation requirements. The course work credits received by the student prior to transfer into an educational institution may be used to meet the graduation requirement set forth in §§ 2202 *et seq.* upon the educational institution's verification of successful completion of this comparable course work. After enrolling in the educational institution, these students will need to satisfy all assessment, proficiency, and graduation requirements in the appropriate subject areas, as determined by the educational institution.

2204 DIPLOMAS

2204.1 A student shall be certified by the educational institution as eligible for graduation only after the student has satisfactorily completed all academic and non-academic graduation requirements in this chapter that have not been specifically waived for that student.

2204.2 A student who has successfully completed the tests of General Educational Development (GED), the National External Diploma Program (NEDP), is in a home schooling program that is in compliance with Title 5-E DCMR Chapter 52 (Home Schooling), or is enrolled in a school operated by the State, and successfully completed any additional option pre-approved by OSSE, shall receive a diploma from the Office of the State Superintendent of Education.

2204.3 A student may receive a high school diploma only if such student has been certified as eligible to graduate pursuant to §§ 2202 *et seq*.

2204.4 Each diploma shall bear the signature of the head of the educational institution and the seal of the educational institution in which the student is enrolled. The diploma of a student eligible under § 2204.2, shall bear the signature of the State Superintendent of Education and the seal of the Office of the State Superintendent of Education.

2204.5 If the student is receiving a diploma from another school system but is unable to attend graduation exercises held by the school system, the student may be allowed to participate in the graduation exercises of the educational institution being attended upon the approval of the head of the educational institution.

2204.6 The receipt of a high school diploma, a Certificate of Attainment or a Certificate of Individualized Education Program by an eligible student shall not be contingent upon the payment of any fee or other consideration, except the

payment of non-resident tuition fees required by statute and the provisions of Title 5-A DCMR Chapter 51 (Non-Resident Tuition Rates).

2205 GRADUATION STATUS OF STUDENTS

2205.1 Each adult student, or the parent or guardian of a minor student, shall be informed in writing not later than ten (10) days after the close of the third (3rd) advisory period of the student's graduation status.

2205.2 The notice required by this section shall include a warning that the student may not be eligible for graduation in June, if applicable.

2206 GRADUATION EXERCISES

2206.1 Graduation exercises shall be held only to confer the high school diploma.

2206.2 Exercises held to formally award Certificates of Attainment and Certificates of Individualized Education Program shall be in accordance with procedures established by the head of the educational institution. Exercises held to formally acknowledge promotion, as defined in § 2201 of Title 5, Subtitle E of the DCMR, shall not include the wearing of cap and gown, rental of facilities, or the assessment of any class fees.

2207 CLASS FEES

2207.1 The assessment of a class fee to cover expenses in connection with graduation exercises shall be permitted subject to the requirements and restrictions set forth in this section.

2207.2 The maximum amount of the class fee shall be uniformly established by the educational institution.

2207.3 The appropriate head of the educational institution shall be authorized to exempt a student from the payment of the class fee in instances of hardship.

2207.4 The expense of caps and gowns, yearbook subscriptions, proms, class gifts, and other activities that may be associated with graduation shall not be included in the class fee.

2207.5 Activities such as those listed in § 2207.4, if offered, shall be made available to students on an individual basis at the option of each student.

2207.6 The decisions whether to wear cap and gown, and whether to utilize rental facilities for graduation exercises, shall involve school staff, students, and parents or guardians.

2207.7 No student shall be required to wear a cap and gown in order to participate in graduation exercises.

2208 CLASS GIFTS

2208.1 The decision whether to present a class gift shall involve school staff, students, and parents or guardians.

2208.2 Class gifts to the school, if any, shall consist of or be paid for only by donations, including the creative work of students.

2208.3 Class gifts shall not be made to any individual(s).

2299 DEFINITIONS

2299.1 When used in this chapter, the following terms shall have the ascribed meanings:

(a) **"Carnegie Unit"** means one hundred and twenty (120) hours of classroom instruction or one hundred and fifty (150) hours of laboratory instruction over the course of an academic year.

(b) **"Competency"** means a measure of a student's knowledge and skill in content areas that are demonstrated in various settings over time. The specific knowledge and skills are defined by state adopted standards, other content standards, and/or career readiness and life skills.

(c) **"Credit"** means successful demonstration of a specified unit of study.

(d) **"Educational institution"** means an independent, private, public, public charter school, or private instruction in the District of Columbia.

(e) **"Head of the Educational Institution"** means the legal entity or designated representative with authority to act on behalf of the educational institution in an official manner. In the case of D.C. Public Schools, the "head of the educational institution" of the educational institution would be the Chancellor. In the case of a charter school, the "head of the educational institution" may be the charter authorizer or an authorized representative of the charter authorizer. In the case of a private school, the "head of the educational institution" may be the president, the board, or any legal entity with the authority to act on behalf of the educational institution in an official manner. In the case of private instruction where a student is home-schooled, the "head of the educational institution" would be the State Superintendent of Education.

(f) **"High school"** means an educational institution that provides secondary level instruction to students.

(g) **"IDEA"** means the "Individuals with Disabilities Education Act", approved April 13, 1970 (84 Stat. 191; 20 U.S.C. §§ 1400 *et seq.*), as amended by Pub. L. 108-446, approved December 3, 2004 (118 Stat. 2647).

(h) **"Mastery"** means a student's command of course material at a level that demonstrates a deep understanding of the content standards and application of knowledge.

(i) **"Nonpublic special education school or program"** means a privately owned or operated preschool, school, educational organization, or program, no matter how titled, that maintains or conducts classes for the purpose of offering instruction, for a consideration, profit, or tuition, to students with disabilities; provided that the term "nonpublic special education school or program" shall not include a privately owned or operated preschool, elementary, middle, or secondary school whose primary purpose is to provide educational services to students without disabilities, even though the school may serve students with disabilities in a regular academic setting.

(j) **"Office of the State Superintendent of Education" or "OSSE"** means the state-level agency established by Section 302(a) of the Public Education reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-2601 (2012 Repl.)).

(k) **"Portfolio"** is a collection of work that documents a student's academic performance over time and demonstrates deep content knowledge and applied learning skills. A portfolio typically includes a range of performance-based entries required by the educational institution and selected by the student, reflections, summary statements, and a final student presentation.

(l) **"Public high school"** means a public school or public charter school that provides instruction for students in the ninth (9^{th}) through twelfth (12^{th}) grades.

(m) **"School-age child"** is a child between five (5) years of age on or before September 30 of the current school year or eighteen (18) years, pursuant to D.C. Official Code § 38-202(a) (2012 Repl.).

(n) **"State Board of Education"** means the District of Columbia state-level agency established by Section 402 of the Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code §§ 38-2651 *et seq.* (2012 Repl.)).

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register* via email addressed to: ossecomments.proposedregulations@dc.gov; or by mail or hand delivery to the Office of the State Superintendent of Education, Attn: Jamai Deuberry re: Graduation Requirements and Diplomas, 810 First Street, NE 9th Floor, Washington, DC 20002. 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 MOTOR VEHICLES

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Motor Vehicles (Director), pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905 (2012 Repl.)), and Sections 6 and 7 of the District of Columbia Traffic Act of 1925 (the Act), approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03 and 50-1401.01 (2012 Repl. and 2014 Supp.)), hereby gives notice of the intent to adopt the following rulemaking that will amend Chapter 1 (Issuance of Driver's Licenses) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

The proposed rules require every person who has never had a driver license to successfully complete a driver instruction course prior to issuance of a provisional permit or driver license; and any person eighteen (18) years or older who has been issued a District of Columbia driver license or provisional permit may obtain a motorcycle endorsement upon successful completion of a motorcycle demonstration course.

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

Title 18, VEHICLES AND TRAFFIC, of the DCMR is amended as follows:

Chapter 1, ISSUANCE OF DRIVER'S LICENSES, is amended as follows:

Section 102, DRIVING UNDER INSTRUCTION: LEARNER'S PERMITS, is amended as follows:

Subsection 102.10 is amended as follows:

102.10 **[**REPEALED].

Section 103, APPLICATION FOR A DRIVER'S LICENSE OR LEARNER'S PERMIT, is amended as follows:

Subsection 103.11 is added as follows:

103.11 Every person who has never been issued a driver license must provide documentation that he or she has successfully completed any United States' (including territories) or Canadian (including territories) jurisdiction approved course of driver instruction prior to issuance of a provisional permit or driver license.

Subsection 103.12 is added as follows:

103.12 The course referenced in § 103.11, must consist of at least thirty (30) hours of classroom and eight (8) hours of driving instruction and must have been completed within the last six (6) months.

Section 104, EXAMINATION OF APPLICANTS FOR DRIVER'S LICENSE, is amended as follows:

Subsection 104 is amended to read as follows:

104.13 Residents over the age of eighteen (18) may be approved for the operation of motorcycles only if they hold a valid driver license or valid provisional permit, passed the written motorcycle knowledge test, and successfully completed a motorcycle demonstration course as set forth in § 107.13 of this title.

Section 107, LICENSES ISSUED TO DRIVERS, is amended as follows:

Subsection 107.13 is amended to read as follows:

107.13 Any person eighteen (18) years or older who has been issued a District of Columbia driver license or provisional permit may have the license or permit endorsed for the operation of motorcycles, after passing the written motorcycle knowledge test and successful completion of a motorcycle demonstration course in any United States' (including territories) or Canadian (including territories) jurisdiction provided that (1) the course was completed within six (6) months of the person's application for a District of Columbia motorcycle endorsement, and (2) the person presents a certificate of successful completion of the course.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to David Glasser, General Counsel, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024 or online at www.dcregs.dc.gov. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. Copies of this proposal may be obtained, at cost, by writing to the above address.

DEPARTMENT OF MOTOR VEHICLES

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Motor Vehicles ("Director"), pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905 (2012 Repl.)), and Sections 6, 7 and 8a of the District of Columbia Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121,1125; D.C. Official Code §§ 50-2201.03, 50-1401.01 and 50-1401.03 (2012 Repl. and 2014 Supp.)), hereby gives notice of the intent to adopt the following rulemaking that will amend Chapter 1 (Issuance of Drivers Licenses) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations ("DCMR").

Upon the advice of the United States Department of Homeland Security and to ensure the District's compliance with federal requirements relating to issuance of licenses, permits and identification cards, the provision pertaining to submission of an unexpired United States military or dependent identification card as an exception to § 103.4(a) is repealed.

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

Title 18, VEHICLES AND TRAFFIC, of the DCMR is amended as follows:

Chapter 1, ISSUANCE OF DRIVER LICENSES, is amended as follows:

Subsection 103.5 is amended to read as follows:

103.5 If an applicant is unable to comply with the document requirements set forth in §103.4(a) to show identity or date of birth due to circumstances beyond the applicant's control, the applicant may submit one of the alternate documents and the Department shall indicate in the applicant's record that an exceptions process was used:

(a) Repealed

(b) Department of Motor Vehicles' approved letter with picture from the Court Services and Offender Supervision Agency (CSOSA) or D.C. Department of Corrections issued within the last sixty (60) days certifying identity and date of birth.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to David Glasser, General Counsel, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024 or online at www.dcregs.dc.gov. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. Copies of this proposal may be obtained, at cost, by writing to the above address.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF EMERGENCY RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to authority set forth in D.C. Official Code § 47-2851.20 (2012 Repl.), Section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04 (2012 Repl.)), and Mayor's Order 99-68, dated April 28,1999, hereby gives notice of the adoption of the following amendment to Chapter 33 (Department of Consumer and Regulatory Affairs (DCRA) Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

The emergency rulemaking creates a civil infraction for businesses engaged in the sale, possession, or manufacture of synthetic drugs.

This emergency rulemaking is necessary to the immediate preservation of the public welfare to bring enforcement regulations in line with Section 301 of the District of Columbia's Omnibus Criminal Code Amendments Act of 2012, effective June 19, 2013 (D.C. Law 19-320; 60 DCR 3390 (March 15, 2013)), which added synthetic drugs, such as synthetic marijuana and "bath salts", to the District of Columbia's schedule of controlled substances. This rulemaking supports various Federal Drug Enforcement Administration and Department of Justice regulations that make it illegal to buy, sell, or possess Schedule I controlled substances such as K2/Spice, synthetic drugs, or their equivalents, because these substances pose an imminent hazard to public health, safety and welfare.

These rules were included in a joint Notice of Proposed Rulemaking on Title 16 and Title 17 of the District of Columbia Municipal Regulations, published April 25, 2014 at 61 DCR 4210, and in a Notice of Second Proposed Rulemaking published August 15, 2014 at 61 DCR 8561. This emergency rulemaking was adopted November 28, 2014, and became effective on that date. The emergency rulemaking shall remain in effect for up to one hundred and twenty (120) days or until March 28, 2015, unless earlier superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

Pursuant to D.C. Official Code § 2-1801.04(a)(1), the Director shall submit the proposed changes to Title 16 of the DCMR to the Council of the District of Columbia.

Title 16, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, Chapter 33, DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS (DCRA) INFRACTIONS, Section 3301, BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION INFRACTIONS, of the DCMR is amended as follows:

Subsection 3301.1 is amended by adding new subparagraphs (mm) and (nn) to read as follows:

(mm) D.C. Official Code § 48-902.04 (schedule I synthetic drugs); or

(nn) D.C Official Code § 48-902.08 (schedule III synthetic drugs).

A new Subsection 3301.5 is added to read as follows:

3301.5 Violation of any of the following provisions shall be a Class 1 infraction:

(a) D.C. Official Code § 48-902.04 (sell, offer for sale, allow the sale of, display for sale, possess, market, trade, barter, give, devise or otherwise make or attempt to make available synthetic drugs from schedule I).

(b) D.C. Official Code § 48-902.08 (sell, offer for sale, allow the sale of, display for sale, possess, market, trade, barter, give, devise or otherwise make or attempt to make available synthetic drugs from schedule III).

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, DECEMBER 3, 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

Show Cause Hearing (Status) **9:30 AM**
Case # 14-AUD-00051; H St. Lessee CMPS, LLC, t/a The Westin Grand Washington, DC, 2350 M Street NW, License #75025, Retailer CH, ANC 2A
Failed to File Quarterly Statements (4th Quarter 2013)

Show Cause Hearing (Status) **9:30 AM**
Case # 14-AUD-00063; H St. Lessee CMPS, LLC, t/a The Westin Grand Washington, DC, 2350 M Street NW, License #75025, Retailer CH, ANC 2A
Failed to File Quarterly Statements (4th Quarter 2013)

Show Cause Hearing (Status) **9:30 AM**
Case # 14-CC-00063; SBII, LLC, t/a The Codmother, 1334 U Street NW License #86231, Retailer CT, ANC 1B
Sale to Minor Violation, Failed to Take Steps Necessary to Asertain Legal Drinking Age

Show Cause Hearing (Status) **9:30 AM**
Case # 14-CMP-00327; Continental Wine & Liquors, LLC, t/a Continental Wine and Liquors, 1100 Vermont Ave NW, License #78964, Retailer A, ANC 2F
No ABC Manager on Duty

Fact Finding Hearing* **9:30 AM**
Case # 14-251-00221; Adams Morgan Spaghetti Garden, Inc., t/a Spaghetti Gerden, Brass Monkey, Peyote, Roxanne, 2317 18th Street NW, License #10284 Retailer CR, ANC 1C
Simple Assault

Board's Calendar
December 3, 2014

Show Cause Hearing* **10:00 AM**
Case # 14-AUD-00044; PQ Georgetown, Inc., t/a Le Pain Quotidien, 2815 M Street NW, License #77337, Retailer CR, ANC 2E
Failed to File Quarterly Statements (4th Quarter 2013)

Show Cause Hearing* **11:00 AM**
Case # 14-CMP-00205; Burger 1931, LLC, t/a Black and Orange, 1931 14th Street NW, License #88273, Retailer CR, ANC 1B
Failed to File Quarterly Statements (4th Quarter 2013)

Show Cause Hearing* **11:00 AM**
Case # 14-CC-00026; Kimberly, Inc., t/a Mr. Smith's, 3104 M Street NW License #864, Retailer CR, ANC 2E
Sale to Minor Violation, Failed to Take Steps Necessary to Asertain Legal Drinking Age, Interfered with an Investigation

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

Protest Hearing* **1:30 PM**
Case # 13-PRO-00122; Sami Restaurant, LLC, t/a Bistro 18, 2420 18th Street NW, License #86876, Retailer CR, ANC 1C
Termination of Settlement Agreement

Protest Hearing* **4:30 PM**
Case # 13-PRO-00020; The Stadium Group, LLC, t/a Stadium, 2127 Queen Chapel Road NE, License #82005, Retailer CN, ANC 5C
Application to Renew the License (Reapplication)

Protest Hearing* **4:30 PM**
Case # 14-PRO-00056; J. Paul's DC, LLC, t/a J. Paul's, 3218 M Street NW License #72358, Retailer CR, ANC 2E
Substantail Change (Entertainment Endorsement)

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
CANCELLATION AGENDA
WEDNESDAY, DECEMBER 3, 2014 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The Board will be cancelling the following licenses for the reasons outlined below.

ABRA-091620 – **Flying Fish Coffee and Tea -** Retail - CR – 3064 MOUNT PLEASANT STREET, NW
[Licensee has requested cancellation of license, as the establishment is no longer selling alcoholic beverages.]

ABRA-088592 – **HR-57** – Retail – CT – 1007 H STREET, NE
[Licensee has requested cancellation of license, as the establishment is no longer operating]

Revised 8/19/2014

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
INVESTIGATIVE AGENDA

WEDNESDAY, DECEMBER 3, 2014
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

On December 3, 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-CMP-00584 Stoney's, 1433 P ST NW Retailer C Restaurant, License#: ABRA-075613

---

2. Case#14-251-00231 Midtown, 1219 CONNECTICUT AVE NW Retailer C Nightclub, License#: ABRA-072087

---

3. Case#14-251-00234 Midtown, 1219 CONNECTICUT AVE NW Retailer C Nightclub, License#: ABRA-072087

---

4. Case#14-CMP-00598 Pete's New Haven Style Apizza, 4940 WISCONSIN AVE NW Retailer D Restaurant, License#: ABRA-083794

---

5. Case#14-CC-00190 Hotel Monaco & Poste Restaurant, 700 F ST NW Retailer C Hotel, License#: ABRA-085256

---

6. Case#14-CC-00170 Cities, 919 19th ST NW Retailer C Restaurant, License#: ABRA-086319

---

7. Case#14-CC-00185 Penn Social, 801 E ST NW Retailer C Multipurpose, License#: ABRA-086808

---

8. Case#14-CC-00191 St. Regis Hotel, 923 16TH ST NW Retailer C Hotel, License#: ABRA-087060

---

9. Case#14-CC-00162 Benning Heights Market, 547 42ND ST NE Retailer B Retail - Grocery, License#: ABRA-087328

---

10. Case#14-CMP-00594 Irish Whiskey, 1207 19TH ST NW Retailer C Tavern, License#: ABRA-087685

---

11. Case#14-CC-00192 Diego, 2100 14TH ST NW Retailer C Restaurant, License#: ABRA-096425

---

12. Case#14-CMP-00585 Shulman Liquors, 1550 1ST ST SW Retailer A Retail - Liquor Store, License#: ABRA-060659

---

13. Case#14-PRO-00056 J Paul's, 3218 M ST NW Retailer C Restaurant, License#: ABRA-072358

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LEGAL AGENDA

WEDNESDAY, DECEMBER 3, 2014 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Motion for Reconsideration, dated November 3, 2014, submitted by Charles C. Parsons Esq., Abutting Property Owner. ***The Alibi Restaurant & Lounge,*** 237 2nd Street, NW, Retailer CR, License No.: 093941.

---

2. Review of Applicant's Response to Motion for Reconsideration, dated November 13, 2014, submitted by Doyle, Barlow & Mazard PLLC, on behalf of Applicant. ***The Alibi Restaurant & Lounge,*** 237 2nd Street, NW, Retailer CR, License No.: 093941.

---

3. Review of Letter of Support of New Year's Eve Extended Hours, dated November 13, 2014, submitted by Ron Lewis, Chair, ANC 2E.

*** 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, DECEMBER 3, 2014 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Request Letters regarding Change in Safekeeping Status of License. Board Approved Extension of Safekeeping Status of License for Six Months on 11/12/2014. ANC 1C. SMD 1C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***California Liquors,*** 2100 18th Street NW, Retailer A Liquor Store, License No. 005018.

---

2. Review Request to Extend Safekeeping Status of License for Six Months – 5th or 6th Request. Original Safekeeping Date: 9/1/2006. ANC 2E. SMD 2E05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Machu Picchu***, 3263 M Street NW (formerly), Retailer CR, License No. 008309.

---

3. Review Application for Safekeeping of License – Original Request. ANC 2E. SMD 2E03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Marvelous Market***, 3217 P Street NW, Retailer B Grocery, License No. 079966.

---

4. Review Request for Change of Hours. ***Current Hours of Operation and Alcoholic Beverage Sales***: Sunday-Saturday 8am to 10pm. ***Proposed Hours of Operation and Alcoholic Beverage Sales:*** Saturday-Sunday 8am to 10pm, Monday-Friday 7am to 10pm. ANC 3F. SMD 3F05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***CVS Pharmacy #2104,*** 5013 Connecticut Avenue NW, Retailer B Grocery, License No. 083507.

---

5. Review Request for Change of Hours. ***Current Hours of Operation and Alcoholic Beverage Sales and Consumption***: Sunday-Saturday 8:30am to 9pm. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 8:30am to 9pm, Friday & Saturday 8:30am to 11pm. ANC 6A. SMD 6A02. No outstanding fines/citations. No outstanding

violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Me & My Supermarket,*** 1111 H Street NE, Retailer B Grocery, License No. 095280.

---

6. Review Application for Entertainment Endorsement. Entertainment to Include a Computer-Programmed Playlist, DJ, Jazz Band, and Dancing. ANC 5C. SMD 5C04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Panda Gourmet***, 2700 New York Avenue NE, Retailer CR, License No. 086961.

---

7. Review Application for Manager's License. ***Sean P.Wolf-***ABRA 097227.

---

8. Review Application for Manager's License. ***Charles H. Rogers-***ABRA 097240.

***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.**

CHILD AND FAMILY SERVICES AGENCY

Mayor's Advisory Committee on Child Abuse and Neglect (MACCAN)
Tuesday – December 2, 2014
10:30 a.m. – 12:00 p.m.
Child and Family Services Agency
200 I Street SE, Conference Lobby Room B
Washington, DC 20003

Agenda

1. Call to Order

2. Ascertainment of Quorum

3. Acknowledgement of Adoption of the Minutes of the September 30, 2014, meeting

4. Report by the Chair and Co-Chair of MACCAN

    a. 2015 Meeting Calendar
    b. Review of Membership of MACCAN/Vacancies
        i. The Following Members were sworn in on October 27, 2014:
            1. Yuliana Del Arroyo (term ends POM)
            2. Philip Lucas (term ends 9.24.15)
            3. Charlotte St. Pierre (term ends POM)
            4. Charmetra Parker (term ends POM)
        ii. Vacancies
            1. Department of Health
            2. Community Based Child Welfare Provider
            3. Department of Youth Rehabilitation Services
    c. Presentations:
        i. Andrea Guy: Child & Family Service Review
        ii. Yuliana Del Arroyo: "It Takes a City Institute"
        iii. Joyce Thomas: Overlap of domestic violence and child maltreatment, related trauma and needs
    d. National Child Abuse Prevention Month (April 2015)

5. Opportunity for Public Comment

6. Adjournment

7. Next Meeting February 24, 2015, 10:30-12:00 pm @ CFSA

If any questions/comments, please contact Roni Seabrook at (202) 724-7076 or roni.seabrook@dc.gov.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION

Board of Accountancy
1100 4th Street SW, Room E300
Washington, DC 20024

AGENDA

December 5th, 2014
9:00 A.M.

1) Meeting Call to Order

2) Attendees

3) Comments from the Public

4) Minutes: Review draft

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 – TBD 2015
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

December 12th, 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

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, TBD 2015
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
December 1, 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 – January 5, 2015.

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

December 4, 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)
6. Review of Correspondence
7. Draft Minutes, November 13, 2014
8. New Business
9. Old Business
10. Adjourn
11. Next Scheduled Board Meeting – January 8, 2015 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 4302
Washington, DC 20024

AGENDA

December 16, 2014
11:00 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

VI. Opportunity for Public Comments

VII. New Business

VIII. Old Business

IX. Opportunity for Public Comments

X. 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) Technical Review

XI. Adjournment

Next Scheduled Board Meeting: January 20, 2015 @ 1:00 PM to 3:30 PM
Room 300 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

December 18, 2014
9:30 A.M.

1) Meeting Call to Order

2) Attendees

3) Comments from the Public

4) Minutes: Review draft of 20 November 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, January 22, 2015
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 Real Estate Appraisers
1100 4th Street SW, Room 300 B
Washington, DC 20024

AGENDA

.

December 17, 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, January 15, 2015
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
December 9, 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

UPCOMING EVENTS

- December 29, 2014 Pro-Wrestling Promoter WWE at the Verizon Center

REVIEW OF MINUTES

- Approval of Minutes

OLD BUSINESS

1. Officials Training
2. 52nd WBC Convention, Las Vegas, NV (December 14 to 20, 2014)

NEW BUSINESS

1. Upcoming Amateur Events
2. Gym Equipment Distribution

ADJORNMENT

NEXT REGULAR SCHEDULED MEETING IS JANUARY 13, 2015

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

December 2014

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
Jason Sockwell	Board of Accountancy	5	8:30 am-12:00pm
Patrice Richardson	Board of Appraisers	17	8:30 am-4:00 pm
Jason Sockwell	Board Architects and Interior Designers	12	8:30 am-1:00 pm
Cynthia Briggs	Board of Barber and Cosmetology	1	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	9	7:00-pm-8:30 pm
Kevin Cyrus	Board of Funeral Directors	4	1:00pm-5:00 pm
Lori Fowler	Board of Professional Engineering	18	9:30 am-1:30 pm
Leon Lewis	Real Estate Commission	9	8:30 am-1:00 pm
Pamela Hall	Board of Industrial Trades	16	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
December 9, 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. Introduction – New Commissioner – Frank Pietranton

5. Comments from the Public

6. Minutes - Draft, November 18, 2014

7. Recommendations

   A. Review - Applications for Licensure
   B. Legal Committee Report
   C. Education Committee Report
   D. Budget Report
   E. 2014 Calendar
   F. Correspondence

8. Old Business

9. New Business

10. Adjourn

Next Scheduled Regular Meeting, January 13, 2015
1100 4th Street, SW, Room 300B, Washington, DC 20024

EAGLE ACADEMY PUBLIC CHARTER SCHOOL

NOTICE OF REQUEST FOR QUALIFICATIONS

Professional Educational Consulting Services

Project Summary:
Your firm is invited to submit qualifications to provide professional educational consulting services to support Eagle Academy's improvement in analyzing, reporting, and using student data. Qualifications include extensive experience building dashboards, a deep understanding of student assessment, and knowledge of school reporting requirements.

Data and Location Submittal is Due: Friday, December 5, 2014 by 5:00 p.m.

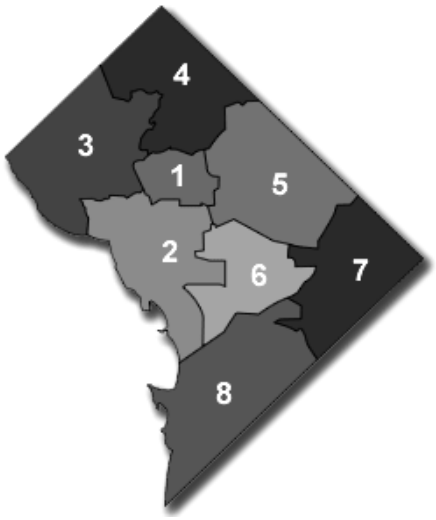
For submittal requirements, send request to the attention of Mayra Martinez-Fernandez, mmartinez@eagleacademypcs.org

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of OCTOBER 28, 2014

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	43,282	2,750	732	80	127	11,499	**58,470**
2	29,616	5,645	214	112	121	10,835	**46,543**
3	36,723	6,840	360	85	99	11,341	**55,448**
4	47,382	2,201	507	48	131	8,840	**59,109**
5	49,944	2,011	563	50	148	8,548	**61,264**
6	51,186	6,318	510	108	159	12,492	**70,773**
7	49,479	1,276	434	11	115	7,063	**58,378**
8	42,756	1,153	372	16	146	6,897	**51,340**
Totals	350,368	28,194	3,692	510	1,046	77,515	**461,325**
Percentage By Party	**75.95%**	**6.11%**	**.80%**	**.11%**	**.23%**	**16.80%**	**100.00%**

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF OCTOBER 28, 2014

COVERING CITY WIDE TOTALS BY:
WARD, PRECINCT AND PARTY



ONE JUDICIARY SQUARE
441 4TH STREET, NW SUITE 250N
WASHINGTON, DC 20001
(202) 727-2525
http://www.dcboee.org

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
As Of OCTOBER 28, 2014

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,362	31	6	1	8	209	**1,617**
22	3,642	329	30	8	8	969	**4,986**
23	2,788	176	54	7	5	728	**3,758**
24	2,403	234	33	7	5	751	**3,433**
25	3,746	412	64	6	7	1,114	**5,349**
35	3,396	220	61	6	7	948	**4,638**
36	4,253	272	66	4	10	1,131	**5,736**
37	3,122	134	54	5	6	717	**4,038**
38	2,728	136	58	9	10	723	**3,664**
39	4,147	214	80	6	13	1,000	**5,460**
40	3,936	202	103	7	19	1,119	**5,386**
41	3,334	189	67	9	15	1,032	**4,646**
42	1,786	66	32	2	6	466	**2,358**
43	1,681	70	15	2	4	377	**2,149**
137	958	65	9	1	4	215	**1,252**
TOTALS	**43,282**	**2,750**	**732**	**80**	**127**	**11,499**	**58,470**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 2 REGISTRATION SUMMARY

As Of OCTOBER 28, 2014

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	720	163	7	6	8	446	**1,350**
3	1,389	358	14	7	12	617	**2,397**
4	1,691	473	9	9	5	789	**2,976**
5	2,190	678	14	11	9	836	**3738**
6	2,246	878	19	6	17	1,234	**4,400**
13	1,358	263	7	2		463	**2,093**
14	2,815	470	23	9	11	1,022	**4,350**
15	2,999	325	23	9	11	889	**4,256**
16	3,496	376	26	10	11	926	**4,845**
17	4,869	674	40	19	19	1,609	**7,230**
129	2,013	338	12	10	5	758	**3,136**
141	2,236	261	10	8	8	657	**3,180**
143	1,594	388	10	6	5	589	**2,592**
TOTALS	**29,616**	**5,645**	**214**	**112**	**121**	**10,835**	**46,543**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 3 REGISTRATION SUMMARY

As Of OCTOBER 28, 2014

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,221	405	18	1	2	559	**2,206**
8	2,361	609	24	5	8	746	**3,753**
9	1,125	486	8	8	6	487	**2,120**
10	1,720	422	13	5	5	640	**2,805**
11	3,346	963	41	7	9	1,409	**5,775**
12	464	192	1	0	2	210	**869**
26	2,868	353	24	3	4	919	**4,171**
27	2,418	288	16	7	4	597	**3,330**
28	2,235	526	37	9	5	745	**3,557**
29	1,215	240	10	1	7	378	**1,851**
30	1,249	221	15	3	4	274	**1,766**
31	2,366	315	23	3	8	568	**3,283**
32	2,674	316	24	4	4	614	**3,636**
33	2,862	335	31	5	9	739	**3,981**
34	3,555	482	31	12	7	1,149	**5,236**
50	2,074	287	16	5	9	476	**2,867**
136	850	120	6	2	1	318	**1,297**
138	2,120	280	22	5	5	513	**2,945**
TOTALS	**36,723**	**6,840**	**360**	**85**	**99**	**11,341**	**55,448**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 4 REGISTRATION SUMMARY

As Of OCTOBER 28, 2014

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,172	76	34	5	6	430	**2,723**
46	2,813	74	30	4	9	512	**3,442**
47	2,928	140	38	4	10	712	**3,832**
48	2,729	133	30	3	6	543	**3,444**
49	835	34	12	0	4	185	**1,070**
51	3,254	548	22	3	6	642	**4,475**
52	1,280	176	5	0	3	220	**1,684**
53	1,248	73	19	1	5	264	**1,610**
54	2,318	89	30	3	4	479	**2,923**
55	2,376	70	23	1	7	423	**2,900**
56	3,050	84	32	1	11	666	**3,844**
57	2,491	71	34	3	13	431	**3,043**
58	2,285	57	18	2	4	363	**2,729**
59	2,576	84	31	4	10	404	**3,109**
60	2,137	76	23	3	6	675	**2,920**
61	1,604	48	11	1	2	282	**1,948**
62	3,136	125	27	2	2	357	**3,649**
63	3,430	130	51	1	11	626	**4,249**
64	2,220	53	16	3	5	316	**2,613**
65	2,500	60	21	4	7	310	**2,902**
Totals	**47,382**	**2,201**	**507**	**48**	**131**	**8,840**	**59,109**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of OCTOBER 28, 2014

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,042	187	65	6	6	939	**5,245**
44	2,849	214	30	4	13	648	**3,758**
66	4,479	100	39	2	9	508	**5,137**
67	2,979	96	25	0	7	394	**3,501**
68	1,895	138	28	6	8	387	**2,462**
69	2,105	68	14	2	11	262	**2,462**
70	1,434	65	21	1	3	209	**1,733**
71	2,359	59	26	1	9	339	**2,793**
72	4,396	117	24	4	17	744	**5,302**
73	1,897	86	27	4	6	340	**2,360**
74	4,134	207	56	3	8	804	**5,212**
75	3,340	148	62	8	6	744	**4,308**
76	1,342	62	14	0	4	257	**1,679**
77	2,773	92	30	3	9	480	**3,387**
78	2,895	78	35	1	8	437	**3,454**
79	1,938	76	15	1	9	319	**2,358**
135	2,950	177	44	3	11	517	**3,702**
139	2,137	41	8	1	4	220	**2,411**
TOTALS	**49,944**	**2,011**	**563**	**50**	**148**	**8,548**	**61,264**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 6 REGISTRATION SUMMARY

As Of OCTOBER 28, 2014

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	4,039	432	46	5	13	1,027	**5,562**
18	4,266	274	43	10	11	905	**5,509**
21	1,162	56	18	1	2	253	**1,492**
81	4,748	368	42	4	16	967	**6,145**
82	2,571	262	26	6	10	574	**3,449**
83	3,974	476	35	12	10	992	**5,499**
84	2,016	436	27	6	7	556	**3,048**
85	2,654	505	25	8	7	730	**3,929**
86	2,286	272	27	3	8	497	**3,093**
87	2,734	236	19	2	8	567	**3,566**
88	2,187	308	14	2	8	537	**3,056**
89	2,558	659	23	10	6	758	**4,014**
90	1,622	272	10	4	7	464	**2,379**
91	4,139	366	39	6	15	986	**5,551**
127	3,937	281	51	9	12	805	**5,095**
128	2,280	203	30	6	6	616	**3,141**
130	811	321	9	3	3	291	**1,438**
131	1,852	431	12	9	6	601	**2,911**
142	1,350	160	14	2	4	366	**1,896**
TOTALS	**51,186**	**6,318**	**510**	**108**	**159**	**12,492**	**70,773**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of OCTOBER 28, 2014

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,549	87	16	0	4	266	**1,922**
92	1,638	39	11	1	6	249	**1,944**
93	1,585	45	15	2	6	225	**1,878**
94	2,059	51	18	0	3	296	**2,427**
95	1,740	44	18	0	1	308	**2,111**
96	2,420	68	23	0	8	376	**2,895**
97	1,543	38	17	0	4	201	**1,803**
98	1,845	43	22	0	5	263	**2,178**
99	1,443	41	15	1	6	239	**1,745**
100	2,241	43	16	1	4	284	**2,589**
101	1,680	29	19	0	5	185	**1,918**
102	2,526	54	23	0	4	332	**2,939**
103	3,688	96	38	2	11	577	**4,412**
104	3,098	80	23	1	11	452	**3,665**
105	2,436	60	22	1	4	393	**2,916**
106	3,038	68	23	0	8	464	**3,601**
107	1,966	62	16	0	5	302	**2,351**
108	1,144	27	6	0		124	**1,301**
109	963	33	7	0	1	92	**1,096**
110	3,802	93	25	2	7	414	**4,343**
111	2,546	57	25	0	7	370	**3,005**
113	2,271	58	20	0	3	280	**2,632**
132	2,258	60	16	0	2	371	**2,707**
TOTALS	**49,479**	**1,276**	**434**	**11**	**115**	**7,063**	**58,378**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of OCTOBER 28, 2014

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,029	55	10	0	7	293	**2,394**
114	3,030	104	22	1	19	500	**3,676**
115	2,724	65	21	5	9	598	**3,422**
116	3,665	95	35	1	12	566	**4,374**
117	1,778	40	13	0	7	291	**2,129**
118	2,498	58	27	1	7	390	**2,981**
119	2,721	102	37	0	9	532	**3,401**
120	1,786	29	14	1	4	268	**2,102**
121	3,142	74	31	1	8	463	**3,719**
122	1,628	37	14	0	5	228	**1,912**
123	2,181	87	25	3	11	341	**2,648**
124	2,511	54	13	1	5	348	**2,932**
125	4,436	117	34	1	13	732	**5,333**
126	3,486	104	34	1	16	653	**4,294**
133	1,315	38	12	0	3	173	**1,541**
134	2,062	35	21	0	4	262	**2,384**
140	1,764	59	9	0	7	259	**2,098**
TOTALS	**42,756**	**1,153**	**372**	**16**	**146**	**6,897**	**51,340**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 9/30/2014 and 10/28/2014

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	**348,446**	**27,989**	**3,660**	**460**	**1,041**	**76,708**	**458,304**
Board of Elections Over the Counter	344	8	0	3	0	49	404
Board of Elections by Mail	268	6	3	1	2	53	**333**
Board of Elections Online Registration	18	1	1	0	0	3	**23**
Department of Motor Vehicle	1,421	154	20	16	2	401	**2,014**
Department of Disability Services	0	0	0	0	0	0	**0**
Office of Aging	0	0	0	0	0	0	**0**
Federal Postcard Application	0	0	0	0	0	0	**0**
Department of Parks and Recreation	0	0	0	0	0	0	**0**
Nursing Home Program	17	1	0	0	0	3	**21**
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	**0**
Department of Corrections	13	3	0	0	0	7	**23**
Department of Human Services	7	0	0	0	0	0	**7**
Special / Provisional	0	0	0	0	0	0	**0**
All Other Sources	106	1	1	0	0	29	**137**
+Total New Registrations	**2,194**	**174**	**25**	**20**	**4**	**545**	**2,962**

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	293	24	2	0	0	48	**367**
Administrative Corrections	17	89	20	0	27	676	**829**
+TOTAL ACTIVATIONS	**310**	**113**	**22**	**0**	**27**	**724**	**1,196**

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	7	3	0	0	0	2	**12**
Moved Out of District (Deleted)	12	5	0	0	0	5	**22**
Felon (Deleted)	0	0	0	0	0	0	**0**
Deceased (Deleted)	31	3	0	0	0	1	**35**
Administrative Corrections	782	104	7	2	2	171	**1,068**
-TOTAL DEACTIVATIONS	**832**	**115**	**7**	**2**	**2**	**179**	**1,137**

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	512	97	16	36	10	247	
- Changed From Party	-262	-64	-24	-4	-34	-530	
ENDING TOTALS	**350,368**	**28,194**	**3,692**	**510**	**1,046**	**77,515**	**461,325**

DEPARTMENT OF EMPLOYMENT SERVICES

SOLICITATION FOR PUBLIC COMMENT

Bureau of Workforce Development
Office of Special Programs
Senior Community Service Employment Program (SCSEP)

The District of Columbia Department of Employment Services (DOES) Office of Special Programs is seeking public comment for the Senior Community Service Employment Program (SCSEP) for modifying the unified, integrated, and stand-alone State Plan that was approved in 2012. DOES is required to modify their SCSEP State Plan to describe activities and services for 2014-2018.

Modifications must address all of the following that are applicable:

- Changes in long-term industry or occupational outlook that affect employment opportunities for older workers;
- Changes in long-term employment projections that affect the types of unsubsidized jobs available for SCSEP participants and the types of skill training they receive;
- Changes in current or projected employment opportunities in the state and the types of skills possessed by eligible individuals;
- Changes in the localities served, or changes in the characteristics of the populations served by SCSEP;
- Changes in how SCSEP coordinates with other programs including the following:
    1. Planned actions to coordinate activities of SCSEP grantees with WIA Title I programs, including plans for using the WIA One-Stop delivery system and its partners to serve individuals aged 55 and older
    2. Planned actions to coordinate SCSEP grantee activities with the state activities being carried out under the other titles of the Older Americans Act
    3. Planned actions to coordinate SCSEP with other private and public entities and programs that serve older Americans, such as community and faith-based organizations, transportation programs, and programs for those with special needs or disabilities
    4. Planned actions to coordinate SCSEP with other labor market and job training initiatives
    5. Actions to ensure that SCSEP is an active partner in the One-Stop delivery system and the steps the state will take to encourage and improve coordination with the One-Stop delivery system
- Changes in long-term strategies for engaging employers to develop and promote opportunities to place SCSEP participants in unsubsidized employment; and
- Changes in any of the requirements listed, such as changes in Federal law or policy that affect the state plan's functions; changes in performance indicators, or organizational responsibilities; changes in grantee or grantee functions; or when the state has failed to meet performance goals and must submit a corrective action plan.

How to Obtain Information and Submit Comments: The SCSEP State Plan Modification is available for review on the DOES website at www.does.dc.gov.

- Under the **Services** tab, click the **Senior Community Service Employment Program** link.
- Submit comments to does.SCSEP@dc.gov.

For more information regarding public comment, please contact the Office of Special Programs at does.SCSEP@dc.gov or via telephone at 202-671-3100.

The deadline for submission of comments is **Friday, December 5, 2014**, by no later than **2:00 PM EST**.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF FILING OF AN APPLICATION TO PERFORM VOLUNTARY CLEANUP

1769 and 1771 Columbia Road, NW

Pursuant to § 636.01(a) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code §§ 8-631 et seq., as amended April 8, 2011, DC Law 18-369 (herein referred to as the "Act")), the Voluntary Cleanup Program in the District Department of the Environment (DDOE), Land Remediation and Development Branch (LRDB), is informing the public that it has received an application to participate in the Voluntary Cleanup Program (VCP). The applicant for real property referenced as 1769 and 1771 Columbia Road, NW, Washington, DC 20009, is Columbia Road of DC, LLC, 31731 Northwestern Hwy., Suite 250W, Farmington Hills, Michigan 48334. The application identifies the presence of soil gas associated with volatile chlorinated organic solvents in the sub-slab and the presence of volatile organic solvents in the soil and groundwater. The applicant proposes to re-develop the property with a mixed use residential/commercial building.

Pursuant to § 636.01(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC-1C) for the area in which the property is located. The application is available for public review at the following location:

Voluntary Cleanup Program
District Department of the Environment (DDOE)
1200 1st Street, N.E., 5th Floor
Washington, DC 20002

Interested parties may also request a copy of the application for a small charge to cover the cost of copying by contacting the Voluntary Cleanup Program at the above address or calling (202) 535-2289.

Written comments on the proposed approval of the application must be received by the VCP program at the address listed above within twenty one (21) days from the date of this publication. DDOE is required to consider all relevant public comments it receives before acting on the application, the cleanup action plan, or a certificate of completion.

Please refer to Case No. VCP 2014-029 in any correspondence related to this application.

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

Office of Government Ethics

November 19, 2014

BEGA – Advisory Opinion – ***Letters of Recommendation and Letters of Support - Final***

Advisory Opinion

Letters of Recommendation and Letters of Support

Purpose of this Advisory Opinion

This advisory opinion addresses the propriety of letters of recommendation issued by District of Columbia public officials and employees. Such letters may be for: (a) individuals who are or were employees; (b) entities that hold or held contracts with the District government, receive District grants, or are otherwise accountable to the District for the administration of grant funds; or (c) civic or business entities, individuals, or not-for-profit entities seeking support for their projects or endeavors in the District. This advisory opinion serves to provide guidance regarding the appropriate use of District government letterhead and/or official titles or positions on such letters of recommendation or letters of support by government employees and public officials in both the Executive[1] and Legislative branches of District government.

Whether serving in the Executive or the Legislative Branch of the District of Columbia government, individuals must adhere to certain guiding principles when writing letters of recommendation and letters of support. District employees and public officials must uphold a high standard of ethical conduct, place loyalty to the laws and ethical principles above private gain, and respect and adhere to the principles of ethical conduct so that every citizen can have complete confidence in the integrity of the District government.[2] A District employee or public official must not knowingly use the prestige of office or public position for his or her private gain or the gain of another.[3] Also, District employees shall protect and conserve government property and shall not use it for other than authorized activities.[4]

[1] For the purposes of this opinion, independent agencies, as well as boards and commissions, are considered to be part of the Executive branch.
[2] *See*, Title 6B of the D.C. Municipal Regulations ("DPM") Section 1800.2.
[3] *See*, DPM § 1800.3(g); *see also* Council Code of Official Conduct for Council Period 20 ("Council Code"), Rule VI(c)(1).
[4] *See*, DPM § 1800.3(i); *see also* Council Code, Rule VI(a)(1).

General Good Ethics Principles and Authority Governing All Public Officials and Employees in the Executive and Legislative Branches

The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 ("Ethics Act"), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 (2014 Supp.)),[5] applies to all District of Columbia public officials and employees who perform a function of the District government and who receive compensation for the performance of such services, and to members of District government boards or commissions, whether or not for compensation (D.C. Official Code §1-1161.01(18)). The Ethics Act also gives the Board of Ethics and Government Accountability (the "Ethics Board") the authority to enforce the Code of Conduct, the provisions of which are set forth at D.C. Official Code §1-1161.01(7) and include the Council Code[6] and Chapter 18 of Title 6B of the District of Columbia Municipal Regulations (also known as the District Personnel Manual ("DPM")). The guiding principle of the Code of Conduct is that all individuals who perform a function of the District government are required to represent the District government with integrity and refrain from using their positions and titles for private gain.[7]

Other relevant principles include the following:

> DPM § 1800.3(a). Government service is a public trust, requiring employees to place loyalty to the laws and ethical principles above private gain.
>
> DPM § 1800.3(h). Employees shall act impartially and not give preferential treatment to any private organization or individual.
>
> Council Code, VI(c)(1). An employee may not knowingly use the prestige of office or public position for that employee's gain or that of another. [8]

[5] In particular, *see* section 201a of the Ethics Act (D.C. Official Code § 1-1162.01a (61 DCR 5688)).

[6] All District of Columbia Councilmembers and staff are subject to the Council Code, as well as the DPM. *See* Rule 202(b) and (c), Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 20. Although there is no express supremacy provision, where the Council Code and the DPM conflict, it is our practice to give precedence to the Council Code.

[7] While neither the Ethics Act, the Council Code, nor the DPM define "private gain," I interpret the term to mean private financial gain. *See, generally*, Beth Nolan, *Public Interest, Private Income: Conflicts and Control Limits on the Outside Income of Government Officials*, 87 Nw. U. L. Rev. 57 (1992).

[8] The following additional Council Code provisions, among others, also are applicable:

> Rule VI(c)(3). Council employees shall not use or permit the use of their position or title or any authority associated with their public office in a manner that could reasonably be construed to imply that the Council sanctions or endorses the personal or business activities of another, unless the Council has officially sanctioned or endorsed the activities.
> Rule X(c)(3). Except as otherwise provided, an employee may not mail, as official mail, any material or matter that does not request information pertinent to the conduct of the official business of the Council.
> Rule X(e)(3). A Councilmember may not use official mail to solicit directly or indirectly funds for any purpose.

Reasons for Allowing District Public Officials and Employees to Write Letters of Recommendation

Arguably, every type of recommendation is for the private gain of the individual or entity receiving the recommendation. That view, however, is too narrow because it does not account for the attendant benefits to the District that derive from maintaining productive relationships with former employees as well as private entities that may be doing or may have done business with the District in the past. It also does not address the benefits of encouraging civic and other entities to undertake new ventures in the District that may benefit the District and its residents.

For instance, it would be a disincentive to an individual who wants to otherwise become a District government employee if it was known that the person never could receive a positive reference for a job well-done when looking for future employment. The same would be true for a government contractor or grant recipient that might wish to apply for future contracts or grants from the District or from other governmental jurisdictions or private entities. Certainly, an entity's past performance for the District would be an important factor in successfully obtaining future contracts and grants, and to deny it an honest assessment would be to place it at a disadvantage over others. As a result, individuals and entities would have to carefully consider whether such a disadvantage is worth working for or doing any business with the District at all. In my view, that would deny the District the services of many qualified and skilled individuals and entities. As a result, I believe that providing a recommendation not only is a benefit to the recipients, but to the District as well and, therefore, doing so is not prohibited by the general restrictions on using title or position for private gain.

Similarly, there would be a disincentive for a civic or business entity seeking to undertake a project in the District if it could not garner the support it needs from the District government to do so. Prohibiting the Mayor, for example, from writing a letter of support for an entity seeking to engage in a project that may benefit District residents, might serve only to deprive those very District residents of the benefits of having that project completed. On the other hand, caution must be used to ensure that the imprimatur of government approval is not co-opted by a private entity for pecuniary gain. Accordingly, striking the right balance between a fact-based evaluation of the entity and the value of a project, while not giving the appearance of using District government office or title for the private gain of the entity, is important.

Letters of Recommendation

Guidelines for Employment-Related Letters of Recommendation for Current and Former District Employees

As previously stated, District employees and public officials are prohibited from using government resources, including District letterhead, for other than authorized activities.[9]

Rule X(e)(4). A Councilmember may not use official mail for transmission of any matter that is purely personal to the sender or to any other person and is unrelated to the official business, activities, and duties of the member.

[9] *See*, DPM § 1800.3(i), stating, "[e]mployees shall protect and conserve government property and shall not use it for other than authorized activities." DPM § 1808.2(b) defines "authorized purposes" as "those purposes for which government property is made available to members of the public or those purposes authorized by an agency head in

Therefore, special care must be taken when choosing whether to issue such a letter in the first instance. Doing so is discretionary, but in all cases this will require some sort of professional relationship – past or present – with the requestor. Statements in the letter, of course, should be limited to that relationship.

With respect to individuals who are employees or former employees, the recommendation must be based on personal knowledge of the individual's ability. Addressing the individual's ability to perform certain functions, contributions to the daily operations of the office or agency, and other general comments about performance are permitted by the DPM and the Council Code. By way of comparison, the United States Office of Government Ethics ("U.S. OGE") also advises that a federal executive branch employee may write a letter of recommendation only based on personal knowledge of the ability or character of an individual with whom he or she has dealt in the course of federal employment or an individual whom he or she is recommending for federal employment.[10]

As previously mentioned, District employees and public officials must be careful to write letters of recommendation on official letterhead, using their official titles, only for individuals with whom they worked in an official capacity, and ensure that each particular letter relates to duties performed by the subject individual. The letters themselves should be evaluative in nature and provide factual details to support the underlying evaluations. Such letters are permissible for former employees, as well as volunteers, such as unpaid interns.[11]

Authoring a letter of recommendation using an official District title or on District letterhead, however, is not permitted when the requestor is a family member or personal friend or an acquaintance with no professional connection to the District employee or public official. The U.S. OGE provides similar guidance, stating that a federal executive branch employee is prohibited from writing a character reference on agency letterhead for a childhood friend applying for a private sector job.[12]

Although the Council Code of Conduct contains provisions similar to the DPM with regard to using official title or government resources for private gain, there is an express exception for letters of recommendation.[13] Councilmembers and staff may sign an employment-related letter of recommendation using their official titles only in response to a request based upon personal

---

accordance with law or regulation." *See also* Council Code VI(a)(1), which states that employees shall not: "[u]se Council time or government resources for other purposes than official business or government-approved or sponsored activities . . . ."

[10] *See*, U.S. Office of Government Ethics, Use of Title or Agency's Name, http://www.oge.gov/Topics/Use-of-Government-Position-and-Resources/Use-of-Title-or-Agency%E2%80%99s-Name/.

[11] In the case of a volunteer, such as an intern, who does not report directly to the employee or public official writing the letter of recommendation, but reports to a subordinate of that employee or public official, it is permissible to use in the letter details provided by the subordinate. For example, a public official may have general knowledge of the nature and quality of an intern's work, but may include specifics supplied by the subordinate regarding a particular project on which the intern worked.

[12] *See*, U.S. Office of Government Ethics, Use of Title or Agency's Name, http://www.oge.gov/Topics/Use-of-Government-Position-and-Resources/Use-of-Title-or-Agency%E2%80%99s-Name/.

[13] Because the Council Code of Conduct provides express rules for letters of recommendation, these rules take precedence over the general rules regarding usual and customary constituent services, also found in the Council Code of Conduct. Council Code, Rule VI(c)(1) and (2) (Prestige of Office).

knowledge of the ability or character of an individual or entity with whom they have dealt in the course of their Council employment, meaning the requestor is a current or former Council employee or has worked with the Council in an official capacity.[14] In this instance, the letter of recommendation may address only the duties performed by the requestor during the course of employment or work completed in connection with the Council.[15] If the Councilmember or staff member has no personal knowledge of the individual or entity's work ability or performance, the Councilmember or staff member may use his or her official title when signing the letter and write the letter on Council letterhead, but must restrict the content of the letter to character or residence of the individual or the entity requesting the letter.[16]

Members of the U.S. House of Representatives are subject to similar restrictions, as set forth in the House Ethics Manual.[17] Members are permitted to write letters of recommendation or provide oral recommendations for applicants to executive branch federal government competitive service positions, but such recommendations are limited to addressing the applicant's residence and character if the Member does not have personal knowledge of the applicant's work performance or abilities.[18] If, however, "the Member has personal knowledge of the applicant's work ability or performance, the federal hiring official may consider a recommendation based on the Member's personal knowledge or records that contain an evaluation of the job applicant's work performance, ability, aptitude, general qualifications, character, loyalty, or suitability."[19] The House Ethics Manual also provides that letters of recommendation may be considered official business and written on official letterhead if the applicant is a current or former employee, who "has worked with the Member in an official capacity and the letter relates to the duties performed by the applicant."[20]

In my view, the aforementioned requirements and restrictions represent a reasoned approach to providing letters of recommendation for employees and former employees. Regardless of whether the writer is employed by the Legislative or the Executive branch, the standards essentially are the same.

Guidelines for Letters of Recommendation for Contractors and Grantees

As an initial matter, anyone who undertakes to provide a letter of recommendation for a contractor or grantee must be certain that he or she has the authority to speak on behalf of the District government or the writer's employing agency or District entity. Generally, line-level

[14] Council Code, Rule VI(d)(1) (Special Rules for Letters of Recommendation) states: "Employees may sign a letter of recommendation using their official titles only in response to a request for an employment recommendation or character reference based upon personal knowledge of the ability or character of an individual or entity with whom they have dealt in the course of their Council employment." Also, Council Code, Rule VI(d)(2) states: "Letters of recommendation may be written on Council letterhead if the applicant is a current or former Council employee or has worked with the Council in an official capacity and the letter relates to the duties performed by the applicant."
[15] *Id.* at Council Code, Rule VI(d)(2).
[16] *See*, Council Code, Rule VI(d)(3), which states: "If an employee does not have personal knowledge of an individual or entity's work ability or performance, the employee may sign a letter of recommendation on Council letterhead addressing only the character or residence of the individual or entity requesting the letter."
[17] House Ethics Manual, Committee on Standards of Official Conduct, 110th Congress, 2d Session (2008 Edition).
[18] *Id*. at 317.
[19] *Id*. at 318.
[20] *Id*. at 320.

employees and even low and mid-level managers do not have this authority. Councilmembers, the Mayor, and agency heads generally do have such authority, and in some cases, high-level executives, higher level managers, and Council staffers may have the express authority to do so.

Second, letters of recommendation for contractors, vendors, or grant recipients should be evaluative in nature. This means that they may contain only verifiable facts such as the timely completion of a project, noting whether all aspects of a contract were fulfilled, and whether the requestor stayed within budget.

Third, if possible and as a best practice, the letter should be addressed either to the requestor or "To Whom It May Concern" rather than to a specific person or entity.[21] This helps make it clear that the purpose of the letter is to evaluate the contractor, vendor, or grant recipient, and that such a letter may be used by the entity being evaluated for a variety of purposes. Addressing an evaluative letter "To Whom It May Concern" also assists with dispelling the notion that the writer of the letter is inappropriately using the weight of his or her office, title, or position in a coercive or unduly influential manner.

Fourth, because using District government letterhead or one's District title or position, alone, tends to influence the reader, the writer must be careful to ensure that representations made in the letter assess the performance of the requestor but do not include opinions or endorsements. In addition, the evaluative letter should not attempt to influence the recipient of the letter to provide the contractor, vendor, or grantee with a contract, grant, or other item of significant monetary value. The letter should not be written in such a way that it endorses the contractor, vendor, or grantee, or requests that the recipient of the letter do business with or otherwise engage the contractor, vendor, or grantee. Remember, there is a clear prohibition in the Code of Conduct from using one's position or title for private gain. Letters of recommendation that state that the entity deserves to receive a contract or grant are not permissible because the author no longer is speaking to the ability of the requestor or past performance, but instead is attempting to influence the outcome of the contract or grant award process.[22] Evaluative letters of recommendation should summarize the entity's performance without advocating for a particular outcome with regard to a contract or grant, for example.

Accordingly, using government letterhead or the writer's official title or position when writing a letter of recommendation is permissible under the DPM and the Council Code of Conduct if the letter evaluates the contractor or grantee requesting it, but does not endorse or advocate for the requestor. The letter should be based on personal dealings with the contractor or grantee or entity and also should contain verifiable facts.

[21] If addressing the letter "To Whom it May Concern" is not practical or permitted by the rules governing the application or other matter for which the contractor, vendor, or grantee is seeking the letter of recommendation, then it is permissible to address the letter to the party seeking the letter. This still allows the requestor to use the letter as appropriate and does not create the appearance that the letter writer is inappropriately using the weight of his or her office, title, or position in a coercive or unduly influential manner. It is not permissible, however, to address the letter to the party from whom the requestor is seeking any benefit.

[22] *See*, U.S. Office of Government Ethics Advisory Memorandum 99 x 15: Use of Official Title.

Letters of Support

Guidelines for Letters of Support for Civic or Business Entities or Projects Seeking Support for Their Endeavors in the District

Councilmembers and the Mayor[23] frequently are contacted by individuals, not-for-profit entities, and other public and private business organizations requesting letters of support for endeavors or projects they propose to undertake in the District. In fact, many of the questions this Office receives from Councilmembers concern their responses to such requests, which suggests, I believe, that letters of support represent an often used – and acceptable – means of providing constituent services. In any event, as with letters of recommendation for contractors, grantees, or vendors, letters of support should be as evaluative as possible.

Accordingly, the District official writing a letter of support may provide details of his or her relationship with the requestor and may express support for the proposed endeavor or project. The letter should detail clearly the reasons for such support, wherever possible. For example, the official writing a letter of support for a public charter school applying for New Markets Tax Credits to help in a facilities renovation project may have first-hand knowledge of the school's earlier expansion efforts to serve more students in the community. Including language concerning the expansion efforts, how they served to attract qualified students and to support a high ranking by the Public Charter School Board, and other similar details, for example, serves to provide factual and evaluative reasons for the letter of support.

In terms of support, the letter may, for instance, make statements such as, "I support this entity in its endeavor," or "I support this endeavor." The letter also may include language asking a government agency to "consider these factors in its decision," because this makes it clear that the ultimate decision rests with the agency. Letters of support should avoid a clear endorsement, such as "I endorse." They also should avoid outright asking for funding for the entity, or directing a government agency to decide to provide funding or other benefits to the entity. I note, however, that for charitable fundraising, a special exception exists for Councilmembers. This exception, contained in the Council Code of Conduct, permits a Councilmember to serve as an honorary chair or member of a non-profit entity's fundraising event and even to allow use of his or her name and title in solicitations and announcements as long as such are not made directly to individual contributors. This exception applies only to supporting a nongovernmental *bona fide* charitable activity. (Council Code, Rule VI(c)(1)(4)).

[23] Although the DPM does not contain a specific provision that expressly authorizes the Mayor to write letters of support, it does contain a provision that allows the Mayor to serve "as an honorary chair or honorary member of a nonprofit entity's fundraising event, so long as the entity for which funds are raised supports a nongovernmental bona fide charitable activity benefiting the District of Columbia. Use of the Mayor's name or title in fundraising solicitations or announcements of general circulation shall be in accordance with such terms and limitations as the Mayor may prescribe by Mayor's order or by direction in particular cases." DPM § 1805.10. Therefore, I analogize the Mayor's ability to use his or her name, title, or position in a letter of support that otherwise meets the guidelines set forth in this Advisory Opinion to the DPM provision that allows the use of the Mayor's name or title in fundraising, because in both instances, the ultimate beneficiary is the District of Columbia. I note, however, that DPM § 1805.10 prohibits "the use of the Mayor's name or title in solicitations made by or on behalf of the Mayor directly to individual contributors," and I apply that prohibition to letters of support as well.

Letters of support should not include wholly unsupported opinions or endorsements of the requesting individual, business, or entity. Nevertheless, if the letter writer has no knowledge of the requestor that can serve as factual support for the letter, he or she can support the project itself. For example, the writer may highlight how much a project such as the one proposed would benefit the neighborhood in which it would be located, if successfully completed. Further, the letter of support should not go so far as to ask or recommend that a private business, individual, or not-for-profit be given a contract, grant, or other item that would constitute a financial benefit. Details are important in this respect and any uncertainty concerning proposed language that might exceed what is permissible should be vetted in advance by this Office. Finally, in the case of a Councilmember who writes a letter of support that otherwise meets the guidelines, the Councilmember must ensure that he or she does not give the appearance that the Council itself officially sanctioned or endorsed the activities discussed in the letter.[24]

On the Executive side, in addition to the restrictions outlined above, the Mayor has issued a Mayor's Memorandum which provides guidelines for Mayoral letters of support. *See* Mayor's Memorandum 2007-3 (June 5, 2007). These guidelines are somewhat more restrictive than the minimal standards discussed herein. The Memorandum requires that any such letter:

- ★ Shall be addressed to the party seeking the letter and not to a party from whom the requestor is seeking any benefit; [25]
- ★ Shall not include any language related to fundraising, including solicitations or support for solicitations;
- ★ Shall not include any endorsement of a commercial product;
- ★ Shall not be written on behalf of a party to litigation or an administrative judicial matter;
- ★ Shall not be written on behalf of a commercial or for-profit circumstances (except under limited circumstances deemed by the Deputy Mayor for Economic Development to be in the interest of the District of Columbia);
- ★ Shall contain no assertion of facts and make no representations as to the truth of statements provided by the requestor; and
- ★ Shall not warrant the quality of any performance, service, or program, or attest to anyone's character.

It should be noted that this, or any Mayor's Memorandum, applies only to the Executive and executive staff and not to the Council or its staff. It can be rescinded or modified at any time. In this case, it applies only to the Mayor.

[24] Specifically, Council Code, Rule VI(c)(3) (Prestige of Office) states: "Council employees shall not use or permit the use of their position or title or any authority associated with their public office in a manner that could reasonably be construed to imply that the Council sanctions or endorses the personal or business activities of another, unless the Council has officially sanctioned or endorsed the activities."

[25] This provision exceeds minimal ethics standards for letters of support. I recognize that in certain limited instances where the District is involved in a joint undertaking with a private entity, often in some form of a public-private partnership, in which both the District and the private entity have an interest in obtaining funds from a third-party, it may be beneficial to the District to address the letter to the grantor and to have the letter of support contain information about the District's relationship with the private party. Even in that situation, however, the support letter should not endorse the private entity or make claims without factual support.

Executive agency officials such as agency heads or other high-level executives authorized to speak for the agency also may be contacted by a private business, individual, or not-for-profit and asked to write a letter of support for an endeavor or project the individual or entity is seeking to do in the District. In general, I have a concern about individual agencies, particularly executive agencies, writing letters of support for individuals or entities that are not current or former employees, contractors, vendors, or grantees. The concern is that when an agency head speaks, there is at least a risk of public perception that the agency head is speaking for the entire District government when, in fact, the Mayor should speak for the government.

That being said, however, I recognize that there may be individual instances in which it is appropriate for an agency official to write such a letter of support. For instance, where a civic association or non-profit is involved in a project or event that clearly and directly supports the mission of a District agency or the constituents of the agency, some flexibility should be shown in light of the attendant benefits to the agency in carrying out a legitimate governmental function. An example might include a not-for-profit that caters to the needs of the elderly in the District and which holds an event to raise awareness of available services. In that instance, following the guidelines set forth above, it would not be inappropriate for an agency head to support the event publicly, as long as the event itself is not a fundraiser.

Please be advised that this advice is provided pursuant to section 219(a-1)(1) of the Ethics Act (D.C. Official Code § 1-1162.19(a-1)(1)), which empowers me to issue, on my own initiative, an advisory opinion on any matter I deem of sufficient public importance concerning a provision of the Code of Conduct over which the Ethics Board has primary jurisdiction.[26]

For further assistance, especially in resolving any questions about the permissibility of sending a given letter or its substantive text, please feel free to contact the staff of this Office at (202) 481-3411.

Respectfully,

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

#1040-001

[26] Pursuant to section 219(a-1)(2) of the Ethics Act (D.C. Official Code § 1-1162.19(a-1)(2)), a proposed draft of this advisory opinion was published at 61 DCR 10866 (October 17, 2014).

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.

On October 31, 2014, DHCF and DDS published public notice of proposed changes to the rate methodologies and reimbursements in the D.C. Register at 61 DCR 11597. DDS is proposing additional changes and has made some corrections to the prior public notice as explained more fully in this public notice below.

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 (and there are no changes from the October 31, 2014 publication):

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) 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.

3) 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.

4) 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.

5) 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.

6) 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 up to four.

7) 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.

8) 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.

9) 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) Residential Habilitation, Supported Living, In-Home Supports, Host Home, and Behavioral Support Non-Professional 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.

2) Day Habilitation: Modify rate to reflect increased costs associated with benefits for staff, facilities and utilities, including cell phones; and decreased costs associated with DSP hours, specifically that the rate should be based upon DSPs working 2080 hours per year. The new proposed rate is $6.68 per 15 minute unit and the rate for Day Habilitation 1:1 is proposed at $11.78 per 15 minute unit. Introduce a small group rate with a staffing ratio of 1:3 and no more than 15 people in a setting for people with higher intensity support needs at $10.20 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.

3) Employment Readiness: Increase in the Employment Readiness rate from $3.80 to $4.26 per 15 minute unit based upon increased costs in capital and indirect costs.

4) 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.

5) Supported Living with transportation and Residential Habilitation: Added a staff cost component to the transportation cost center equal to one (1) DSP eight hours a day for 249 days per year.

6) 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 in the direct service cost center.

7) Residential Habilitation: A decrease in the Residential Habilitation 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 in the direct service cost center.

8) 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.

9) Companion Service: Add a Companion Service at the proposed rate of $4.59 per 15 minute unit for general supervision.

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 (and there are no changes from the October 31, 2014 publication).

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.

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 the D.C. Department on Disability Services, 1125 Fifteenth Street, N.W., Washington, D.C. 20015 on Monday, December 1, 2014, at 4 pm. Prior to this public forum, at 3 pm, DDS will host a training session on the HCBS Settings Rule.

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.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Psychology ("Board") hereby gives notice of its regular meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)) (2012 Repl.).

The Board has determined that it will hold its regular meetings on a quarterly basis on the second Thursday of each quarter beginning on December 11, 2014. The meeting will be held from 4:00 PM to 6:30 PM. The meeting will be open to the public from 4:00 PM until 5: PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 5:00 PM to 6:30 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Its subsequent meeting will be held on the following dates:

March 12, 2015
June 11, 2015
September 10, 2015
December 10, 2015

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health's Events webpage at www.doh.dc.gov/events to view the agenda.

DEPARTMENT OF HEALTH (DOH)
COMMUNITY HEALTH ADMINISTRATION (CHA)
NOTICE OF FUNDING AVAILABILITY (NOFA)
RFA#DCMH_12.19.14

Million Hearts Strategy Grant Program

The District of Columbia Department of Health (DOH) Community Health Administration (CHA) is soliciting applications from eligible organizations to implement Million Hearts strategies to improve blood pressure control.

Strategy areas shall include increasing the scale and spread of Health Information Technology (HIT) interventions, team-based care interventions, and/or the CDC-recognized Diabetes Prevention Program (DPP) to improve management of hypertension.

The following entities are eligible to apply: private, non-profit organizations, licensed to conduct business within the District of Columbia. Private entities include community-based organizations, community health centers and hospitals.

It is anticipated that approximately $200,000 will be available for FY2015 grant awards. Grants will be funded using DC Local Appropriated funds. All awards are contingent upon the continued availability of funds.

The release date for RFA#DCMH_12.19.14 is Friday, December 19, 2014. The complete RFA will be available on the Office of Partnerships and Grants Services website, http://opgs.dc.gov/page/opgs-district-grants-clearinghouse under the DC Grants Clearinghouse. A limited number of copies will also be available for pick-up at 899 North Capitol Street, NE, Third Floor (Reception Area), Washington, D.C. 20002 beginning Friday, December 19, 2014.

The submission deadline is 4:30 p.m. on Friday, January 30, 2015. Late applications will not be accepted. **A Pre-Application Conference will be held on Thursday, January 15, 2015** from 2:00 p.m. - 4:00 p.m., at 899 North Capitol Street, NE, 3rd Floor, Washington, DC in CHA Conference Room #306.

Please contact Robin Diggs Outlaw for additional information at 202/442-9130 or by email robin.diggs@dc.gov.

DISTRICT OF COLUMBIA GOVERNMENT

HOUSING PRODUCTION TRUST FUND ADVISORY BOARD

NOTICE OF DECEMBER REGULAR MEETING

The Housing Production Trust Fund (HPTF) Advisory Board announces its next Meeting on **Monday, December 1, 2014, from 10:00 A.M. to 12:30 P.M.,** at the D.C. Department of Housing and Community Development, Housing Resource Center, 1800 Martin Luther King Jr., Avenue, SE, Washington, DC 20020. See below the Draft Agenda for the December meeting.

For additional information, please contact Oke Anyaegbunam, HPTF Manager, via e-mail at Oke.Anyaegbunam@dc.gov or by telephone at 202-442-7200.

DRAFT AGENDA *(as of 11.14.14):*

Call to Order, David Bowers, Chair

1. Consider and Approval Prior Meeting Summaries.

2. *Discussion Item:* Demand Side Leveraging Options: Follow-Up Review of Data Presentation by The Community Partnership for the Prevention of Homelessness.

3. *Discussion Item:* Advisory Board Identification of Key HPTF Matters for the New Mayoral Administration.

4. DHCD: Leveraging Work Group Update.

5. DHCD: Update on the Development Finance Project Pipeline.

6. DHCD: Update on the Performance of the HPTF Loan Portfolio and new Agency Asset Management Activities.

7. Old Business
   A. Status of Mayoral Nominations for Reappointment of Board Members.
   B. Request for Favorable Tax Status for Newly Acquired Vacant Properties.
   C. Update on recent DC Council legislative actions related to the HPTF.

8. Public Comments.

9. Announcements.

Adjournment

EXECUTIVE OFFICE OF THE MAYOR

OPEN GOVERNMENT ADVISORY GROUP

NOTICE OF PUBLIC MEETING AND REQUEST FOR COMMENTS

The Open Government Advisory Group hereby gives notice that it will meet on Wednesday, December 3, 2014 from 7 – 9:30PM. The meeting is open to the public and will be held at the location below:

441-4th Street, N.W., Room 1117

The Advisory Group is charged with evaluating the District's progress towards meeting the requirements of Mayor's Order 2014-170, the Transparency, Open Government and Open Data Directive, the agency Open Government Reports, and for improving the openness and transparency of the District government. The Advisory Group is also charged with making recommendations to the Mayor to further lessen restrictions on the Terms and Conditions applicable to the District's Open Data sites (www.data.dc.gov). Agency Open Government Reports are available on the Advisory Group's website at http://dc.gov/page/open-government-advisory-group . Additional information may be obtained from the Office of Open Government's website at http://www.bega-dc.gov/documents/agency-open-gov-reports or Github at http://opengovadvisorygroupdc.github.io .

The Advisory Group also seeks input from stakeholders and the public on these issues. A portion of the meeting will be set aside for public comments. Written comments are also encouraged and may be emailed to open@dc.gov or submitted at www.open.dc.gov for the record and distribution to members of the Advisory Group. All comments will be made publicly available. For additional information, please contact Brian K. Flowers at brian.flowers@dc.gov

AGENDA

Wednesday, December 3, 2014
7 PM- 9:30 PM

1. Call to Order.
2. Ascertainment of Quorum
3. Review of Open Government Reports
4. Recommendations regarding webcasting
7. Discussion
8. Request for Public Comments
9. Adjournment

MUNDO VERDE PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

PA System and Synchronized Clocks

Mundo Verde PCS seeks bids for a PA system and/or synchronized clocks. The RFP with bidding requirements and supporting documentation can be obtained by contacting Elle Carne at ecarne@mundoverdepcs.org. **All bids not addressing all areas as outlined in the RFP will not be considered.**

The deadline for application submission is December 5, 2014 no later than 5:00pm

PERRY STREET PREP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

The Perry Street Prep Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for the following services:

- School Improvement Services
  - The vendor will work with Perry Street Prep to determine a long-term vision and strategy by analyzing how student performance outcomes will need to improve over time, and by identifying key levers for performance improvement.

Please go to www.pspdc.org/bids to view a full RFP offering, with more detail on scope of work and bidder requirements.

Proposals shall be received no later than Friday, December 12, 2014.

Prospective Firms shall submit one electronic submission via e-mail to the following address:

Bid Administrator
psp_bids@pspdc.org

Please include the bid category for which you are submitting as the subject line in your e-mail (e.g. Food Service). Respondents should specify in their proposal whether the services they are proposing are only for a single year or will include a renewal option.

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
District of Columbia Metropolitan Police Department,	PERB Case No. 14-A-06
Petitioner,	Opinion No. 1493
v.	
Fraternal Order of Police/Metropolitan Police Department Labor Committee, (on behalf of Tracy Kennie),	Decision and Order
Respondent.	

DECISION AND ORDER

On May 5, 2014, the District of Columbia Metropolitan Police Department ("MPD") filed an Arbitration Review Request ("Request") seeking review of an arbitration award ("Award")[1] that overturned the termination of Grievant Tracy Kennie ("Grievant"). The sole issue before the Board is whether the Arbitrator acted without authority or exceeded his jurisdiction. Pursuant to D.C. Official Code § 1-605.02(6), the Board finds that the Arbitrator did not act without authority or exceed his jurisdiction. Thus, MPD's Arbitration Review Request is denied.

I. Statement of the Case

A. Background

The matter before the Board arises from a grievance filed by the Fraternal Order of Police/Metropolitan Police Department Labor Committee ("FOP" or "Union") challenging MPD's termination of Grievant's employment.[2] The precise issues submitted for arbitration, as

[1] Included with MPD's Arbitration Review Request as Exhibit 1.
[2] (Award at 10-11).

stated by the arbitrator, were, "[w]hether the Grievant's termination was for cause?" and "[i]f not, what shall be the remedy?"[3]

The Arbitrator reviewed the findings of the MPD adverse action panel ("Panel") that found Grievant guilty of the following allegations: Charge 1- a false statement charge with four specified allegations; and Charge 2- a neglect of duty charge with one specified allegation.[4] MPD only challenged the Arbitrator's findings concerning Charge 1.[5]

Under Charge 1, the Arbitrator concluded that MPD "met its burden of proof to show that the Grievant violated MPD General Orders and work rules" and that there were "no grounds to overturn the Panel's determination that the Grievant was guilty of the misconduct described in Charge 1, Specifications 1 through 4."[6] Having determined that there was substantial evidence to support MPD's guilty findings under Charge 1, the Arbitrator then looked to whether termination was an appropriate penalty.[7]

The Arbitrator's analysis of MPD's penalty determination focused on the Panel's evaluation of the twelve factors articulated in *Douglas v. Veterans Administration*, 5 M.S.P.R. 280 (MSPB 1981) ("*Douglas* Factors"). The Arbitrator found that the record supported the Panel's findings regarding eight of the *Douglas* Factors,[8] but that the record did not support the Panel's analyses of the other four Factors.[9] Accordingly, the arbitrator reduced Grievant's termination to a 30-day suspension.[10]

B. MPD's Position

MPD asserts that the arbitrator exceeded his authority under Article 19, E, Section 5(4)[11] of the parties' collective bargaining agreement[12], which requires arbitrators to confine their

[3] *Id.* at 2.
[4] (Award at 4-5).
[5] *See* (Petitioner's Brief at 4-6).
[6] (Award at 21, 26).
[7] *Id.* at 27-31.
[8] Namely, the Panel's determinations that the nature and seriousness of the offense, the job level and type of employment, the effect on Grievant's ability to perform his duties and supervisor confidence, and the clarity of notice Factors were "aggravating"; that Grievant's past disciplinary record, his past work record, and his potential for rehabilitation Factors were "mitigating"; and that the consistency of the penalty with MPD's table of penalties Factor was "neutral". (Award at 27, 29).
[9] The Arbitrator determined that the Panel should have evaluated the possibility of alternative sanctions Factor as "mitigating" rather than "neutral"; and that the mitigating circumstances, the consistency of the penalty with other employees, and the notoriety of the offense Factors should have been evaluated as "neutral" instead of "aggravating." *Id.* at 28-30.
[10] *Id.* at 31.
[11] 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." (Award at 25).
[12] Included with FOP's Opposition to Petitioner's Brief as Attachment 2.

decisions solely to the precise issue(s) submitted.[13] MPD contends that because the arbitrator determined that there was substantial evidence to support the Panel's finding that Grievant was guilty of each untruthful statement specification, and because the Arbitrator noted that MPD General Order 120.21 states that the recommended penalty for a first time false statement violation is "suspension for 15 days to removal", he was therefore not authorized under the collective bargaining agreement to then proceed to the "if not" portion of the issues before him and reduce the termination, or to substitute his penalty preference for that of the Chief of Police.[14] MPD asserts that alternatively, the Arbitrator should have remanded the case to the Panel.[15]

II. Analysis

D.C. Official Code § 1-605.02(6) authorizes the Board to modify, remand in whole or in part, 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.

In this case, MPD stated in its initial Request that it was challenging the Award on the bases that the Arbitrator acted without or exceeded the authority granted him in violation of Article 19, E, Section 5(4) of the parties' collective bargaining agreement, and that the Award is contrary to law and public policy.[16] In its brief, however, MPD only presented arguments supporting its contention that the Arbitrator acted without or exceeded his authority.[17] Therefore, the Board will not conduct any analysis as to whether or not the Award is contrary to law and public policy.

In order to determine if an arbitrator has exceeded his jurisdiction or was without authority to render an award, the Board evaluates "whether the award draws its essence from the collective bargaining agreement."[18] The U.S. Court of Appeals for the Sixth Circuit in *Michigan Family Resources, Inc. v. Service Employees International Union Local 517M*, provided a standard whereby it can be determined if an award "draws its essence" from a collective

---

[13] (Petitioner's Brief at 5).
[14] *Id.* at 5-6 (citing *Stokes v. District of Columbia*, 502 A.2d 1006, 1011 (1985) (holding that a hearing examiner's role is not to insist that the *Douglas* Factors "be struck precisely where [he] would choose to strike it if [he was] in the agency's shoes in the first instance [because] such an approach would fail to accord proper deference to the agency's primary discretion in managing its workforce")).
[15] *Id.* at 6 (citing *Stokes, supra*).
[16] (Petition at 2).
[17] (Petitioner's Brief at 4-6).
[18] *Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee (on Behalf of Kenneth Johnson)*, 59 D.C. Reg. 3959, Slip Op. No. 925, PERB Case No. 08-A-01 (2012) (*quoting D.C. Public Schools v. AFSCME, District Council 20*, 34 D.C. Reg. 3610, Slip Op. No. 156, PERB Case No. 86-A-05 (1987)); *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).

bargaining agreement, stating:

> [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.[19]

The Arbitrator in this case addressed only the precise issues presented to him by the parties, and therefore did not act without or exceed his authority in violation of Article 19, E, Section 5(4) of the collective bargaining agreement.

A. The Arbitrator Did Not Exceed or Act Without Authority When He Reviewed and Reduced Grievant's Penalty.

MPD's main contention does not challenge the merits of the Arbitrator's findings regarding the Panel's analysis of each *Douglas* Factor, but instead focuses on whether the Arbitrator was authorized to make any findings about MPD's choice of remedy in light of his exact phrasing of the issues in the Award.[20] There is no indication from the record, however, that the parties stipulated to or agreed upon any particular phrasing of the precise issues they submitted to the Arbitrator as envisioned in Article 19, E, Section 2 of the collective bargaining agreement.[21] MPD does not state how it phrased the issues it presented to the Arbitrator. The relevant parts of FOP's phrasing, however, are as follows:

- Whether sufficient evidence exists to support the alleged charges?

- Whether termination is an appropriate remedy?[22]

The Board notes that FOP's phrasing does not include the "if not" clause that the Arbitrator used and on which MPD's whole argument is based. Rather, FOP's phrasing presents two

[19] 475 F.3d 746, 753 (6th Cir. 2007).
[20] *Id.* at 5-6.
[21] *See* (Opposition to Petitioner's Brief, Attachment 2 at p. 24) (which states: "... the parties will attempt to agree on a statement of the issue for submission to arbitration. If the parties are unable to agree on a joint statement of the issue, the arbitrator/mediator shall be free to determine the issue").
[22] (Opposition to Petitioner's Brief at 4-5).

independent issues without any conditional clauses.[23] Furthermore, FOP's phrasing is consistent with the general outline of the Award in which the Arbitrator first reviewed the Panel's findings regarding the charges,[24] and then evaluated the appropriateness of the penalty the Panel recommended.[25] Based on the record, the Board finds that the Arbitrator resolved the disputes that were submitted to him by the parties, and likewise concludes that the Arbitrator acted within the jurisdiction granted to him by the collective bargaining agreement.[26]

Even if the Board only considered the Arbitrator's precise phrasing of the issues, it still would not be able to find that the Arbitrator acted outside of the scope of authority granted to him. Indeed, the Arbitrator's precise phrasing of the first issue reads, "[w]hether the Grievant's termination was for cause?"[27] By including the word "termination" in his phrasing of the issue, the Arbitrator sufficiently demonstrated that he would address the appropriateness of Grievant's termination, which necessarily included a discussion of whether or not the Panel's guilty findings were supported by sufficient evidence, and whether or not the penalty imposed by the Panel was sufficiently justified and supported by the record and relevant case law.[28] When the Arbitrator found that the Panel failed to properly analyze four of the *Douglas* Factors in its decision to terminate Grievant, he effectively determined that there was not sufficient "cause" to support "termination" as an appropriate remedy. As a result, the Arbitrator was then able to invoke the conditional "if not" portion in the second issue and address the question therein, namely "what shall be the remedy."[29]

B. The Arbitrator Did Not Exceed or Act Without Authority When He Failed to Defer to the Chief of Police's Choice of Penalty.

MPD argues that the Arbitrator should have deferred to the Chief of Police's decision to terminate Grievant because General Order 120.21 lists termination as a possible penalty for Grievant's conduct.[30] MPD's argument relies on a D.C. Court of Appeals case, *Stokes, supra,* in which the Court reversed a D.C. Office of Employee Appeals ("OEA") decision to reduce an employee's termination to a suspension.[31] In that case, The Court stated:

> Although the OEA has a "marginally greater latitude of review" than a court, it may not substitute its judgment for that of the agency in deciding whether a particular penalty is appropriate. *Douglas v. Veterans Administration, supra,* 5 M.S.P.B. at 327-328, 5 M.S.P.R. at 300. The "primary discretion" in selecting a penalty

[23] *Id.*
[24] (Award at 26).
[25] *Id.* at 27-31.
[26] *Michigan Family Resources, Inc., supra.*
[27] (Award at 2).
[28] *Id.*
[29] *Id.*
[30] (Petitioner's Brief at 5-6).
[31] 502 A.2d at 1007.

> "has been entrusted to agency management, not to the [OEA]." *Id.* at 328, 5 M.S.P.R. at 301.
>
> Selection of an appropriate penalty must ... involve a responsible balancing of the relevant factors in the individual case. The [OEA's] role in this process is not to insist that the balance be struck precisely where the [OEA] would choose to strike it if the [OEA] were in the agency's shoes in the first instance; such an approach would fail to accord proper deference to the agency's primary discretion in managing its workforce. Rather, the [OEA's] review of an agency-imposed penalty is essentially to assure that the agency did conscientiously consider the relevant factors and did strike a responsible balance within tolerable limits of reasonableness. Only if the [OEA] finds that the agency failed to weigh the relevant factors, or that the agency's judgment clearly exceeded the limits of reasonableness, is it appropriate for the [OEA] then to specify how the agency's decision should be corrected to bring the penalty within the parameters of reasonableness.[32]

The Court ultimately held that because OEA's hearing examiner erred in finding that the agency did not comply with relevant penalty standards when in fact it had complied, OEA's decision to reverse the employee's termination was improper.[33]

In this case, the Arbitrator found that the Panel's analysis of four *Douglas* Factors exceeded the limits of reasonableness and that termination was therefore not an appropriate remedy.[34] In accordance with the Court's holding in *Stokes, supra*, the Arbitrator would only have been required to defer to the Chief of Police's decision to terminate Grievance if the Panel's *Douglas* Factors analysis contained no unreasonable omissions or errors.[35] But whereas the Arbitrator in this case found that the Panel failed to conduct an accurate *Douglas* Factors analysis, the Arbitrator was under no obligation to give any deference to the Chief of Police's determination.[36] Furthermore, as stated previously, the parties—in full accordance with the terms of their collective bargaining agreement[37]—expressly charged the Arbitrator with the task of reviewing whether termination was an appropriate remedy, so MPD cannot now argue that the Arbitrator exceeded his authority by addressing and resolving that precise issue in the Award.[38]

---

[32] *Id.* at 1011.
[33] *Id.* at 1010-1011.
[34] (Award at 28-31); *see also Stokes, supra,* at 1011.
[35] *Stokes, supra,* at 1010-1011.
[36] (Award at 28-31); *see also Stokes, supra,* at 1010-1011.
[37] *See* (Opposition to Petitioner's Brief at 6-7, Attachment 2).
[38] *Id.* at 4-5.

C. The Arbitrator Was Under No Obligation to Remand the Grievance Back to the Panel.

Finally, the Board rejects MPD's argument that the Arbitrator should have remanded the case to the Panel to correct its flawed *Douglas* Factors analysis.[39] MPD again relies on *Stokes*, *supra*, to support its position, but the Board finds that there is nothing in that case to justify MPD's contention.[40] Furthermore, there is nothing in existing case law or the collective bargaining agreement that required the Arbitrator to remand the case to the Panel to correct its *Douglas* Factors analysis.[41] Such a decision was therefore solely within the discretion of the Arbitrator. Moreover, the parties' collective bargaining agreement definitively empowered the Arbitrator to "hear and decide" FOP's grievance, and both parties stipulated in the agreement that the Arbitrator's decision in the matter would be "binding."[42] Accordingly, the Board cannot conclude based on the record before it that the Arbitrator exceeded his jurisdiction or acted without authority when he exercised his discretion not to remand the case to the Panel.[43]

D. Conclusion

The Board finds that the Arbitrator addressed only the precise issues presented to him by the parties, and that the Award therefore sufficiently drew its essence from the collective bargaining agreement.[44] As such, the Board finds that the Arbitrator did not act without or exceed the authority granted to him by the parties in violation of Article 19, E, Section 5(4).[45] Further, the Board finds that because the Arbitrator found that the Panel misanalysed four *Douglas* Factors when determining Grievant's penalty—the merits of which MPD did not challenge—the Arbitrator did not act without or exceed his authority when he did not defer to the Chief of Police's decision to terminate Greivant's employment.[46] Finally, the Board finds that the Arbitrator did not act without or exceed his authority when he elected, in his discretion, not to remand the case to the Panel to correct its *Douglas* Factors analysis.[47]

Therefore, based on the foregoing, and in accordance with D.C. Official Code § 1-605.02(6), MPD's Arbitration Review Request is denied.

---

[39] (Petitioner's Brief at 6).
[40] *See Stokes, supra; and* (Opposition to Petitioner's Brief at 7).
[41] *Id.*
[42] *See* (Opposition to Petitioner's Brief at Attachment 2).
[43] *Id.* at 7.
[44] *MPD v. FOP (on Behalf of Kenneth Johnson), supra,* Slip Op. No. 925, PERB Case No. 08-A-01.
[45] *Michigan Family Resources, Inc., supra.*
[46] (Award at 28-31); *see also Stokes, supra,* at 1010-1011.
[47] (Opposition to Petitioner's Brief at 7).

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

October 30, 2014

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 14-A-06, Opinion No. 1493, was transmitted *via* File & ServeXpress and e-mail to the following parties on this the 3rd day of November, 2014.

Lindsay M. Neinast, Esq.
Assistant Attorney General
441 4th Street, N.W.
Suite 1180 North
Washington, DC 20001
Lindsay.Neinast@dc.gov

VIA FILE & SERVEXPRESS AND EMAIL

Marc L. Wilhite, Esq.
Pressler & Senftle, P.C.
927 15th Street, N.W.
Twelfth Floor
Washington, DC 20005
MWilhite@presslerpc.com

VIA FILE & SERVEXPRESS AND EMAIL

/s/ Sheryl Harrington
PERB

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
Marcus Steele	
Complainant	PERB Case No. 14-U-16
	Opinion No. 1492
v.	
	Motion for Reconsideration
American Federation of Government Employees Local 383	
Respondent	

MOTION FOR RECONSIDERATION

DECISION AND ORDER

I. Statement of the Case

This matter comes before the Board on a Motion for Reconsideration filed by Marcus Steele (Complainant). Complainant, a former employee of the D.C. Mental Retardation & Developmental Disability Administration, and a former bargaining unit member represented by the American Federation of Government Employees Local 383 ("Union"), requests that the Board reverse the Executive Director's administrative dismissal of his unfair labor practice complaint.[1]

The Board finds that the Motion for Reconsideration is a mere disagreement with the Executive Director's decision, and also finds the complaint untimely. Therefore, the Board dismisses the unfair labor practice complaint with prejudice.

II. Background

On May 16, 2014, Steele filed a complaint against AFGE Local 383, alleging violations of Section 1-617.04(b) of the CMPA. Specifically, Complainant asserted that he was entitled to

[1] The Executive Director dismissed the Complaint on August 21, 2014.

full reimbursement of parking costs and expenses, while employed at the MRDDA, plus 4% accrued interest, as a result of the Board's Order in Case No. 07-U-03.[2] In his complaint, Complainant alleged that he requested a reimbursement of all of his expenses from the Union, but did not receive the requested reimbursement.

III. Analysis

In the Motion for Reconsideration, Complainant does not assert any legal grounds that would compel the Board to overturn the Executive Director's administrative dismissal. Notwithstanding, the Motion for Reconsideration is considered under relevant case law.

A. Timeliness

Complainant asserts in his Motion for Reconsideration that, on November 11, 2013, he became aware that he may have been eligible for payment arising out of Case No. 07-U-03. The complaint was filed on May 16, 2014. Board Rule 520.4 states, "Unfair labor practice complaints shall be filed not later than 120 days after the date on which the alleged violations occurred." The Board does not have jurisdiction to consider unfair labor practice complaints filed outside of the 120 days prescribed by the Board Rule.[3] The 120-day period for filing a complaint begins when the complainant first knew or should have known about the acts giving rise to the alleged violation.[4] The complaint was filed May 16, 2014, which was more than 120 days from when the Complainant knew or should have known of the facts giving rise to the alleged violation. Therefore, the Board does not have jurisdiction to consider his complaint.

B. Failure to state a claim

Notwithstanding timeliness issues, the Board finds that the Executive Director did not err when she administratively dismissed the complaint for failing to state a claim for which the Board may grant relief.

The Board will uphold an Executive Director's administrative dismissal where the decision was reasonable and supported by Board precedent.[5] The Executive Director's review of the complaint and her construction of the complaint as an unfair labor practice against AFGE Local 383 are reasonable and supported by Board precedent. The Executive Director correctly applied the Board's case law that requires a liberal construction of a *pro se* complainant's

---

[2] In *AFGE Local 383 v. D.C Mental Retardation & Developmental Disability Administration*, the Board found that the Agency had committed an unfair labor practice, by failing to bargain with the Union regarding allocation of parking spaces to employees. The Board ordered the Agency to make whole all employees for all monetary losses incurred as a result of the Agency's failure to bargain in good faith with interest. 59 D.C. Reg. 4584, Slip Op. No. 938, PERB Case No. 07-U-03 (2012).

[3] *Hoggard v. District of Columbia Public Employee Relations Board*, 655 A.2d 320, 323 (D.C. 1995) ("[T]ime limits for filing appeals with administrative adjudicative agencies...are mandatory and jurisdictional").

[4] *Charles E. Pitt v. District of Columbia Department of Corrections*, 59 D.C. Reg. 5554, Slip Op. No. 998 at p. 5, PERB Case No. 09-U-06 (2009).

[5] *See, e.g., Lomax v. Int'l Brotherhood of Teamsters, Local Union 639*, 59 D.C. Reg. 3474, Slip Op. No. 849, PERB Case No. 06-U-09 (June 21, 2007).

pleadings when determining whether a proper cause of action has been alleged.[6] For the aforementioned reasons, the Board upholds the Executive Director's determination that Complainant's pleading asserted an unfair labor practice by the Union as his cause of action.

Complainants do not need to prove their case on the pleadings, but they must plead or assert allegations that, if proven, would establish a statutory violation of the CMPA.[7] In addition, the Board views contested facts in the light most favorable to the complainant in determining whether the complaint gives rise to a violation of the CMPA.[8]

The Executive Director found that the complaint failed to state a claim under the CMPA, and the Board affirms this finding. Complainant alleged that the Union committed an unfair labor practice by failing to reimburse him for parking expenses accrued during his employment with the Agency. As a result, Complainant appears to assert that the Union failed its duty of fair representation in violation of D.C. Official Code 1-617.04(b)(1). In the evidence submitted by Complainant, it appears that the Union did not reimburse Complainant because he was not employed by the Agency at the time of Case No. 07-U-03 was filed, but then subsequently offered him $187 from a settlement. Complainant did not allege any unlawful conduct by the Union. Specifically, Complainant did not allege that the Union had engaged in any conduct that was arbitrary, discriminatory, or in bad faith, or was based on considerations that are irrelevant, invidious or unfair.[9] Without such asserted elements in the complaint, a violation of the CMPA cannot be found by the Board. Therefore, the Board finds that the Executive Director's administrative dismissal was proper.

IV. Conclusion

Complainant's Motion for Reconsideration does not provide any authority that compels reversal of the Executive Director's decision. The Motion for Reconsideration is merely a disagreement with the Executive Director's findings, which is not grounds for reconsideration of the administrative dismissal.[10]

As the complaint is untimely and does not state a claim for which the Board may grant relief, the complaint is dismissed with prejudice.

---

[6] *Thomas J. Gardner v. District of Columbia Public Schools and Washington Teachers' Union, Local 67, AFT AFL-CIO*, 49 D.C. Reg. 7763, Slip Op. No. 677, PERB Case Nos. 02-S-01 and 02-U-04 (2002).
[7] *Osekre v. American Federation of State, County, and Municipal Employees, Council 20, Local 2401*, 47 D.C. Reg. 7191, Slip Op. No. 623, PERB Case Nos. 99-U-15 and 99-S-04 (1998).
[8] *Id.*
[9] *Stanley Roberts v. American Federation of Government Employees*, Local 2725, 36 D.C. Reg. 363, Slip. Op. No. 203, PERB Case No. 88-S-01 (1989).
[10] *Brenda V. Johnson v. D.C. Public Schools & Teamsters Local Union No. 639*, Slip Op. No. 1472, PERB Case No. 07-U-07 (June 4, 2014).

ORDER

IT IS HEREBY ORDERED THAT:

1. The Motion for Reconsideration is denied.
2. The complaint is dismissed with prejudice.
3. 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, Member Donald Wasserman, and Member Keith Washington

Washington, D.C.

October 30, 2014

CORRECTED CERTIFICATE OF SERVICE

This is to certify that the attached Motion for Reconsideration Decision and Order in PERB Case No. 14-U-16 was transmitted to the following parties on the 30th day of October 2014.

Johnny Walker
1133 North Capitol Street, N.E.
Washington, D.C. 20002
Afge2725@aol.com

VIA EMAIL

Brenda Zwack, Esq.
O'Donnell, Schwartz & Anderson, P.C.
1300 L Street, N.W., #1200
Washington, D.C. 20005
bzwack@odsalaw.com

VIA EMAIL

Marcus D. Steele
13803 King Frederick Way
Upper Marlboro, MD 20772

VIA U.S. MAIL

Sheryl V. Harrington
Administrative Assistant

REAL PROPERTY TAX APPEALS COMMISSION

NOTICE OF ADMINISTRATIVE MEETING

The District of Columbia Real Property Tax Appeals Commission will hold its 3rd Administrative Meeting on Tuesday, November 25, 2014, at 11:30 am and its 4th Administrative Meeting on Monday, December 22, 2014 at 11:30 am. Both meetings will be held in the Commission offices located at 441 4th Street, NW, Suite 360N, Washington, DC 20001. Below is the draft agenda for these meetings. A final agenda will be posted to RPTAC's website at http://rptac.dc.gov

For additional information, please contact: Carlynn Fuller, Executive Director, at (202) 727-3596.

DRAFT AGENDA

I. CALL TO ORDER

II. ASCERTAINTMENT OF A QUORUM

III. REPORT BY THE CHAIRPERSON

IV. REPORT OF THE VICE CHAIR

V. REPORT BY THE EXECUTIVE DIRECTOR

VI. COMMENTS FROM THE PUBLIC – LIMITED TO 2 MINUTES

VII. ADJOURNMENT

Individual who wish to submit comments as part of the official record should send copies of the written statements for the November meeting no later than 4:00 p.m., Monday, November 24, 2014, and for the December meeting no later than Thursday, December 18, 2014 to:

Carlynn Fuller, Executive Director
Real Property Tax Appeals Commission
441 4th Street NW, Suite 360N
Washington, D.C. 20001
202-727-6860
Email: Carlynn.fuller@dc.gov

DISTRICT OF COLUMBIA RETIREMENT BOARD

NOTICE OF PUBLIC INTEREST

CERTIFICATION OF WINNER OF THE ELECTION TO SERVE AS THE ACTIVE POLICE OFFICER MEMBER OF THE BOARD

The District of Columbia Retirement Board (the "Board") is required to conduct elections for its member representatives to the Board. *See* D.C. Official Code § 1-711(b)(2) (2001). In accordance with the Board's Rules for the Election of Members to the Board ("Election Rules"), the Board, through True Ballot, Incorporated ("TBI"), conducted an election for the representative of the active District of Columbia police officers.

The ballots were counted on Wednesday, November 19, 2014, at 900 7th Street, N.W., ML Level, Washington, D.C., in the presence of Board representatives, and under the supervision of TBI.

TBI submitted the Certification of Results to the Board on November 19, 2014. Pursuant to section 408.1 of the Election Rules, the Board hereby certifies the results of the election and declares the winner to be Darrick O. Ross, an active District of Columbia police officer.

Pursuant to section 408.4 of the Election Rules, any eligible candidate for this election may petition the Board in writing for a recount of votes within seven (7) calendar days of the date of publication of the certification of the winner. The petition must be filed at the Board's executive office located at 900 7th Street, N.W., 2nd Floor, Washington, D.C. 20001. In the absence of a request for a recount, the election results will become final and cannot be appealed thirty (30) days after this publication of the Board's certification.

The Election Rules and the Certification of Results can be accessed on the Board's website:

http://www.dcrb.dc.gov

Please address any questions regarding this notice to:

Eric O. Stanchfield, Executive Director
D.C. Retirement Board
900 7th Street, N.W., 2nd Floor
Washington, D.C. 20001

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA

RECOMMEND FOR APPOINTMENTS OF NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after January 2, 2015.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on November 28, 2014. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary **Effective: January 2, 2015**
Recommended for appointment as a DC Notaries Public **Page 2**

Alexandrovich	Marsha A.	FordHarrison LLP 1300 19th Street, NW, Suite 300	20036
Armen, Jr.	Robert N.	United States Tax Court 400 2nd Street, NW	20217
Baltimore	Richard	Sanford Heisler, LLP 1666 Connecticut Avenue, NW, Suite 300	20009
Basdeo	Kabita M.	Capitol Engineers, P.C. 7826 Eastern Avenue, NW, Suite 411	20012
Bentley	Brandon	The Ups Store 1300 Pennsylvania Avenue, NW	20004
Bernard	Renford G.	Wells Fargo Bank 444 North Capitol Street, NW	20001
Bitar	Albert D.	Capital One 5714 Connecticut Avenue, NW	20015
Brewer	Mary E.	Troutman Sanders LLP 401 9th Street, NW, Suite 1000	20004
Brown	Nancy R.	Milbank, Tweed, Hadley & McCloy, LLP 1850 K Street, NW, Suite 1100	20006
Brown	Yolanda M.	Serve DC - The Mayor's Office on Volunteerism 2000 14th Street, NW, Suite 101	20009
Canales	Jaime	JSP Companies Inc. 734 Varnum Street, NW	20011
Carney	Malynda S.	SunTrust Bank 410 Rhode Island Avenue, NE	20002
Chatman	Sharon A.	Fannie Mae 3900 Wisconsin Avenue, NW	20016
Cockerham	Trenise	Delta Research and Education Foundation 1703 New Hampshire Avenue, NW	20009

D.C. Office of the Secretary **Effective: January 2, 2015**
Recommended for appointment as a DC Notaries Public **Page 3**

Coit	Angela M.	Self (Dual) 4938 East Capitol Street, NE	20019
Croom	Shonnica	Casa For Children of DC 515 M Street, SE	20003
Dau	Kelly	Kingsbury Day School 5000 14th Street, NW	20011
Dixon	Shantai	Bank of America 201 Pennsylvania Avenue, SE	20003
Donaldson	Minnie L.	Self 222 Adams Street, NE	20002
Edwards	Patricia A.	Merrill Deposition Services 1325 G Street, NW, Suite 200	20005
El Shahed	Pakinam	Qatar Airways 1430 K Street, NW, 10th Floor	20005
Enkiri	Michelle Lynn	G4S Integrated Facility Services 1300 Pennsylvania Avenue, NW	20004
Epperly	Linda J.	Pepco Holdings, Inc. 701 9th Street, NW	20068
Evans	Chole´	Earth Worth LLC 1500 Eaton Road, SE	20020
Fernandez	Marta M.	Merrill Corporation/Bank of America 1152 15th Street, NW, Suite 6000	20005
Fraley	Toya S.	Debevoise & Plimpton, LLP 555 13th Street, NW, Suite 1100E	20004
Gordon	Faye	North American Securities Administrators Association, Inc. 750 First Street, NE, Suite 1140	20002
Hampton	Georgiann E.	Sullivan & Cromwell, LLP 1700 New York Avenue, NW, 7th Floor	20006

D.C. Office of the Secretary **Effective: January 2, 2015**
Recommended for appointment as a DC Notaries Public **Page 4**

Henderson	Cullen	U.S. Commodity Futures Trading Commission 1155 21st Street, NW	20581
Howard	Stephanie R.	Ernst & Young, LLP 1101 New York Avenue, NW	20005
Johnson	Cynthia Y.	Voices for a Second Chance (Formally Visitors Service Center) 1422 Massachusetts Avenue, SE	20003
Johnson	Janet E.	Self (Dual) 1721 First Street, NW	20001
Jones	Timothy	TAJ Realty and Investment 737 Rock Creek Church Road, NW	20010
Lautenberger	David M.	Holland & Knight LLP 800 17th Street, NW, Suite 1100	20006
Lawhorn-Brown	Linda	US Department of Commerce/National Oceanic and Atmospheric Administration 1401 Constitution Avenue, NW	20230
lbarra	Mayra	Central American Resources Center (Carecen) 1460 Columbia Road, NW, Suite C-1	20009
Lehan	Debra	Keener Management 1746 N Street, NW	20036
Littlepage	Eloise L.	New Canaan Baptist Church 2826 Bladensburg Road, NE	20018
Lusher	Brian J.	Advisory Council on Historic Preservation 401 F Street, NW, Suite 308	20009
Marshall	Ruth E.	Premier Consultants International, Inc. 1010 16th Street, NW, Suite 201	20036
Martinez	James	Wells Fargo 444 North Capitol Street, NW	20001
McRae	Monike Santana	Clark Hill PLC 601 Pennsylvania Avenue, NW, North Building, Suite 1000	20004

D.C. Office of the Secretary **Effective: January 2, 2015**
Recommended for appointment as a DC Notaries Public **Page 5**

Nelson	Joseph	Wells Fargo Bank 215 Pennsylvania Avenue, SE	20003
Ng	Jennifer L.	Bank of America 888 17th Street, NW	20006
O'Brien	Ellen	Self 318 I Street, NE, Suite 314	20002
Osman	Ihab F.	Travisa Visa Service 1731 21st Street, NW	20009
Pallmeyer	Kristen	The George Washington University Law School 2000 H Street, NW	20052
Pena	Juan Jose	Xariel Tax Service, Inc. 3909 Georgia Avenue, NW	20011
Perry	Rachel V.	The Urban Institute 2100 M Street, NW	20037
Randolph	Bryan K.	Bryan K. Randolph, Attorney at Law 505 Rhode Island Avenue, NW	20001
Riley	Adrienne	ARDA 1201 15th Street, NW, Suite 400	20005
Roig	Ana M.	District Government Employees Federal Credit Union 2000 14th Street, NW, 2nd Floor	20009
Ross	Brittany C.	Self (Dual) 2822 31st Street, SE, #724	20020
Rudd	Nichelle	Ober Kaler Grimes & Shriver 1401 H Street, NW, Suite 500	20005
Sagastizado	Juan M.	Branch Banking and Trust Company 3101 14th Street, NW	20010
Schnotala	Veronica	Department of State 2201 C Street, NW	20500
Sforza	Aliza	Crown Agents USA, Inc. 1129 20th Street, NW, Suite 500	20036

D.C. Office of the Secretary **Effective: January 2, 2015**
Recommended for appointment as a DC Notaries Public **Page 6**

Shepard	Jane	Bailey & Glasser, LLP 910 Seventeenth Street, NW	20006
Sinclair	Michelle	The Washington Post 1150 15th Street, NW	20071
Skinner	Nicole	Self 637 Kennedy Street, NE	20011
Snell, Jr.	Joseph E.	Police Federal Credit Union 300 Indiana Avenue, NW, Suite 4067	20002
Stanchfield	Michael J.	Wells Fargo Bank 5701 Connecticut Avenue, NW	20015
Taylor	Fiori	Self 3700 9th Street, NW	20032
Taylor	Geraldine D.	Federal Communications Commission 445 12th Street, SW	20554
Tyce	Sara J.	WHUR FM Howard University Radio 529 Bryant Street, NW	20059
VanderMeer	Haley	The Urban Institute 2100 M Street, NW	20037
Vasseghi	Sheda	Rothwell, Figg, Ernst & Manbeck 607 14th Street, NW, Suite 800	20005
Vaughn	Jeanette B.	Arthur J. Gallagher 805 15th Street, NW, Suite 1120	20005
Weishaupt Prelesnik	Stefanie J.	The Washington Post 1150 15th Street, NW	20071
Williams	Janet A.	United States International Trade Commission 500 E Street, SW	20436
Wims	Rehema Virginia	SP Plus Corporation 1225 Eye Street, NW, Suite C100	20005

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE #003
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 Acronym	Solicitation/ Contract	Description	Contracting Officer/Spec	DSLBD Contact
OCFO	CFOPD-15-C-014	Instant Tickets Manufacturing Services	dorothy.whisler@dc.gov	vonetta.martin@dc.gov
MPD	CW33043	Lighting for Police Vehicles	gena.johnson@dc.gov	cory.jefferson2@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. The five day period begins the day after DSLBD posts its draft letter to its website. The five days includes week day and the weekend. 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

DISTRICT DEPARTMENT OF TRANSPORTATION

PUBLIC SPACE COMMITTEE MEETING DATES

Notice of Regularly Scheduled Public Meetings
Calendar Year 2015

HEARING DATES	DEADLINE FOR FILING APPLICATIONS
January 22, 2015	**November 27, 2014**
February 26,2015	**December 19, 2014**
March 26, 2015	**January 21, 2015**
April 23, 2015	**February 19, 2015**
May 28, 2015	**March 25, 2015**
June 25, 2015	**April 22, 2015**
July 23, 2015	**May 19, 2015**
August 27, 2015	**June 24, 2015**
September 24, 2015	**July 22, 2015**
October 22, 2015	**August 18, 2015**
November 19, 2015	**September 15, 2015**
December 17, 2015	**October 13, 2015**
January 28, 2016	**November 20, 2015**

MEETING LOCATION
1100 4th Street, SW
2nd Floor – Hearing Room
9:00 am

The location or time may vary. To confirm attendance and location please contact:

Catrina Felder
Public Space Committee Coordinator
Government of the District of Columbia
Department of Transportation
Public Space Regulation Administration
1100 4th Street, SW – 3rd Floor
Washington, DC 20024
Phone: (202) 442-4960 or Fax: (202) 535-2221
PublicSpace.Committee@dc.gov

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) will be holding a meeting on Thursday, December 4, 2014 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

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

DRAFT AGENDA

1.	**Call to Order**	Board Chairman
2.	**Roll Call**	Board Secretary
3.	**Approval of November 6, 2014 Meeting Minutes**	Board Chairman
4.	**Committee Reports**	Committee Chairperson
5.	**General Manager's Report**	General Manager
6.	**Action Items** Joint-Use Non Joint-Use	Board Chairman
7.	**Other Business**	Board Chairman
8.	**Adjournment**	Board Chairman

THE WILLIAM E. DOAR, JR. PUBLIC CHARTER SCHOOL FOR THE PERFORMING ARTS

REQUEST FOR PROPOSALS

The William E. Doar Jr. Public Charter School for the Performing Arts, in compliance with Section 2204 (c) of the District of Columbia School Reform Act of 1995 ("Act"), hereby solicits expressions of interest from Vendors or Consultants for the following tasks and services:

Evening Cleaning Service – 40,000 sq. feet over two floors. To include cleaning supplies, equipment, replacement of toilet paper, hand soap, urinal cakes, etc. Organization must be bonded and insured and all employees must pass background checks.

Location is 705 Edgewood Street NE, Washington DC 20017

Proposal Submission

PDF version of your proposal must be received by the school no later than 2:00 p.m. EST on December 12, 2014 unless otherwise stated in associated RFP. Proposals should be emailed to bids@wedjschool.us.

No phone call submission or late responses please. Interviews, samples, demonstrations will be scheduled at our request after the review of the proposals only.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 18849 of Peter C. Choharis, pursuant to 11 DCMR § 3103.2, for a variance from minimum lot dimensions under § 401, a variance from the lot occupancy requirements under § 403, a variance from rear yard requirement under § 404, a variance from the minimum dimension for open courts under § 406, and a variance from the nonconforming structure under § 2001.3, to allow for a rear deck serving a flat in the R-4 District at premises 2771 Woodley Place, N.W. (Square 2206, Lot 87).

HEARING DATES: November 5, 2014 and November 18, 2014
DECISION DATE: November 18, 2014

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 10.)

The Board of Zoning Adjustment (the "Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission ("ANC") 3C, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC 3C, which is automatically a party to this application. The ANC submitted a timely report and resolution in support of the application. The ANC's report indicated that at a regularly scheduled, duly noticed meeting held on October 20, 2014, with a quorum present, the ANC met and considered the application and voted unanimously (7:0) to support it. (Exhibit 39.)

The Office of Planning ("OP") submitted a timely report in which OP stated that it had no objection to area variance relief. (Exhibit 37.) The District's Department of Transportation ("DDOT") submitted a timely report indicating it had no objection to the application. (Exhibit 36.)

Eleven signed form letters from neighbors were submitted for the record. (Exhibits 20-21, 26, 30-34.)

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 variances under § 3103.2 from the strict application of the minimum lot dimensions under § 401, the lot occupancy requirements under § 403, rear yard requirement under § 404, the minimum dimension for open courts under § 406, and the nonconforming structure under § 2001.3, to allow for a rear deck serving a flat in the R-4 District. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 for area variances under §§ 401, 403, 404, 406, and 2001.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 41.**

VOTE: **4-0-1** (Lloyd L. Jordan, Anthony J. Hood, S. Kathryn Allen, and Marnique Y. Heath, to APPROVE; Jeffrey L. Hinkle, not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 20, 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 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION

FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 18856 of Lock 7 Development, pursuant to 11 DCMR § 3103.2, for a variance from the requirements regarding lot area (§ 401); nonconforming structures (§ 2001.3) with respect to lot occupancy (§ 403) and courts (§ 406); and parking and compact parking spaces (§§ 2115 and 2101.1) to allow a multiunit dwelling with three compact parking spaces in an R-4 District at 1514 8th Street N.W. (Square 397, Lots 830 and 831).

HEARING DATE: November 18, 2014
DECISION DATE: November 18, 2014

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 7.)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission ("ANC") 6E, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC 6E, which is automatically a party to this application. The ANC submitted a timely report in support of the application. The ANC's report indicated that at a regularly scheduled, duly noticed meeting held on September 2, 2014, with a quorum present, the ANC met and considered the application and voted unanimously (7:0) to support it. (Exhibit 30.)

The Office of Planning ("OP") submitted a timely report in which OP stated that it recommended approval of area variance relief for lot occupancy (§ 772.1) and for rear yard (§ 44), but could not recommend approval of variance relief for minimum lot area (§ 401.11) or parking (§§ 2101.1 and 2115), and recommended denial of variance relief for open court width (§ 406.1) and for height (stories) (§ 400.1), the latter of which had not been requested or advertised, but which the Zoning Administrator, according to OP, had indicated was needed. (Exhibit 34.) At the hearing, after the Applicant had revised its plans (Exhibit 35) and had further discussions with OP, OP testified that the issue with the potential need for a variance from height (stories) pertaining to the mezzanine was no longer needed, that OP no longer objected to the variance relief for parking or open court, but that it still had reservations about the degree of relief requested for minimum lot area.[1] The District's Department of Transportation ("DDOT") submitted a timely report indicating it had no objection to the application. (Exhibit 33.)

[1] OP testified that it had expected the Applicant to have considered alternatives to its design of units to lower the degree of lot area relief it would need, and in rebuttal testimony, the Applicant's architect

A letter of support was submitted for the record by the Central Shaw Neighborhood Association. (Exhibit 29.)

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 variances under § 3103.2 from the strict application of the requirements of lot area (§ 401); nonconforming structures (§ 2001.3) with respect to lot occupancy (§ 403) and courts (§ 406); and parking and compact parking spaces (§§ 2115 and 2101.1) to allow a multiunit dwelling with three compact parking spaces in an R-4 District. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 for area variances under §§ 401, 2001.3, 403, 406, 2115, and 2101.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 35.**

VOTE: **4-0-1** (Marnique Y. Heath, Lloyd L. Jordan, S. Kathryn Allen, and Anthony J. Hood to APPROVE; Jeffrey L. Hinkle, not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 21, 2014

testified that the Applicant had considered such alternatives but did not choose them for the reasons the Applicant provided at the hearing and in its Pre-Hearing Statement. (Exhibit 31.)

BZA APPLICATION NO. 18856
PAGE NO. 3
PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 18859 of Travis and Holly Greaves, pursuant to 11 DCMR § 3104.1, for special exceptions to allow a rear addition to a flat (two-family dwelling) under § 223, not meeting the lot occupancy (§403) requirements and the nonconforming structure requirements under § 2001.3 in the CAP/R-4 District at premises 438 New Jersey Avenue, S.E. (Square 694, Lot 834).[1]

HEARING DATE: November 18, 2014
DECISION DATE: November 18, 2014

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report of support for the application. In its letter the ANC indicated that at a regularly scheduled, duly noticed public meeting on November 12, 2014, with a quorum present, the ANC voted 8-0-0 to support the application. (Exhibit 31.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application (Exhibit 28) 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 27.)

Letters of support were filed by two neighbors and the Capitol Hill Restoration Society. (Exhibits 24-25, 32.)

Letters of opposition were submitted for the record by Larry and Linda Nelson, adjacent neighbors at 440 New Jersey Avenue, S.E. (Exhibits 33 and 34.) Additionally, Mr. Nelson testified in opposition at the hearing.[2]

[1] At the hearing, the Applicant amended the application by adding special exception relief from § 2001.3. The caption has been amended accordingly.

[2] The Applicant's architect testified that she and the Applicants had revised their plans after discussing the matter with the Nelsons and hearing their concerns. To a Board member's question, the architect committed to continue to work with the neighbors as the project moves forward after this approval.

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 to allow a rear addition to a flat (two-family dwelling) under § 223, not meeting the lot occupancy (§ 403) requirements and the nonconforming structure requirements (§ 2001.3) in the CAP/R-4 District. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 223, 403, and 2001.3, 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 EXHIBITS 29 AND 30[3].**

VOTE: **4-0-1** (Lloyd J. Jordan, Marnique Y. Heath, S. Kathryn Allen, and Anthony J. Hood to APPROVE; Jeffrey L. Hinkle, not present or participating.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 20, 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

[3] The plans were revised to show the location of the barrier wall site plan that was submitted under Exhibit 30 that were in response to the neighbors' request for more privacy.

PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 18871 of Jacqueline Hart, pursuant to 11 DCMR § 3104.1, for a special exception to allow a two-story rear addition to an existing one-family row dwelling under § 223, not meeting the lot occupancy (§ 403) requirements in the R-4 District at premises 1548 8th Street, N.W. (Square 397, Lot 824).

HEARING DATE: Applicant waived right to a public hearing
DECISION DATE: November 18, 2014 (Expedited Review Calendar).

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 12 and 13.)

Pursuant to 11 DCMR § 3118, this application was tentatively placed on the Board of Zoning Adjustment ("Board") expedited review calendar for decision without hearing as a result of the applicant's waiver of its right to a hearing.

The Board of Zoning Adjustment (the " Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6E, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on October 7, 2014, at which a quorum was in attendance, ANC 6E voted 6-0-0 to support the application. (Exhibit 29.) The Office of Planning ("OP") submitted a timely report and testified at the hearing in support of the application. (Exhibit 31.) The District Department of Transportation ("DDOT") filed a report expressing no objection to the application. (Exhibit 30.) A letter in support of the application was submitted by Brian Peters, president of Central Shaw Neighborhood Association. (Exhibit 27.)

No objections to expedited calendar consideration were made by any person or entity entitled to do by §§ 2118.6 and 2118.7. The matter was therefore called on the Board's expedited calendar for the date referenced above and the Board voted to grant the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to §

3104.1, for a special exception under §§ 223 and 403. No parties appeared at the public meeting in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, and 403, 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 AT EXHIBIT 6.**

VOTE: **4-0-1** (Lloyd J. Jordan, S. Kathryn Allen, Marnique Y. Heath, and Anthony J. Hood to APPROVE; Jeffrey L. Hinkle 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: November 18, 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

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.

D.C. Board of Zoning Adjustment

Chairman's Motion and Follow-up Announcement for Closed Meetings for Legal Advice and Deliberating but Not Voting

Month of DECEMBER 2014 Roll Call Vote

"In accordance with Section 405(c) of the Open Meetings Act, D.C. Official Code Section 2-575(c), I move that the Board of Zoning Adjustment hold closed meetings on the Mondays of:

- **December 1st;**
- **December 8th; and**
- **December 15th.**

These meetings start at 4:00 p.m. and are held for the purpose of obtaining legal advice from our counsel and deliberating upon, but not voting on the cases scheduled to be publicly heard or decided by the Board on the day after each such closed meeting. Those cases are identified on the Board's public hearing agendas for December 2nd, December 9th, and December 16th.

A closed meeting for these purposes is permitted by Sections 405(b)(4) and (b)(13) of the Act.

Is there a second?

(Once Seconded): Will the Secretary please take a roll call vote on the motion?

(As it appears the Motion has passed): I request that the Office of Zoning provide notice of these closed meetings in accordance with the Act.