VOL. 63 – NO. 2 JANUARY 8, 2016

District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 21-247, Health-Care Decisions Amendment Act of 2015 and Act 21-253, Body-Worn Camera Program Emergency Amendment Act of 2015
- D.C. Council schedules a public oversight hearing on the Fiscal Year 2015 Comprehensive Annual Financial Report
- D.C. Council schedules a public oversight roundtable on the Implementation of the Sustainable Solid Waste Management Amendment Act of 2014
- University of the District of Columbia formulates regulations to adjust tuition rates for degree-granting programs beginning in the fall semester of 2016
- Office of the State Superintendent of Education announces funding availability for the Teacher Quality Improvement Grant Program
- DC Taxicab Commission announces funding availability for the Electric Taxicabs and Neighborhood Van Service
- Department of Health Care Finance establishes regulations for reimbursement guidelines for wellness services

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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MAYOR

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ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-245

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2015

To approve, on an emergency basis, Change Order Nos. 001 and 002 to Contract No. DCAM-14-NC-0046A with DC Partners for the Revitalization of Education Projects to complete the exercise of Option Year 002 and to authorize payment in the not-to-exceed amount of $9.8 million for the goods and services received and to be received under the contract for the period of Option Year 002.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Exercise of Option Year 002 of Contract No. DCAM-14-NC-0046A Approval and Payment Authorization Emergency Act of 2015".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Change Order Nos. 001 and 002 to Contract No. DCAM-14-NC-0046A with DC Partners for the Revitalization of Education Projects to complete the exercise of Option Year 002, and authorizes payment in the aggregate not-to-exceed amount of $9.8 million for the goods and services received and to be received under the contract for the period of Option Year 002.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal statement of the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

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

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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
December 29, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-246

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2015

To approve, on an emergency basis, Modification Nos. 4, 5, and 6, and proposed Modification No. 7 to Contract No. GAGA-2013-C-0036 to provide Whole School Whole Child Program services to improve the quality of in-school support and afterschool programming to the District of Columbia Public Schools and to authorize payment for the services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. GAGA-2013-C-0036 Modification Approval and Payment Authorization Emergency Act of 2015".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 4, 5, 6, and 7 to Contract No. GAGA-2013-C-0036 with City Year, Inc., and authorizes payment not to exceed $1.27 million for services received and to be received under the contract for option year two.

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 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 29, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-247

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2015

To amend Chapter 22 of Title 21 of the District of Columbia Official Code to create a MOST Form to capture patients' wishes for medical intervention, to establish a MOST Advisory Committee to assist the Department of Health with the development of a MOST Form, to encourage use of MOST Forms by the medical community, to establish a process for completing, executing, and complying with a MOST Form, and to determine the feasibility of creating an electronic registry for MOST Forms; and to repeal the Emergency Medical Services Non-Resuscitation Procedures Act of 2000 when the MOST Form has been made available.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health-Care Decisions Amendment Act of 2015".

Sec. 2. Chapter 22 of Title 21 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended as follows:

(1) Designate section designations 21-2201 through 21-2213 as "Subchapter I. Durable Power of Attorney.".

(2) A new Subchapter II is added to read as follows:

"Subchapter II. MOST Form.

"21-2221.01. Definitions.
"21-2221.02. Creation of a MOST Form.
"21-2221.03. MOST Advisory Committee.
"21-2221.04. MOST Form.
"21.2221.05. Completion and execution of the MOST Form.
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"21-2221.08. Comfort care.
"21-2221.09. Reciprocity.
"21-2221.10. Relationship with other legal documents.
"21-2221.11. Liability.
"21-2221.12. Penalties.
"21-2221.13. Insurance.

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"21-2221.14. Study of electronic registry.
"21-2221.15. Rules.".

(b) Designate sections 21-2201 through 21-2213 as "Subchapter I. Durable Power of Attorney.".

(c) The newly designated subchapter I is amended as follows:

(1) Section 21-2201 is amended by striking the word "chapter" and inserting the word "subchapter" in its place.

(2) Section 21-2202 is amended as follows:

(A) The lead-in language is amended by striking the word "chapter" and inserting the word "subchapter" in its place.

(B) Paragraph (1) is amended by striking the word "chapter" and inserting the word "subchapter" in its place.

(C) Paragraph (3) is amended as follows:

(i) Subparagraph (A) is amended by striking the word "chapter" and inserting the word "subchapter" in its place.

(ii) Subparagraph (B) is amended by striking the word "chapter" and inserting the word "subchapter" in its place.

(3) Section 21-2205(e) is amended by striking the word "chapter" and inserting the word "subchapter" in its place.

(4) Section 21-2206(d) is amended by striking the word "chapter" and inserting the word "subchapter" in its place.

(5) Section 21-2209(b) is amended by striking the word "chapter" and inserting the word "subchapter" in its place.

(6) Section 21-2212 is amended as follows:

(A) The section heading is amended by striking the word "chapter" and inserting the word "subchapter" in its place.

(B) Subsection (a) is amended by striking the word "chapter" and inserting the word "subchapter" in its place.

(C) Subsection (b) is amended by striking the word "chapter" and inserting the word "subchapter" in its place.

(7) Section 21-2213 is amended by striking the word "chapter" and inserting the word "subchapter" in its place.

(d) A new Subchapter II is added to read as follows:

"Subchapter II. MOST Form.

"§ 21-2201.01. Definitions.

"For the purposes of this subchapter, the term:

"(1) "Advanced life support" means endotracheal intubation, defibrillation, or administration of cardiopulmonary resuscitation medications.

"(2) "Advanced practice nurse" means a licensed registered nurse engaged in the practice of advanced practice registered nursing, as defined in § 3-1201.02(2)).

"(3) "Authorized representative" means a person who is authorized to make a health-care decision on behalf of an incapacitated individual or minor in accordance with § 21-2205 and § 21-2210.

"(4) "Authorized health care professional" means a licensed physician or advanced practice nurse who has responsibility for the medical care of a patient.

"(5) "Cardiopulmonary resuscitation" means chest compression or artificial ventilation.

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

"(7) "Emergency medical service" or "EMS" means a medical service provided in response to a person's need for immediate medical care and is intended to prevent loss of life, the aggravation of a physiological illness or injury, or the aggravation of a psychological illness. The term "emergency medical service" or "EMS" includes any service recognized in the District as first response, basic life support, advanced life support, specialized life support, patient transportation, medical control, or rescue.

"(8) "EMS agency" means a government department or agency, person, firm, corporation, or organization authorized to provide emergency medical service.

"(9) "EMS personnel" means an emergency medical responder, emergency medical technician, emergency medical technician/intermediate, advanced emergency medical technician, or paramedic who is certified to provide emergency medical services in the District.

"(10) "Health care institution" means a hospital, maternity center, nursing home, community residence facility, group home for persons with intellectual disabilities, hospice, home care agency, ambulatory surgical facility, or renal dialysis facility, as those terms are defined in § 44-501, or an acute care hospital, skilled nursing facility, or long term care facility.

"(11) "Health care professional" means a person who has graduated from an accredited program for physicians, registered nurses, advanced practice nurses, physician assistants, clinical social workers, clinical psychologists, or professional counselors, and is licensed to practice in the District.

"(12) "Incapacitated individual" shall have the same meaning as provided in § 21-2202(5).

"(13) "Minor" means a person who is less than 18 years of age.

"(14) "Medical Orders for Scope of Treatment Form" or "MOST Form" means a set of portable, medical orders on a form issued by DOH that results from a patient's or a patient's authorized representative's informed decision-making with a health care professional.

"(15) "Patient" means a person who has been determined by an authorized health care professional to be approaching the end stage of a serious, life-limiting illness or frailty such that the person's life expectancy is 12 months or less.

"(16) "Resuscitate" means the administration of cardiopulmonary resuscitation or advanced life support.

"§ 21-2221.02. Creation of a MOST Form.

"(a)(1) Within 9 months after the effective date of this subchapter, DOH shall develop, and make available online, a MOST Form and instructions for health care institutions, health care professionals, and patients and authorized representatives completing and using the MOST Form.

"(2) DOH shall evaluate the design and use of a MOST Form, including compliance or non-compliance with a MOST Form by EMS personnel and health care professionals, at least every 3 years.

"(b)(1) DOH shall require, and provide for, ongoing training of health care professionals and EMS personnel about best practices regarding the use of a MOST Form.

"(2) The training shall include, at a minimum:

"(A) The importance of talking to each patient or the patient's authorized representative about the patient's prognosis, the likely course of illness, and personal goals of care;

"(B) Methods for presenting choices for care that elicit information concerning each patient's preferences and respecting those preferences without directing patients toward a particular care option;

"(C) The importance of fully informing patients about the benefits and risks of an immediately effective MOST Form;

"(D) Awareness of factors that may affect the use of a MOST Form, including race, ethnicity, age, gender, socioeconomic position, immigrant status, sexual orientation, language disability, homelessness, mental illness, and geographic area of residence; and

"(E) Procedures for properly completing and effectuating a MOST Form.

"§ 21-2221.03. MOST Advisory Committee.

"(a)(1) DOH shall establish the MOST Advisory Committee.

"(2) DOH shall appoint the 11 members of the MOST Advisory Committee. Except as provided in paragraph (3) of this subsection, members of the advisory committee shall be appointed for terms of 6 years.

"(3) Of the members initially appointed under this section, 3 shall be appointed for a term of 2 years, 4 shall be appointed for a term of 4 years, and 4 shall be appointed for a term of 6 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

"(4) The MOST Advisory Committee shall include:

"(A) One representative from an EMS agency;

"(B) One commercial EMS representative;

"(C) One pediatric health care professional;

"(D) Two physicians, advanced practice nurses, or other health care professionals involved in treating patients;

"(E) One representative of a long-term care facility;

"(F) One representative of a skilled nursing facility;

"(G) One representative of an acute care hospital;

"(H) Two representatives of a disability advocacy group; and

"(I) One representative of a patient advocacy group.

"(b) The MOST Advisory Committee shall:

"(1) Assist DOH in the development and periodic review of the MOST Form;

"(2) Promote public awareness about the option to complete a MOST Form; and

"(3) Provide recommendations to DOH for ongoing training of health care professionals and EMS personnel about best practices regarding the use of a MOST Form and the nature and development of related medical protocols.

"§ 21-2221.04. MOST Form.

"(a) The MOST Form shall be designed to provide the following information regarding the patient's care and medical condition:

"(1) The orders of an authorized health care professional regarding cardiopulmonary resuscitation and level of medical intervention in accordance with the choices, goals, and preferences of a patient or the patient's authorized representative;

"(2) The signature of the authorized health care professional;

"(3) Whether the patient has an authorized representative;

"(4) The signature of the patient or the authorized representative acknowledging agreement with the orders of the authorized health care professional; and

"(5) The date and location of the initial authorization of the MOST Form and the date, location, and outcome of any subsequent revisions to the MOST Form.

"(b) Upon execution, a hard copy of a patient's operative MOST Form shall be provided to the patient or the patient's authorized representative.

"(c) An executed MOST Form shall be kept in a prominent manner in a patient's printed and electronic medical records in a health care institution or private medical practice, and a copy shall be transferred with the patient whenever the patient is transferred to another health care institution or private medical practice, or to the patient's residence.

"(d) A copy of a MOST Form shall be as effective as an original.

"§ 21-2221.05. Completion and execution of the MOST Form.

"(a) A patient shall be given the option to complete a MOST Form, but no patient shall be required to complete or execute a MOST Form.

"(b)(1) Only an authorized health care professional treating a patient may complete a MOST Form for that patient.

"(2) The authorized health care professional shall complete the MOST Form in accordance with the instructions of the patient or the patient's authorized representative.

"(c)(1) Only the following persons may execute a MOST Form:

"(A) Any patient who is 18 years of age or older, on behalf of himself or herself; or

"(B) An authorized representative.

"(2) Execution of a MOST Form shall be evidenced by the patient's or the authorized representative's signature.

"(d) The MOST Form shall be reviewed by an authorized health care professional with the patient or with the patient's authorized representative at least once per year and:

"(1) Whenever the patient's condition changes significantly; or

"(2) At the patient's or the patient's authorized representative's request.

"(e)(1) If a patient with a MOST Form is transferred from one health care institution to another, the health care institution transferring the patient shall communicate the existence of the MOST Form to the receiving health care institution before the transfer.

"(2) The MOST Form shall accompany the patient to the receiving health care institution and remain in effect.

"(3) Within 72 hours after a patient is transferred, the MOST Form shall be reviewed by an authorized health care professional and the patient, provided that the patient is not incapacitated, or the patient's authorized representative, if present.

"§ 21-2221.06. Revocation of a MOST Form.

"(a) A patient or the patient's authorized representative may revoke a MOST Form at any time by:

"(1) Directing the authorized health care professional who issued the MOST Form to cancel the MOST Form; or

"(2) Communicating the patient's or the patient's authorized representative's intent to revoke the MOST Form to the treating EMS personnel or health care professional.

"(b) If a patient or the patient's authorized representative revokes a MOST Form pursuant to subsection (a)(2) of this section, the treating EMS personnel or health care professional shall record the circumstances in which the MOST Form was revoked.

"§ 21-2221.07. Compliance with a MOST Form.

"(a)(1) If an EMS personnel or health care professional encounters a person who is in possession of a MOST Form, the EMS personnel or health care professional shall determine whether the person is the subject of the MOST Form and whether the MOST Form has been revoked.

"(2) If there is uncertainty as to whether the MOST Form has been revoked, the EMS personnel or health care professional shall act as if there were no MOST Form and resuscitate the patient.

"(b) If an EMS personnel or health care professional encounters a patient in an emergency medical circumstance with a MOST Form that is unreadable, the EMS personnel or health care professional shall proceed as if there were no MOST Form.

"(c) If the EMS personnel does not resuscitate the patient on the basis of applicable treatment instructions on a MOST Form, EMS personnel shall record the do-not-resuscitate response in the run report and report the do-not-resuscitate response to DOH within 5 business days after the incident.

"(d) On a biannual basis, DOH shall provide the Mayor with data on do-not-resuscitate responses.

"§ 21-2221.08. Comfort care.

"Regardless of the treatment orders on the MOST Form, EMS personnel and other health care professionals may provide the following interventions, as needed, to a patient for comfort or to alleviate pain:

"(1) Clear the airway, without the use of artificial ventilation, esophageal obturator airway, or endotracheal intubation;

"(2) Administer suction;

"(3) Provide oxygen, without the use of artificial ventilation, esophageal obturator airway, or endotracheal intubation;

"(4) Provide pain medication;

"(5) Control bleeding; or

"(6) Make any other necessary adjustments.

"§ 21-2221.09. Reciprocity.

"EMS personnel and other health care professionals shall recognize a MOST Form or similar instrument executed in another state as if the instrument were executed in accordance with the laws of that state.

"§ 21-2221.10. Relationship with other legal documents.

"If a patient has a durable power of attorney for health care under subchapter I, or a comparable statute in any other jurisdiction, or another legal document with a substantially equivalent purpose to a durable power of attorney or a MOST Form, the most recent document to have been executed shall govern if any conflict exists between the directives in that legal document and the directives in the patient's MOST Form.

"§ 21-2221.11. Liability.

"This subchapter shall not be construed to create a private right of action, including a private right of action based on the failure act in accordance with a MOST Form if the failure to act is based solely on religious beliefs.

"§ 21-2221.12. Penalties.

"(a) A person who, without authorization by the patient or the patient's authorized representative, willfully alters, forges, conceals, or destroys a MOST Form, an amendment or revocation of a MOST Form, or any other evidence or document reflecting the patient's desires and interests, with the intent or effect of causing a withholding or withdrawal of life-sustaining procedures or of artificially administered nutrition and hydration that hastens the death of the patient commits a Class A felony.

"(b) Except as provided in subsection (a) of this section, a person who, without authorization by the patient or the patient's authorized representative, willfully alters, forges, conceals, or destroys a MOST Form, an amendment or revocation of a MOST Form, or any other evidence or document reflecting the patient's desires and interests, with the intent or effect of impacting any decision regarding the provision of a health care service, treatment, or procedure shall be fined not more than the amount set forth in § 22-3571.01, or imprisoned for not more than 180 days, or both.

"§ 21-2221.13. Insurance.

"(a) The execution of a MOST Form shall not alter an insurance policy or annuity contract, unless the insurance policy or contract states otherwise.

"(b) Adherence to the medical orders in a MOST form shall not constitute suicide or assisted suicide.

"(c) The execution of a MOST form cannot be used as a condition for being insured, receiving health care services, or receiving other employment benefits.

"§ 21-2221.14. Study of electronic registry.

"(a) DOH shall conduct a study regarding the feasibility of implementing an electronic registry for MOST Forms in the District while preserving the privacy of patient's records.

"(b) If an electronic registry is determined to be feasible upon the conclusion of the DOH's review, DOH shall implement an electronic registry.

"(c) DOH shall make a determination regarding the feasibility of an electronic registry within 180 days after the effective date of this subchapter.

"§ 21-2221.15. Rules.

"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 subchapter.".

Sec. 3. Repealer.

The Emergency Medical Services Non-Resuscitation Procedures Act of 2000, effective April 3, 2001 (D.C. Law 13-224; D.C. Official Code § 7-651.01 *et seq.*), is repealed as of the date that the Department of Health develops, and makes available, the MOST Form in accordance with § 21-2221.02.

Sec. 4. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 5. Fiscal impact statement.

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

ENROLLED ORIGINAL

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), 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
December 29, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-248

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2015

To amend Chapter 9 of Title 16 of the District of Columbia Official Code to provide that domestic partnerships may be terminated by judicial decree or judgment; to amend the Health Care Benefits Expansion Act of 1992 to allow couples who formed domestic partnerships in other jurisdictions or the District of Columbia to terminate the domestic partnership and have that termination recognized by other jurisdictions; to amend the Mental Health Consumers' Rights Protection Act of 1992, section 21-2208 of the District of Columbia Official Code, An Act To establish a code of law for the District of Columbia, and An Act For the retirement of public-school teachers in the District of Columbia to make conforming amendments; and to amend Chapter 80 of Title 29 of the District of Columbia Municipal Regulations to make conforming amendments and to require that a person seeking to terminate a domestic partnership file a declaration if the other domestic partner has abandoned the domestic partnership.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Domestic Partnership Termination Recognition Amendment Act of 2015".

Sec. 2. Chapter 9 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-904 is amended by adding a new subsection (e) to read as follows:

"(e) Domestic partnerships registered under § 32-702(a) or relationships recognized under § 32-702(i) may be terminated by judicial decree or judgment.".

(b) Section 16-909 is amended by striking the phrase "pursuant to § 32-702(d)" wherever it appears and inserting the phrase "pursuant to § 32-702(d) or § 16-904(e)" in its place.

(c) Section 16-910 is amended by striking the phrase "pursuant to § 32-702(d)" and inserting the phrase "pursuant to § 32-702(d) or § 16-904(e)" in its place.

(d) Section 16-911(a) is amended by striking the phrase "pursuant to § 32-702(d)" and inserting the phrase "pursuant to § 32-702(d) or § 16-904(e)" in its place.

(e) Section 16-913(a) is amended by striking the phrase "under § 32-702(d)" and inserting the phrase "under § 32-702(d) or § 16-904(e)" in its place.

(f) Section 16-916(b) is amended by striking the phrase "in accordance with § 32-702(d)" and inserting the phrase "in accordance with § 32-702(d) or § 16-904(e)" in its place.

(g) Section 16-920 is amended as follows:

(1) Strike the phrase "or granting an absolute divorce," and insert the phrase "granting an absolute divorce, or terminating a domestic partnership," in its place.

(2) Strike the phrase "bonds of matrimony" and insert the phrase "bonds of matrimony or domestic partnership" in its place.

Sec. 3. The Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 32-701) is amended as follows:

(1) Paragraph (3) is amended by striking the phrase "and who has registered under section 3(a)." and inserting the phrase "and who has registered under section 3(a) or whose relationship is recognized under section 3(i)." in its place.

(2) Paragraph (4) is amended by striking the phrase "by registering in accordance with section 3." and inserting the phrase "by registering in accordance with section 3(a) or whose relationship is recognized under section 3(i)." in its place.

(b) Section 3 (D.C. Official Code § 32-702) is amended as follows:

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

(A) Paragraph (2) is amended by striking the word "and".

(B) Paragraph (3) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(4) Is in a committed relationship with the other person.".

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

(A) Paragraph (3) is amended to read as follows:

"(3) A domestic partnership shall terminate by operation of law if the domestic partners marry each other or another person.".

(B) A new paragraph (5) is added to read as follows:

"(5)(A) A domestic partnership may be terminated by judicial decree or judgment pursuant to D.C. Official Code § 16-904(e).

"(B) Domestic partners who terminate their domestic partnership under this paragraph shall subsequently inform the Mayor of the termination and provide any required documentation.".

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

"(d-1) Any form provided by the Mayor for domestic partnership terminations shall indicate that the Mayor is not responsible for resolving any attendant legal issues arising from the termination of a domestic partnership under Chapter 9 of Title 16 of the District of Columbia Official Code.".

(4) Subsection (e) is amended by adding a new paragraph (4A) to read as follows:

"(4A) A termination pursuant to subsection (d)(5) of this section shall take effect as provided in D.C. Official Code § 16-920.".

(c) Section 9(b) (D.C. Official Code § 32-708(b)) is amended to read as follows:

"(b) The Mayor shall report annually to the Council on the number of domestic partnerships declared and terminated, including those terminated under section 3(d)(5).".

Sec. 4. Conforming amendments.

(a) Section 213(3) of the Mental Health Consumers' Rights Protection Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1231.13(3)), is amended by striking the phrase "section 3(d) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702(d))" and inserting the phrase "section 3(d) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702(d)), or D.C. Official Code § 16-904(e)" in its place.

(b) Section 21-2208(e) of the District of Columbia Official Code is amended by striking the phrase "in accordance with § 32-702(d))" and inserting the phrase "in accordance with § 32-702(d) or § 16-904(e)" in its place.

(c) Section 870(a)(3) of the An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1331; D.C. Official Code § 22-501(a)(3)), is amended by striking the phrase "in accordance with section 3(d) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702(d))" and inserting the phrase "in accordance with section 3(d) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702(d)), or D.C. Official Code § 16-904(e)" in its place.

(d) An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 878; D.C. Official Code § 38-2021.01 *et seq.*), is amended as follows:

(1) Section 5(b)(1) (D.C. Official Code § 38-2021.05(b)(1)), is amended by striking the phrase "with section 3(d) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702(d))" and inserting the phrase "with section 3(d) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702(d)), or D.C. Official Code § 16-904(e)" in its place.

(2) Section 9(b)(1) (D.C. Official Code § 38-2021.09(b)(1)) is amended by striking the phrase "with section 3(d) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702(d))" and inserting the phrase "with section 3(d) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702(d)), or D.C. Official Code § 16-904(e)" in its place.

Sec. 5. Chapter 80 of Title 29 of the District of Columbia Municipal Regulations is amended as follows:

(a) Section 8002 (29 DCMR § 8002) is amended as follows:

(1) Subsection 8002.1 is amended as follows:

(A) Paragraph (a) is amended by striking the semicolon and inserting the phrase "; or" in its place.

(B) Paragraph (b) is amended to read as follows:

"(b) The domestic partners marry one another or either domestic partner marries another person.".

(C) Paragraph (c) is repealed.

(2) Subsection 8002.2 is amended by striking the phrase "8002.1(c)" wherever it appears and inserting the phrase "8002.3(c)(3)" in its place.

(3) Subsection 8002.3 is amended to read as follows:

"8002.3 (a) A domestic partnership may also be terminated, with or without the consent of both partners, by filing a termination of domestic partnership statement with the Registrar.

"(b) If both partners consent to the termination of domestic partnership, both shall declare that the partnership is to be terminated, and both shall sign the termination of domestic partnership statement.

"(c) If only one (1) person is taking action to terminate a domestic partnership, the person filing for termination of domestic partnership shall make the following declarations:

"(1) That the domestic partnership is to be terminated; and

"(2) That a copy of the termination of domestic partnership statement has been served on the other domestic partner by the following methods, if the location of the domestic partner is known:

"(A) By prepaid mail; or

"(B) By personal service on the other person or a person over the age of sixteen (16) who resides with the person; and

"(3) If the other domestic partner has abandoned the domestic partnership, that the other domestic partner permanently departed the mutual residence at least six (6) months before the filing of the termination statement, or has not been in contact with the domestic partner filing the termination statement for at least six (6) months preceding the filing of the termination statement.".

(4) A new section 8002.3a is added to read as follows:

"8002.3a A domestic partnership may also be terminated by judicial decree or judgment as provided in D.C. Official Code § 16-904(e) and D.C. Official Code § 32-702(d)(5) and shall take effect as provided in D.C. Official Code § 16-920.".

(5) Section 8002.4 is amended to read as follows:

"8002.4 A termination of domestic partnership statement filed pursuant to § 8002.3(b), (c)(1), or (c)(2) shall become effective six (6) months after the date the statement is filed with the Registrar. A termination of domestic partnership statement filed pursuant to § 8002.3(c)(3) shall become effective when the statement is filed. While the termination of domestic partnership is pending, all benefits shall continue to both domestic partners. While the termination of domestic partnership is pending, neither partner may apply for a new certificate of domestic partnership.".

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(b) Section 8006 (29 DCMR § 8006) is amended by adding a new subsection 8006.2a to read as follows:

"8006.2a The Director shall coordinate with the Superior Court of the District of Columbia to ensure that all terminations of domestic partnership made pursuant to D.C. Official Code § 16-904(e) and D.C. Official Code § 32-702(d)(5) are also recorded by the Department of Health and reported to the Council under § 8006.2.".

Sec. 6. 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. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 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
December 29, 2015

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AN ACT

D.C. ACT 21-249

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2015

To enact the Uniform Interstate Family Support Act, as revised with amendments officially adopted by the National Conference of Commissioners on Uniform State Laws, to implement the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Uniform Interstate Family Support Act of 2015".

TITLE 1. GENERAL PROVISIONS.

Sec. 101. Short title.

This act may be cited as the Uniform Interstate Family Support Act.

Sec. 102. Definitions.

In this act:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child-support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(3) "Convention" means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

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

(5) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(6) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

(A) Which has been declared under the law of the United States to be a foreign reciprocating country;

(B) Which has established a reciprocal arrangement for child support with the District as provided in section 308;

(C) Which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this act; or

(D) In which the Convention is in force with respect to the United States.

(7) "Foreign support order" means a support order of a foreign tribunal.

(8) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the Convention.

(9) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(10) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of the District.

(11) "Income-withholding order" means an order or other legal process directed to an obligor's holder, as defined by section 2(11) of the D.C. Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6–166; D.C. Official Code § 46-201(11)), to withhold support from the income of the obligor.

(12) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(13) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(14) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

(15) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

(16) "Law" includes decisional and statutory law and rules and regulations having the force of law.

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

(18) "Obligee" means:

(A) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

(B) A foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

(C) An individual seeking a judgment determining parentage of the individual's child; or

(D) A person that is a creditor in a proceeding under Title 7.

(19) "Obligor" means an individual, or the estate of a decedent that:

(A) Owes or is alleged to owe a duty of support;

(B) Is alleged but has not been adjudicated to be a parent of a child;

(C) Is liable under a support order; or

(D) Is a debtor in a proceeding under Title 7.

(20) "Office of the Attorney General" means the Office of the Attorney General for the District of Columbia.

(21) "Outside the District" means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(22) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(23) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(24) "Register" means to file in a tribunal of the District a support order or judgment determining parentage of a child issued in another state or a foreign country.

(25) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.

(26) "Responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.

(27) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

(28) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(29) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.

(30) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:

(A) Seek enforcement of support orders or laws relating to the duty of support;

(B) Seek establishment or modification of child support;

(C) Request determination of parentage of a child;

(D) Attempt to locate obligors or their assets; or

(E) Request determination of the controlling child-support order.

(31) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney's fees, and other relief.

(32) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

Sec. 103. Tribunal and support enforcement agency of the District.

(a) The Family Division of the Superior Court of the District of Columbia is the tribunal of the District.

(b) The Office of the Attorney General is the support enforcement agency of the District.

Sec. 104. Remedies cumulative.

(a) Remedies provided by this act are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.

(b) This act does not:

(1) Provide the exclusive method of establishing or enforcing a support order under the law of the District; or

(2) Grant a tribunal of the District jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this act.

Sec. 105. Application of act to resident of foreign country and foreign support proceeding.

(a) A tribunal of the District shall apply Titles 1 through 6 and, as applicable, Title 7, to a support proceeding involving:

(1) A foreign support order;

(2) A foreign tribunal; or

(3) An obligee, obligor, or child residing in a foreign country.

(b) A tribunal of the District that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of Titles 1 through 6.

(c) Title 7 applies only to a support proceeding under the Convention. In such a proceeding, if a provision of Title 7 is inconsistent with Titles 1 through 6, Title 7 controls.

TITLE 2. JURISDICTION.

Sec. 201. Bases for jurisdiction over nonresident.

(a) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of the District may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) The individual is personally served with notice within the District;

(2) The individual submits to the jurisdiction of the District by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) The individual resided with the child in the District;

(4) The individual resided in the District and provided prenatal expenses or support for the child;

(5) The child resides in the District as a result of the acts or directives of the individual;

(6) The individual engaged in sexual intercourse in the District and the child may have been conceived by that act of intercourse; or

(7) There is any other basis consistent with the laws of the District and the Constitution of the United States for the exercise of personal jurisdiction.

(b) The bases of personal jurisdiction set forth in subsection (a) of this section or in any other law of the District may not be used to acquire personal jurisdiction for a tribunal of the District to modify a child-support order of another state unless the requirements of section 611 are met, or, in the case of a foreign support order, unless the requirements of section 615 are met.

Sec. 202. Duration of personal jurisdiction.

Personal jurisdiction acquired by a tribunal of the District in a proceeding under this act or other law of the District relating to a support order continues as long as a tribunal of the District has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by sections 205, 206, and 211.

Sec. 203. Initiating and responding tribunal of state.

Under this act, a tribunal of the District may serve as an initiating tribunal to forward proceedings to a tribunal of another state, and as a responding tribunal for proceedings initiated in another state or a foreign country.

Sec. 204. Simultaneous proceedings.

(a) A tribunal of the District may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or a foreign country only if:

(1) The petition or comparable pleading in the District is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country;

(2) The contesting party timely challenges the exercise of jurisdiction in the other state or the foreign country; and

(3) If relevant, the District is the home state of the child.

(b) A tribunal of the District may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if:

(1) The petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in the District for filing a responsive pleading challenging the exercise of jurisdiction by the District;

(2) The contesting party timely challenges the exercise of jurisdiction in the District; and

(3) If relevant, the other state or foreign country is the home state of the child.

Sec. 205. Continuing, exclusive jurisdiction to modify child-support order.

(a) A tribunal of the District that has issued a child-support order consistent with the law of the District, has and shall exercise continuing, exclusive jurisdiction to modify its child-support order if the order is the controlling order and:

(1) At the time of the filing of a request for modification the District is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) Even if the District is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of the District may continue to exercise jurisdiction to modify its order.

(b) A tribunal of the District that has issued a child-support order consistent with the law of the District, may not exercise continuing, exclusive jurisdiction to modify the order if:

(1) All of the parties who are individuals file consent in a record with the tribunal of the District that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

(2) Its order is not the controlling order.

(c) If a tribunal of another state has issued a child-support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to that Act which modifies a child-support order of a tribunal of the District, a tribunal of the District shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

(d) A tribunal of the District that lacks continuing, exclusive jurisdiction to modify a child-support order, may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

Sec. 206. Continuing jurisdiction to enforce child-support order.

(a) A tribunal of the District that has issued a child-support order consistent with the law of the District, may serve as an initiating tribunal to request a tribunal of another state to enforce:

(1) The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or

(2) A money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.

(b) A tribunal of the District having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

Sec. 207. Determination of controlling child-support order.

(a) If a proceeding is brought under this act and only one tribunal has issued a child-support order, the order of that tribunal controls and must be recognized.

(b) If a proceeding is brought under this act, and 2 or more child-support orders have been issued by tribunals of the District, of another state, or a foreign country with regard to the same obligor and same child, a tribunal of the District having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls and must be recognized:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under this act, the order of that tribunal controls.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under this act:

(A) An order issued by a tribunal in the current home state of the child controls; or

(B) If an order has not been issued in the current home state of the child, the order most recently issued controls.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under this act, the tribunal of the District shall issue a child-support order, which controls.

(c) If 2 or more child-support orders have been issued for the same obligor and same child, upon request of a party who is an individual or that is a support enforcement agency, a tribunal of the District having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection (b) of this section. The request may be filed with a registration for enforcement or registration for modification pursuant to Title 6, or may be filed as a separate proceeding.

(d) A request to determine which is the controlling order must be accompanied by a copy of every child-support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(e) The tribunal that issued the controlling order under subsection (a), (b), or (c) of this section has continuing jurisdiction to the extent provided in section 205 or 206.

(f) A tribunal of the District that determines by order which is the controlling order under subsection (b)(1) or (2) or (c) of this section, or that issues a new controlling order under subsection (b)(3) of this section, shall state in that order:

(1) The basis upon which the tribunal made its determination;

(2) The amount of prospective support, if any; and

(3) The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by section 209.

(g) Within 30 days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

(h) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this act.

Sec. 208. Child-support orders for 2 or more obligees.

In responding to registrations or petitions for enforcement of 2 or more child-support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state or a foreign country, a tribunal of the District shall enforce those orders in the same manner as if the orders had been issued by a tribunal of the District.

Sec. 209. Credit for payments.

A tribunal of the District shall credit amounts collected for a particular period pursuant to any child-support order against the amounts owed for the same period under any other child-support order for support of the same child issued by a tribunal of the District, another state, or a foreign country.

Sec. 210. Application of act to nonresident subject to personal jurisdiction.

A tribunal of the District exercising personal jurisdiction over a nonresident in a proceeding under this act, under other law of the District relating to a support order, or recognizing a foreign support order, may receive evidence from outside the District pursuant to section 316, communicate with a tribunal outside the District pursuant to section 317, and obtain discovery through a tribunal outside the District pursuant to section 318. In all other respects, Titles 3 through 6 do not apply, and the tribunal shall apply the procedural and substantive law of the District.

Sec. 211. Continuing, exclusive jurisdiction to modify spousal-support order.

(a) A tribunal of the District issuing a spousal-support order consistent with the law of the District has continuing, exclusive jurisdiction to modify the spousal-support order throughout the existence of the support obligation.

(b) A tribunal of the District may not modify a spousal-support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(c) A tribunal of the District that has continuing, exclusive jurisdiction over a spousal-support order, may serve as:

(1) An initiating tribunal to request a tribunal of another state to enforce the spousal-support order issued in the District; or

(2) A responding tribunal to enforce or modify its own spousal-support order.

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TITLE 3. CIVIL PROVISIONS OF GENERAL APPLICATION.

Sec. 301. Proceedings under act.

(a) Except as otherwise provided in this act, this title applies to all proceedings under this act.

(b) An individual petitioner or a support enforcement agency may initiate a proceeding authorized under this act by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or a foreign country which has or can obtain personal jurisdiction over the respondent.

Sec. 302. Proceeding by minor parent.

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

Sec. 303. Application of law of the District.

Except as otherwise provided in this act, a responding tribunal of the District shall:

(1) Apply the procedural and substantive law generally applicable to similar proceedings originating in the District and may exercise all powers and provide all remedies available in those proceedings; and

(2) Determine the duty of support and the amount payable in accordance with the law and support guidelines of the District.

Sec. 304. Duties of initiating tribunal.

(a) Upon the filing of a petition authorized by this act, an initiating tribunal of the District shall forward the petition and its accompanying documents:

(1) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If requested by the responding tribunal, a tribunal of the District shall issue a certificate or other document and make findings required by the law of the responding state. If the responding tribunal is in a foreign country, upon request the tribunal of the District shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under the applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding foreign tribunal.

Sec. 305. Duties and powers of responding tribunal.

(a) When a responding tribunal of the District receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section 301(b), it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(b) A responding tribunal of the District, to the extent not prohibited by other law, may do one or more of the following:

(1) Establish or enforce a support order, modify a child-support order, determine the controlling child-support order, or determine parentage of a child;

(2) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) Order income withholding;

(4) Determine the amount of any arrearages, and specify a method of payment;

(5) Enforce orders by civil or criminal contempt, or both;

(6) Set aside property for satisfaction of the support order;

(7) Place liens and order execution on the obligor's property;

(8) Order an obligor to keep the tribunal informed of the obligor's current residential address, electronic-mail address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) Issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) Order the obligor to seek appropriate employment by specified methods;

(11) Award reasonable attorney's fees and other fees and costs; and

(12) Grant any other available remedy.

(c) A responding tribunal of the District shall include in a support order issued under this act, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of the District may not condition the payment of a support order issued under this act upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of the District issues an order under this act, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

(f) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of the District shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

Sec. 306. Inappropriate tribunal.

If a petition or comparable pleading is received by an inappropriate tribunal of the District, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal of the District or of another state and notify the petitioner where and when the pleading was sent.

Sec. 307. Duties of support enforcement agency.

(a) In a proceeding under this act, a support enforcement agency of the District, upon request:

(1) Shall provide services to a petitioner residing in a state;

(2) Shall provide services to a petitioner requesting services through a central authority of a foreign country as described in section 102(6)(A) or (D); and

(3) May provide services to a petitioner who is an individual not residing in a state.

(b) A support enforcement agency of the District that is providing services to the petitioner shall:

(1) Take all steps necessary to enable an appropriate tribunal of the District, another state, or a foreign country to obtain jurisdiction over the respondent;

(2) Request an appropriate tribunal to set a date, time, and place for a hearing;

(3) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) Within 2 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(5) Within 2 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(6) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) A support enforcement agency of the District that requests registration of a child-support order in the District for enforcement or for modification shall make reasonable efforts:

(1) To ensure that the order to be registered is the controlling order; or

(2) If 2 or more child-support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(d) A support enforcement agency of the District that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(e) A support enforcement agency of the District shall issue or request a tribunal of the District to issue a child-support order and an income-withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to section 319.

(f) This act does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 308. Duty of Office of the Attorney General.

The Office of the Attorney General may determine that a foreign country has established a reciprocal arrangement for child support with the District and take appropriate action for notification of the determination.

Sec. 309. Private counsel.

An individual may employ private counsel to represent the individual in proceedings authorized by this act.

Sec. 310. Duties of Office of the Attorney General as state information agency.

(a) The Office of the Attorney General is the state information agency under this act.

(b) The state information agency shall:

(1) Compile and maintain a current list, including addresses, of the tribunals in the District which have jurisdiction under this act and any support enforcement agencies in the District and transmit a copy to the state information agency of every other state;

(2) Maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

(3) Forward to the appropriate tribunal in the District all documents concerning a proceeding under this act received from another state or a foreign country; and

(4) Obtain information concerning the location of the obligor and the obligor's property within the District not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Sec. 311. Pleadings and accompanying documents.

(a) In a proceeding under this act, a petitioner seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or a foreign country must file a petition. Unless otherwise ordered under section 312, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Sec. 312. Nondisclosure of information in exceptional circumstances.

If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or

child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

Sec. 313. Costs and fees.

(a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal of the District may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or responding state or foreign country, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under Title 6, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Sec. 314. Limited immunity of petitioner.

(a) Participation by a petitioner in a proceeding under this act before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in the District to participate in a proceeding under this act.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this act committed by a party while physically present in the District to participate in the proceeding.

Sec. 315. Nonparentage as defense.

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this act.

Sec. 316. Special rules of evidence and procedure.

(a) The physical presence of a nonresident party who is an individual in a tribunal of the District is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

(b) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside the District.

(c) A copy of the record of child-support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from outside the District to a tribunal of the District by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this act, a tribunal of the District shall permit a party or witness residing outside the District to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal of the District shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this act.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this act.

(j) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

Sec. 317. Communications between tribunals.

A tribunal of the District may communicate with a tribunal outside the District in a record or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of the District may furnish similar information by similar means to a tribunal outside the District.

Sec. 318. Assistance with discovery.

A tribunal of the District may:

(1) Request a tribunal outside the District to assist in obtaining discovery; and

(2) Upon request, compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside the District.

Sec. 319. Receipt and disbursement of payments.

(a) A support enforcement agency or tribunal of the District shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal

shall furnish to a requesting party or tribunal of another state or a foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.

(b) If neither the obligor, nor the obligee who is an individual, nor the child resides in the District, upon request from the support enforcement agency of the District or another state, the support enforcement agency of the District or a tribunal of the District shall:

(1) Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

(2) Issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(c) The support enforcement agency of the District receiving redirected payments from another state pursuant to a law similar to subsection (b) of this section shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

TITLE 4. ESTABLISHMENT OF SUPPORT ORDER OR DETERMINATION OF PARENTAGE.

Sec. 401. Establishment of support order.

(a) If a support order entitled to recognition under this act has not been issued, a responding tribunal of the District with personal jurisdiction over the parties may issue a support order if:

(1) The individual seeking the order resides outside the District; or

(2) The support enforcement agency seeking the order is located outside the District.

(b) The tribunal may issue a temporary child-support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

(1) A presumed father of the child;

(2) Petitioning to have his paternity adjudicated;

(3) Identified as the father of the child through genetic testing;

(4) An alleged father who has declined to submit to genetic testing;

(5) Shown by clear and convincing evidence to be the father of the child;

(6) An acknowledged father as provided by D.C. Official Code §§ 16-909.01 to 16-909.05;

(7) The mother of the child; or

(8) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 305.

Sec. 402. Proceeding to determine parentage.

A tribunal of the District authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under this act or a law or procedure substantially similar to this act.

TITLE 5. ENFORCEMENT OF SUPPORT ORDER WITHOUT REGISTRATION

Sec. 501. Employer's receipt of income-withholding order of another state.

An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer under the D.C. Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6–166; D.C. Official Code § 46-201 *et seq.*) without first filing a petition or comparable pleading or registering the order with a tribunal of the District.

Sec. 502. Employer's compliance with income-withholding order of another state.

(a) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of the District.

(c) Except as otherwise provided in subsection (d) of this section and section 503, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(1) The duration and amount of periodic payments of current child support, stated as a sum certain;

(2) The person designated to receive payments and the address to which the payments are to be forwarded;

(3) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(4) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(5) The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(1) The employer's fee for processing an income-withholding order;

(2) The maximum amount permitted to be withheld from the obligor's income; and

(3) The times within which the employer must implement the withholding order and forward the child-support payment.

Sec. 503. Employer's compliance with 2 or more income-withholding orders.

If an obligor's employer receives 2 or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for 2 or more child-support obligees.

Sec. 504. Immunity from civil liability.

An employer that complies with an income-withholding order issued in another state in accordance with this title is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

Sec. 505. Penalties for noncompliance.

An employer that willfully fails to comply with an income-withholding order issued in another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of the District.

Sec. 506. Contest by obligor.

(a) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in the District by registering the order in a tribunal of the District and filing a contest to that order as provided in Title 6, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of the District.

(b) The obligor shall give notice of the contest to:

(1) A support enforcement agency providing services to the obligee;

(2) Each employer that has directly received an income-withholding order relating to the obligor; and

(3) The person designated to receive payments in the income-withholding order or, if no person is designated, to the obligee.

Sec. 507. Administrative enforcement of orders.

(a) A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued in another state or a foreign support order may send the documents required for registering the order to a support enforcement agency of the District.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of the District to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this act.

ENROLLED ORIGINAL

TITLE 6. REGISTRATION, ENFORCEMENT, AND MODIFICATION OF SUPPORT ORDER.

SUBTITLE A. REGISTRATION FOR ENFORCEMENT OF SUPPORT ORDER.

Sec. 601. Registration of order for enforcement.

A support order or income-withholding order issued in another state or a foreign support order may be registered in the District for enforcement.

Sec. 602. Procedure to register order for enforcement.

(a) Except as otherwise provided in section 706, a support order or income-withholding order of another state or a foreign support order may be registered in the District by sending the following records to the Superior Court of the District of Columbia:

(1) A letter of transmittal to the tribunal requesting registration and enforcement;

(2) Two copies, including one certified copy, of the order to be registered, including any modification of the order;

(3) A sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) The name of the obligor and, if known:

(A) The obligor's address and social security number;

(B) The name and address of the obligor's employer and any other source of income of the obligor; and

(C) A description and the location of property of the obligor in the District not exempt from execution; and

(5) Except as otherwise provided in section 312, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state or a foreign support order, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of the District may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

(d) If two or more orders are in effect, the person requesting registration shall:

(1) Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

(2) Specify the order alleged to be the controlling order, if any; and

(3) Specify the amount of consolidated arrears, if any.

(e) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

Sec. 603. Effect of registration for enforcement.

(a) A support order or income-withholding order issued in another state or a foreign support order is registered when the order is filed in the registering tribunal of the District.

(b) A registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of the District.

(c) Except as otherwise provided in this act, a tribunal of the District shall recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction.

Sec. 604. Choice of law.

(a) Except as otherwise provided in subsection (d) of this section, the law of the issuing state or foreign country governs:

(1) The nature, extent, amount, and duration of current payments under a registered support order;

(2) The computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

(3) The existence and satisfaction of other obligations under the support order.

(b) In a proceeding for arrears under a registered support order, the statute of limitation of the District, or of the issuing state or foreign country, whichever is longer, applies.

(c) A responding tribunal of the District shall apply the procedures and remedies of the District to enforce current support and collect arrears and interest due on a support order of another state or a foreign country registered in the District.

(d) After a tribunal of the District or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of the District shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

SUBTITLE B. CONTEST OF VALIDITY OR ENFORCEMENT.

Sec. 605. Notice of registration of order.

(a) When a support order or income-withholding order issued in another state or a foreign support order is registered, the registering tribunal of the District shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) A notice must inform the nonregistering party:

(1) That a registered support order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of the District;

(2) That a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after notice unless the registered order is under section 707;

(3) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(4) Of the amount of any alleged arrearages.

(c) If the registering party asserts that 2 or more orders are in effect, a notice must also:

(1) Identify the 2 or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;

(2) Notify the nonregistering party of the right to a determination of which is the controlling order;

(3) State that the procedures provided in subsection (b) of this section apply to the determination of which is the controlling order; and

(4) State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(d) Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to the D.C. Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6–166; D.C. Official Code § 46-201 *et seq.*).

Sec. 606. Procedure to contest validity or enforcement of registered support order.

(a) A nonregistering party seeking to contest the validity or enforcement of a registered support order in the District shall request a hearing within the time required by section 605. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 607.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered support order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

Sec. 607. Contest of registration or enforcement.

(a) A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) The issuing tribunal lacked personal jurisdiction over the contesting party;

(2) The order was obtained by fraud;

(3) The order has been vacated, suspended, or modified by a later order;

(4) The issuing tribunal has stayed the order pending appeal;

(5) There is a defense under the law of the District to the remedy sought;

(6) Full or partial payment has been made;

(7) The statute of limitation under section 604 precludes enforcement of some or all of the alleged arrearages; or

(8) The alleged controlling order is not the controlling order.

(b) If a party presents evidence establishing a full or partial defense under subsection (a) of this section, a tribunal may stay enforcement of a registered support order, continue the

proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered support order may be enforced by all remedies available under the law of the District.

(c) If the contesting party does not establish a defense under subsection (a) of this section to the validity or enforcement of a registered support order, the registering tribunal shall issue an order confirming the order.

Sec. 608. Confirmed order.

Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

SUBTITLE C. REGISTRATION AND MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER STATE.

Sec. 609. Procedure to register child-support order of another state for modification.

A party or support enforcement agency seeking to modify, or to modify and enforce, a child-support order issued in another state shall register that order in the District in the same manner provided in sections 601 through 608 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

Sec. 610. Effect of registration for modification.

A tribunal of the District may enforce a child-support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of the District, but the registered support order may be modified only if the requirements of section 611 or 613 have been met.

Sec. 611. Modification of child-support order of another state.

(a) If section 613 does not apply, upon petition a tribunal of the District may modify a child-support order issued in another state which is registered in the District if, after notice and hearing, the tribunal finds that:

(1) The following requirements are met:

(A) Neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;

(B) A petitioner who is a nonresident of the District seeks modification; and

(C) The respondent is subject to the personal jurisdiction of the tribunal of the District; or

(2) The District is the residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of the District, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of the District to modify the support order and assume continuing, exclusive jurisdiction.

(b) Modification of a registered child-support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of the District and the order may be enforced and satisfied in the same manner.

(c) A tribunal of the District may not modify any aspect of a child-support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If 2 or more tribunals have issued child-support orders for the same obligor and same child, the order that controls and must be so recognized under section 207 establishes the aspects of the support order which are nonmodifiable.

(d) In a proceeding to modify a child-support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of the District.

(e) On the issuance of an order by a tribunal of the District modifying a child-support order issued in another state, the tribunal of the District becomes the tribunal having continuing, exclusive jurisdiction.

(f) Notwithstanding subsections (a) through (e) of this section and section 201(b), a tribunal of the District retains jurisdiction to modify an order issued by a tribunal of the District if:

(1) One party resides in another state; and

(2) The other party resides outside the United States.

Sec. 612. Recognition of order modified in another state.

If a child-support order issued by a tribunal of the District is modified by a tribunal of another state which assumed jurisdiction pursuant to the Uniform Interstate Family Support Act, a tribunal of the District:

(1) May enforce its order that was modified only as to arrears and interest accruing before the modification;

(2) May provide appropriate relief for violations of its order which occurred before the effective date of the modification; and

(3) Shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

Sec. 613. Jurisdiction to modify child-support order of another state when individual parties reside in the District.

(a) If all of the parties who are individuals reside in the District and the child does not reside in the issuing state, a tribunal of the District has jurisdiction to enforce and to modify the issuing state's child-support order in a proceeding to register that order.

(b) A tribunal of the District exercising jurisdiction under this section shall apply the provisions of Titles 1 and 2, this title, and the procedural and substantive law of the District to the proceeding for enforcement or modification. Titles 3, 4, 5, 7, and 8 do not apply.

Sec. 614. Notice to issuing tribunal of modification.

Within 30 days after issuance of a modified child-support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

SUBTITLE D. REGISTRATION AND MODIFICATION OF FOREIGN CHILD-SUPPORT ORDER.

Sec. 615. Jurisdiction to modify child-support order of foreign country.

(a) Except as otherwise provided in section 711, if a foreign country lacks or refuses to exercise jurisdiction to modify its child-support order pursuant to its laws, a tribunal of the District may assume jurisdiction to modify the child-support order and bind all individuals subject to the personal jurisdiction of the tribunal whether the consent to modification of a child-support order otherwise required of the individual pursuant to section 611 has been given or whether the individual seeking modification is a resident of the District or of the foreign country.

(b) An order issued by a tribunal of the District modifying a foreign child-support order pursuant to this section is the controlling order.

Sec. 616. Procedure to register child-support order of foreign country for modification.

A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child-support order not under the Convention may register that order in the District under sections 601 through 608 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification.

TITLE 7. SUPPORT PROCEEDING UNDER CONVENTION.

Sec. 701. Definitions.

In this title:

(1) "Application" means a request under the Convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United States or a foreign country described in section 102(6)(D) to perform the functions specified in the Convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in section 102(6)(D).

(4) "Direct request" means a petition filed by an individual in a tribunal of the District in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in section 102(6)(D) to perform the functions specified in the Convention.

(6) "Foreign support agreement":

(A) Means an agreement for support in a record that:

(i) Is enforceable as a support order in the country of origin;

(ii) Has been:

(I) Formally drawn up or registered as an authentic instrument by a foreign tribunal; or

(II) Authenticated by, or concluded, registered, or filed with a foreign tribunal; and

(iii) May be reviewed and modified by a foreign tribunal; and

(B) Includes a maintenance arrangement or authentic instrument under the Convention.

(7) "United States central authority" means the Secretary of the United States Department of Health and Human Services.

Sec. 702. Applicability.

This title applies only to a support proceeding under the Convention. In such a proceeding, if a provision of this title is inconsistent with Titles 1 through 6, this title controls.

Sec. 703. Relationship of Office of the Attorney General to United States central authority.

The Office of the Attorney General is recognized as the agency designated by the United States central authority to perform specific functions under the Convention.

Sec. 704. Initiation by Office of the Attorney General of support proceeding under Convention.

(a) In a support proceeding under this title, the Office of the Attorney General shall:

(1) Transmit and receive applications; and

(2) Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of the District.

(b) The following support proceedings are available to an obligee under the Convention:

(1) Recognition or recognition and enforcement of a foreign support order;

(2) Enforcement of a support order issued or recognized in the District;

(3) Establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;

(4) Establishment of a support order if recognition of a foreign support order is refused under section 708(b)(2), (4), or (9);

(5) Modification of a support order of a tribunal of the District; and

(6) Modification of a support order of a tribunal of another state or a foreign country.

(c) The following support proceedings are available under the Convention to an obligor against which there is an existing support order:

(1) Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of the District;

(2) Modification of a support order of a tribunal of the District; and

(3) Modification of a support order of a tribunal of another state or a foreign country.

(d) A tribunal of the District may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the Convention.

Sec. 705. Direct request.

(a) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of the District applies.

(b) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, sections 706 through 713 apply.

(c) In a direct request for recognition and enforcement of a Convention support order or foreign support agreement:

(1) A security, bond, or deposit is not required to guarantee the payment of costs and expenses; and

(2) An obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of the District under the same circumstances.

(d) A petitioner filing a direct request is not entitled to assistance from the Office of the Attorney General.

(e) This title does not prevent the application of laws of the District that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

Sec. 706. Registration of Convention support order.

(a) Except as otherwise provided in this title, a party who is an individual or a support enforcement agency seeking recognition of a Convention support order shall register the order in the District as provided in Title 6.

(b) Notwithstanding sections 311 and 602(a), a request for registration of a Convention support order must be accompanied by:

(1) A complete text of the support order or an abstract or extract of the support order drawn up by the issuing foreign tribunal, which may be in the form recommended by the Hague Conference on Private International Law;

(2) A record stating that the support order is enforceable in the issuing country;

(3) If the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice

of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(4) A record showing the amount of arrears, if any, and the date the amount was calculated;

(5) A record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(6) If necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(c) A request for registration of a Convention support order may seek recognition and partial enforcement of the order.

(d) A tribunal of the District may vacate the registration of a Convention support order without the filing of a contest under section 707 only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(e) The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a Convention support order.

Sec. 707. Contest of registered convention support order.

(a) Except as otherwise provided in this title, sections 605 through 608 apply to a contest of a registered Convention support order.

(b) A party contesting a registered Convention support order shall file a contest not later than 30 days after notice of the registration, but if the contesting party does not reside in the United States, the contest must be filed not later than 60 days after notice of the registration.

(c) If the nonregistering party fails to contest the registered Convention support order by the time specified in subsection (b) of this section, the order is enforceable.

(d) A contest of a registered Convention support order may be based only on grounds set forth in section 708. The contesting party bears the burden of proof.

(e) In a contest of a registered Convention support order, a tribunal of the District:

(1) Is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(2) May not review the merits of the order.

(f) A tribunal of the District deciding a contest of a registered Convention support order shall promptly notify the parties of its decision.

(g) A challenge or appeal, if any, does not stay the enforcement of a Convention support order unless there are exceptional circumstances.

Sec. 708. Recognition and enforcement of registered convention support order.

(a) Except as otherwise provided in subsection (b) of this section, a tribunal of the District shall recognize and enforce a registered Convention support order.

(b) The following grounds are the only grounds on which a tribunal of the District may refuse recognition and enforcement of a registered Convention support order:

(1) Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(2) The issuing tribunal lacked personal jurisdiction consistent with section 201;

(3) The order is not enforceable in the issuing country;

(4) The order was obtained by fraud in connection with a matter of procedure;

(5) A record transmitted in accordance with section 706 lacks authenticity or integrity;

(6) A proceeding between the same parties and having the same purpose is pending before a tribunal of the District and that proceeding was the first to be filed;

(7) The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this act in the District;

(8) Payment, to the extent alleged arrears have been paid in whole or in part;

(9) In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(A) If the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(B) If the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(10) The order was made in violation of section 711.

(c) If a tribunal of the District does not recognize a Convention support order under subsection (b)(2), (4), or (9) of this section:

(1) The tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order; and

(2) The Office of the Attorney General shall take all appropriate measures to request a child-support order for the obligee if the application for recognition and enforcement was received under section 704.

Sec. 709. Partial enforcement.

If a tribunal of the District does not recognize and enforce a Convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a Convention support order.

Sec. 710. Foreign support agreement.

(a) Except as otherwise provided in subsections (c) and (d) of this section, a tribunal of the District shall recognize and enforce a foreign support agreement registered in the District.

(b) An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by:

(1) A complete text of the foreign support agreement; and

(2) A record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(c) A tribunal of the District may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(d) In a contest of a foreign support agreement, a tribunal of the District may refuse recognition and enforcement of the agreement if it finds:

(1) Recognition and enforcement of the agreement is manifestly incompatible with public policy;

(2) The agreement was obtained by fraud or falsification;

(3) The agreement is incompatible with a support order involving the same parties and having the same purpose in the District, another state, or a foreign country if the support order is entitled to recognition and enforcement under this act in the District; or

(4) The record submitted under subsection (b) of this section lacks authenticity or integrity.

(e) A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

Sec. 711. Modification of convention child-support order.

(a) A tribunal of the District may not modify a Convention child-support order if the obligee remains a resident of the foreign country where the support order was issued unless:

(1) The obligee submits to the jurisdiction of a tribunal of the District, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(2) The foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

(b) If a tribunal of the District does not modify a Convention child-support order because the order is not recognized in the District, section 708(c) applies.

Sec. 712. Personal information; limit on use.

Personal information gathered or transmitted under this title may be used only for the purposes for which it was gathered or transmitted.

Sec. 713. Record in original language; English translation.

A record filed with a tribunal of the District under this title must be in the original language and, if not in English, must be accompanied by an English translation.

TITLE 8. INTERSTATE RENDITION

Sec. 801. Grounds for rendition.

(a) For purposes of this title, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this act.

(b) The Mayor may:

(1) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in the District with having failed to provide for the support of an obligee; or

(2) On the demand of the governor of another state, surrender an individual found in the District who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this act applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Sec. 802. Conditions of rendition.

(a) Before making a demand that the governor of another state surrender an individual charged criminally in the District with having failed to provide for the support of an obligee, the Mayor may require a prosecutor of the District to demonstrate that at least 60 days previously the obligee had initiated proceedings for support pursuant to this act or that the proceeding would be of no avail.

(b) If, under this act or a law substantially similar to this act, the governor of another state makes a demand that the Mayor surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the Mayor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the Mayor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the Mayor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

TITLE 9. MISCELLANEOUS PROVISIONS

Sec. 901. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 902. Repealer.

The Uniform Interstate Family Support Act of 1995, effective February 9, 1996 (D.C. Law 11-81; D.C. Official Code § 46-301.01 *et seq.*), is repealed.

Sec. 903. Applicability.

This act applies to proceedings begun on or after the effective date of this act to establish a support order or determine parentage of a child or to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.

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Sec. 904. 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. 905. 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
December 29, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-250

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2015

To amend the Education Licensure Commission Act of 1976 to change the name of the Education Licensure Commission to the Higher Education Licensure Commission, to extend authority to the commission to require institutions physically located outside the District of Columbia offering postsecondary degree-granting or non-degree-granting online programs or courses to District of Columbia residents physically in the District to be licensed in the District, to permit members of the commission to serve in a hold-over capacity for no more than 180 days after expiration of their second full consecutive term, to provide the commission with the authority to enter into reciprocity agreements with regards to online courses, and to authorize the commission to impose alternative sanctions for violations of provisions of the act or regulations promulgated under the authority of the act; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to increase the annual compensation of members of the Higher Education Licensure Commission from $4,000 to $8,000; to amend the State Education Office Establishment Act of 2000 to designate the Office of the State Superintendent of Education the state portal agency for state authorization reciprocity; and to amend the Office of Administrative Hearings Establishment Act of 2001 to make a conforming amendment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Higher Education Licensure Commission Amendment Act of 2015".

Sec. 2. The Education Licensure Commission Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code § 38-1301 *et seq.*), is amended as follows:

(a) Section 201 (D.C. Official Code § 38-1302) is amended as follows:

(1) Paragraph (7) is amended by striking the phrase "by personal attendance or correspondence" and inserting the phrase "by personal attendance, online instruction, or by other means" in its place.

(2) Paragraph (10) is amended by striking the phrase "Education Licensure Commission" and inserting the phrase "Higher Education Licensure Commission" in its place.

(3) New paragraphs (15) and (16) are added to read as follows:

"(15)(A) "Online instruction" means education, whether known as virtual class, correspondence course, distance learning, or other like term, where the learner and instructor are

not physically in the same place at the same time, that is delivered through an electronic medium such as the Internet, Web-based form, or real time or recorded video or digital form, and that is offered or provided by an educational institution to District residents who are physically present in the District.

"(B) The education provided pursuant to subparagraph (A) of this paragraph shall be deemed delivered through an online presence in the District.

"(16) "Online presence" means the delivery of online instruction by an educational institution.".

(b) Section 3 (D.C. Official Code § 38-1303) is amended by striking the phrase "Education Licensure Commission" wherever it appears and inserting the phrase "Higher Education Licensure Commission" in its place.

(c) Section 4 (D.C. Official Code § 38-1304) is amended as follows:

(1) The section heading is amended by striking the phrase "Education Licensure Commission" and inserting the phrase "Higher Education Licensure Commission" in its place.

(2) Subsection (b) is amended by striking the phrase "2 consecutive terms" and inserting the phrase "2 consecutive terms; provided, that a member may serve in a hold-over capacity for no more than 180 days after the expiration of the member's second full consecutive term" in its place.

(d) The section heading for section 5 (D.C. Official Code § 38-1305) is amended by striking the phrase "Education Licensure Commission" and inserting the phrase "Higher Education Licensure Commission" in its place.

(e) Section 6 (D.C. Official Code § 38-1306) is amended as follows:

(1) The section heading is amended by striking the phrase "Education Licensure Commission" and inserting the phrase "Higher Education Licensure Commission" in its place.

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

"(b-1) An educational institution licensed by the Commission shall be subject to the laws and regulations that govern degree-granting and non-degree-granting institutions in the District, including those governing the complaint process.".

(3) Subsection (e)(2) is amended by striking the phrase "Education Licensure Commission" and inserting the phrase "Higher Education Licensure Commission" in its place.

(f) Section 7 (D.C. Official Code § 38-1307) is amended as follows:

(1) The section heading is amended by striking the phrase "Education Licensure Commission" and inserting the phrase "Higher Education Licensure Commission" in its place.

(2) Paragraph (3)(C) is amended by striking the word "and".

(3) Paragraph (4) is amended by striking the period and inserting a semicolon in its place.

(4) New paragraphs (5) and (6) are added to read as follows:

"(5) Have the authority to enter into agreements with other jurisdictions as it relates to the licensing of postsecondary educational institutions that provide degree-granting or non-degree-granting instruction to residents of the District; and

"(6) Have the authority to enter into agreements with degree-granting educational institutions operating in the District of Columbia that are otherwise conditionally

exempt pursuant to section 10 for the purpose of ensuring consistent consumer protection in interstate distance education delivery of higher education.".

(g) Section 9 (D.C. Official Code § 38-1309) is amended as follows:

(1) Subsection (a)(2) is amended by striking the phrase "pursuant to section 99 of the District of Columbia Business Corporation Act, approved June 8, 1954 (68 Stat. 219; D.C. Official Code § 29-101.99), or section 64 of the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 290; D.C. Official Code § 29-301.64)," and inserting the phrase "pursuant to Chapter 1 of Title 29 of the District of Columbia Official Code" in its place.

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

"(a-1) An educational institution that is providing degree-granting or non-degree-granting online instruction to residents of the District through an online presence shall be deemed to be operating in the District and shall be licensed by the Commission.".

(3) Subsection (c-1)(1) is amended by striking the phrase "Education Licensure Commission ("Commission")" and inserting the word "Commission" in its place.

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

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

(B) Paragraph (2) is repealed.

(5) Subsection (e) is amended by striking the phrase "done by correspondence." and inserting the phrase "done solely through online instruction." in its place.

(h) Section 12 (D.C. Official Code § 38-1312) is amended as follows:

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

"(a-1) The Commission may impose civil fines and penalties as alternative sanctions for violations of the provisions of this act or of rules promulgated under the authority of this act, pursuant to 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 § 2-1801.01 *et seq.*) ("Civil Infractions Act"). Enforcement and adjudication of a violation shall be pursuant to the Civil Infractions Act.".

(2) Subsection (c) is amended by striking the phrase "Corporation Counsel of" and inserting the phrase "Office of the Attorney General for" in its place.

(i) Section 12a (D.C. Official Code § 38-1313) is amended as follows:

(1) The section heading is amended by striking the phrase "Education Licensure Commission" and inserting the phrase "Higher Education Licensure Commission." in its place.

(2) Subsection (a) is amended by striking the phrase "Education Licensure Commission" and inserting the phrase "Higher Education Licensure Commission" in its place.

(3) Subsection (b) is amended by striking the phrase "Education Licensure Commission" and inserting the phrase "Higher Education Licensure Commission" in its place.

Sec. 3. Section 1108(c-2)(2) 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)(2)), is amended as follows:

(a) Strike the phrase "Education Licensure Commission" and insert the phrase "Higher Education Licensure Commission" in its place.

(b) Strike the phrase "$4,000" and insert the phrase "$8,000" in its place.

Sec. 4. The State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601 *et seq.*), is amended as follows:

(a) Section 3(b)(6) (D.C. Official Code § 38-2602(b)(6)) is amended to read as follows:

"(6) Oversee the functions and activities of the Higher Education Licensure Commission, established by section 3 of the Education Licensure Commission Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code § 38-1303), including acting as the state portal agency for the purposes of state authorization reciprocity;".

(b) Section 7a (D.C. Official Code § 38-2607) is amended as follows:

(1) The section heading is amended by striking the phrase "Education Licensure Commission" and inserting the phrase "Higher Education Licensure Commission" in its place.

(2) Subsection (a) is amended by striking the phrase "Education Licensure Commission" and inserting the phrase "Higher Education Licensure Commission" in its place.

(3) Subsection (b) is amended by striking the phrase "Education Licensure Commission" and inserting the phrase "Higher Education Licensure Commission ("Commission")" in its place.

(4) Subsection (c) is amended by striking the phrase "Education Licensure".

(5)

Sec. 5. Section 6 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), is amended by adding a new subsection (b-9) to read as follows:

"(b-9) In addition to those cases described in subsections (a), (b), (b-1), (b-2), (b-3), (b-4), (b-5), (b-6), (b-7), and (b-8), this act shall apply to adjudicated cases involving a civil fine or penalty imposed by the Higher Education Licensure Commission under section 12(a-1) of the Education Licensure Commission Act of 1976, effective March 16, 1989 (D.C. Law 7-217; D.C. Official Code § 38-1312(a-1)).".

Sec. 6. 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. 7. Effective date.

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

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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
December 29, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-251

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2015

To amend the Homeless Services Reform Act of 2005 to authorize the Mayor to place a family that does not have a safe-housing alternative in a temporary interim eligibility placement pending a determination of eligibility for shelter and an assessment of the supportive services necessary to assist the family in obtaining sustainable permanent housing, to authorize the Mayor to provide shelter to a family in a private room meeting certain minimum standards and constructed for the purpose of closing the District of Columbia General Family Shelter, to add an expedited appeals process for a family that is denied eligibility for shelter following an interim eligibility placement, and to provide that a family may continue in an interim eligibility placement pending the outcome of an appeal of a denial of eligibility for shelter.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Interim Eligibility and Minimum Shelter Standards Amendment Act of 2015".

Sec. 2. The Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 4-751.01) is amended as follows:

(1) A new paragraph (11A) is added to read as follows:

"(11A) "DC General Family Shelter replacement unit" means a private room that includes space to store and refrigerate food and is constructed by or at the request of the District for the purpose of sheltering a homeless family.".

(2) Paragraph (25A) is redesignated as paragraph (25B).

(3) A new paragraph (25A) is added to read as follows:

"(25A) "Interim eligibility placement" means a short-term shelter placement for a family, for the purpose of conducting an in-depth assessment to facilitate an eligibility determination for shelter and appropriate supportive services pursuant to section 8(a).".

(4) A new paragraph (28A) is added to read as follows:

"(28A) "Private room" means a part or division of a building that has:

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"(A) Four non-portable walls that meet the ceiling and floor at the edges so as to be continuous and uninterrupted; provided, that the room may contain a window if the window comes with an opaque covering, such as blinds or shades;

"(B) A door that locks from both the inside and outside as its main point of access;

"(C) Sufficient insulation from sound so that family members sheltered in the room may have a conversation at a normal volume and not be heard from the exterior;

"(D) Lighting within the room that the occupants can turn on or off as desired; and

"(E) Access to on-site bathroom facilities, including a toilet, sink, and shower.".

(b) Section 7(d) (D.C. Official Code § 4-753.01(d)) is amended to read as follows:

"(d)(1) Except as provided in paragraph (2) of this subsection, when the Mayor places a family in shelter pursuant to this act, the shelter shall be one or more apartment-style units, or one or more DC General Family Shelter replacement units.

"(2) If an apartment-style unit or a DC General Family Shelter replacement unit is not available when the Mayor places a family in shelter pursuant to this act, the Mayor may place that family in one or more private rooms that are not apartment-style units or DC General Family Shelter replacement units.

"(3) Buildings composed of DC General Family Shelter replacement units shall include, at minimum:

"(A) A private bathroom, including a toilet, sink, and bathtub or shower, in at least 10% of the DC General Family Shelter replacement units;

"(B) For every 5 DC General Family Shelter replacement units, one private, lockable bathroom that includes a toilet, sink, and bathtub and shall be accessible to all residents; and

"(C) At least 2 multi-fixture bathrooms per floor that shall include multiple toilets, sinks, and showers.

"(4) The Mayor shall maintain within the District's shelter inventory a minimum of 121 apartment-style units.

"(5) Once constructed, the Mayor shall maintain within the District's shelter inventory a minimum of 280 DC General Family Shelter replacement units.".

(c) Section 8 (D.C. Official Code § 4-753.02) is amended by adding a new subsection (c-1) to read as follows:

"(c-1)(1) If eligibility for a family seeking shelter cannot be determined pursuant to subsection (a) of this section on the business day on which the family applies for shelter, the Mayor may place the family in an interim eligibility placement for a period not to exceed 3 days.

"(2) The Mayor may extend an interim eligibility placement no more than 3 times; provided, that an interim eligibility placement shall not exceed a period of 12 days, except as otherwise provided in paragraph (6) of this subsection and section 9(a)(20).

"(3) The Mayor shall issue an eligibility determination pursuant to subsection (a) of this section to a family placed in an interim eligibility placement within 12 days of the start of the interim eligibility placement.

"(4) If the Mayor does not issue an eligibility determination within 12 days of the start of an interim eligibility placement, the interim eligibility placement shall conclude and the family shall be considered eligible for shelter.

"(5) If the Mayor determines that a family in an interim eligibility placement is eligible for shelter, the Mayor shall place that family in shelter, subject to the requirements of section 7(d).

"(6) If the Mayor determines that a family in an interim eligibility placement is ineligible for shelter pursuant to subsection (a) of this section, because the Mayor determines that the family has access to safe housing or for another reason, the interim eligibility placement shall conclude on the date indicated in the written notice issued pursuant to section 19(b-1), unless the family has filed a timely fair hearing request pursuant to section 26.

"(7) The Mayor may consider a family that was placed in an interim eligibility placement, but was determined to be ineligible for shelter because the family has access to other safe housing, for the same housing and case management services offered by the Department to family shelter residents.

"(8) If the Mayor determines that a family placed in an interim eligibility placement is ineligible for shelter because the family has access to safe housing, and the family subsequently loses access to that safe housing within 14 days of the Mayor's determination, the Mayor shall place the family in shelter if the Mayor determines that:

"(A) The family is participating in prevention and diversion services; and

"(B) The family has no access to other safe housing that complies with paragraph (9) of this subsection.

"(9) For purposes of determining the eligibility of a family in an interim eligibility placement for shelter pursuant to subsection (a) of this section, safe housing, in addition to meeting the definition of "safe housing" set forth in section 2(32A), shall satisfy the following criteria:

"(A) The family shall be expected to have access to the safe housing for at least 14 days; and

"(B) To the best of the provider's knowledge, the family's presence in the safe housing shall not imminently jeopardize the tenancy of any household already occupying the safe housing.

"(10) Other than during a hypothermia alert, no provision under this subsection shall be construed to require the Mayor to provide shelter to a family if there is no existing capacity in the shelter system or if the Department has exhausted its appropriation for family shelter services.".

(d) Section 9 (D.C. Official Code § 4-754.11) is amended as follows:

(1) Paragraph (18) is amended by striking the phrase "suspension or termination; and" and inserting the phrase "suspension or termination;" in its place.

(2) Paragraph (19)(F) is amended by striking the phrase "expression." and inserting the phrase "expression; and" in its place.

(3) A new paragraph (20) is added to read as follows:

"(20) Continuation of a family's interim eligibility placement, pending the outcome of a fair hearing requested pursuant to section 26, if the family requests a fair hearing within 48 hours or before the close of the next business day, whichever occurs later, following receipt of written notice provided pursuant to section 19(b-1) of a denial of an application for shelter following an interim eligibility placement.".

(e) Section 19 (D.C. Official Code § 4-754.33) is amended as follows:

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

"(b-1) All providers shall give to any client in an interim eligibility placement prompt oral and written notice that the Mayor has denied eligibility for shelter placement and that the interim eligibility placement will end 48 hours or at the close of the next business day, whichever occurs later, following the client's receipt of the written notice.".

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

"(d-1) Any written notice issued pursuant to subsection (b-1) of this section must be served upon the client and shall include:

"(1) A clear statement of the denial;

"(2) A clear and detailed statement of the factual basis for the denial, including the date or dates on which the basis or bases for the denial occurred;

"(3) A reference to the statute, regulation, policy, or Program Rule pursuant to which the denial is being implemented;

"(4) A clear and complete statement of the client's right to appeal the denial through fair hearing proceedings pursuant to section 26 and administrative review proceedings pursuant to section 27, including the appropriate deadlines for instituting the appeal; and

"(5) A statement of the client's right, if any, to continuation of an interim eligibility placement pending the outcome of any appeal, pursuant to section 9(20).".

(f) Section 26 (D.C. Official Code § 4-754.41) is amended as follows:

(1) Subsection (b)(2) is amended as follows:

(A) Subparagraph (C) is amended by striking the word "or".

(B) A new subparagraph (E) is added to read as follows:

"(E) Deny eligibility for shelter following an interim eligibility placement; or".

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

"(d-1) In accordance with section 9(20), any client in an interim eligibility placement who requests a fair hearing within 48 hours or before the close of the next business day, whichever occurs later, of receipt of written notice of a denial of eligibility for shelter placement shall continue in that interim eligibility placement pending a final decision from the fair hearing proceedings.".

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

(A) Paragraph (2) is amended by striking the word "and".

(B) Paragraph (3) is amended as follows:

(i) Subparagraph (B) is amended by striking the word "and" at the end.

(ii) Subparagraph (C) is amended to read as follows:

"(C) Except as provided in subparagraph (D) of this paragraph, the Administrative Law Judge shall issue a final decision within 15 days following the completion of the hearing; and".

(iii) A new subparagraph (D) is added to read as follows:

"(D) The Administrative Law Judge shall issue a final decision in a review requested pursuant to subsection (b)(2)(E) of this section within 96 hours, not including weekends or holidays, following the completion of the hearing; and".

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

"(4) For a fair hearing requested from the Office of Administrative Hearings pursuant to subsection (b)(2)(E) of this section, the following additional requirements shall apply:

"(A) The fair hearing shall be held no later than 4 business days after the Office of Administrative Hearings receives an administrative review decision issued pursuant to section 27; and

"(B) If a party fails to appear, the Administrative Law Judge designated to conduct the hearing may enter a default decision in favor of the party present; provided, that the default decision may be set aside only for good cause shown, and upon equitable terms and conditions.".

(g) Section 27 (D.C. Official Code § 4-754.42) is amended as follows:

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

"(b-1) An administrative review of a denial of an application for shelter following an interim eligibility placement, conducted pursuant to subsection (a) of this section, shall be completed and a decision rendered no later than 4 business days following receipt of the administrative review request, except upon a showing of good cause as to why such deadline cannot be met. If good cause is shown, a decision shall be rendered as soon as possible thereafter. If an extension of time for review is required for good cause, written notice of the extension shall be provided to the client or client representative prior to the commencement of the extension.".

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

"(c-1) The administrative review of a denial of an application for shelter following an interim eligibility placement conducted in accordance with subsection (b-1) shall not be waived; provided, that the Office of Administrative Hearings may grant a fair hearing prior to the completion of the administrative review, on proper notice to all parties, to decide if a notice required by section 19, other than a notice of an emergency action, has not been given or is invalid on its face.".

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

"(e) Each administrative review decision shall be in writing and shall contain a detailed statement of the basis for the decision. It shall include a comprehensive evaluation of the issues and clearly delineate the legal basis, if the decision upholds denial of shelter placement.".

(h) A new section 31b is added to read as follows:

"Sec. 31b. Interim eligibility reporting requirement.

"The Department, no later than February 1 of each year, shall provide a report to the Council of the District of Columbia and the Interagency Council on Homelessness that shall include the following information:

"(1) Number of families placed in an interim eligibility placement;

"(2) Average length of stay in an interim eligibility placement;

"(3) Number of eligibility denials during and subsequent to an interim eligibility placement;

"(4) Number of appeals of eligibility determinations during and subsequent to an interim eligibility placement;

"(5) Number of interim eligibility appeals resolved via administrative review;

"(6) Average time for issuance of decision for review of interim eligibility appeal via administrative review;

"(7) Number of interim eligibility appeals brought to the Office of Administrative Hearings;

"(8) Average time for issuance of decision for review of interim eligibility appeal via the Office of Administrative Hearings; and

"(9) Final placement outcome for each family placed into an interim eligibility placement.".

Sec. 3. The Dignity for Homeless Families Amendment Act of 2014, effective March 11, 2015 (D.C. Law 20-212; 62 DCR 4483), 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 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
December 29, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-252

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2015

To amend, on a temporary basis, the Fiscal Year 2016 Budget Support Act of 2015 and various other acts to clarify provisions supporting the Fiscal Year 2016 budget; and to amend the Firearms Control Regulations Act of 1975 to clarify the descriptions of the boundaries around the White House and the U.S. Naval Observatory within which a concealed pistol licensee is prohibited from carrying a pistol.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2016 Budget Support Clarification Temporary Amendment Act of 2015".

Sec. 2. The Fiscal Year 2016 Budget Support Act of 2015, effective October 22, 2015 (D.C. Law 21-36; 62 DCR 10905), is amended as follows:

(a) Section 6004 is repealed.

(b) Section 7024(d) is repealed.

(c) Section 8042(g) is amended by striking the phrase "Notwithstanding any other provision in this act" and inserting the phrase "Notwithstanding any other provision of this act, and excluding any Master Lease/Equipment (fund Detail 0302) funds" in its place.

Sec. 3. Section 4a(a)(1) of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a(a)(1)), is amended by striking the word "permanent".

Sec. 4. Section 7154 of the IPW Fund, Destination DC Marketing Fund, and WMATA Momentum Support Fund Establishment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 1-325.311), is amended to read as follows:

"Sec. 7154. WMATA Operations Support Fund.

"(a) There is established as a special fund the WMATA Operations Support Fund ("Fund"), which shall be administered by the Chief Financial Officer in accordance with subsection (c) of this section.

"(b) Upon affirmance of the trial court's summary-judgment rulings by the District of Columbia Court of Appeals in *District of Columbia v. Expedia, Inc., et al.*, Nos. 14-CV-308, 14-CV-309, the full amount the District obtains pursuant to the consent judgments entered by the trial

court, to include any additional amounts in taxes and interest paid by defendants or accrued during the pendency of that litigation, minus the amounts designated for other purposes in sections 7152 and 7153 and in the Fiscal Year 2015 and Fiscal Year 2016 Revised Budget Request Adjustment Emergency Act of 2015, effective October 6, 2015 (D.C. Act 21-153; 62 DCR 13178), and the Fiscal Year 2015 and Fiscal Year 2016 Revised Budget Request Adjustment Temporary Act of 2015, enacted on October 22, 2015 (D.C. Act 21-171; 62 DCR 13979), shall be deposited in the Fund.

"(c) The monies in the Fund shall be available to fund extraordinary or unanticipated operating or capital needs of the Washington Metropolitan Area Transit Authority ("WMATA") that arise outside of WMATA's regular inter-jurisdictional subsidy allocation formulae.

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

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

Sec. 5. Section 907 of the Firearms Control Regulations Act of 1975, effective June 16, 2015 (D.C. Law 20-279; D.C. Official Code § 7-2509.07), is amended as follows:

(a) Subsection (a)(11) and (12) are amended to read as follows:

"(11) The White House Complex and its grounds up to and including to the curb of the adjacent sidewalks touching the roadways of the area bounded by Constitution Avenue, N.W., 15th Street, N.W., H Street N.W., and 17th Street, N.W.;

"(12) The U.S. Naval Observatory and its fence line, including the area from the perimeter of its fence up to and including to the curb of the adjacent sidewalks touching the roadway of Observatory Circle, from Calvert Street, N.W., to Massachusetts Avenue, N.W., and around Observatory Circle to the far corner of Observatory Lane;".

(b) Subsection (d)(1) is amended by striking the phrase "While he or she is traveling along a public street, road, or highway, including an adjacent public sidewalk that touches the perimeter of any of the premises where the carrying of a concealed pistol is prohibited under subsection (a) and subsection (b) of this section" and inserting the phrase "While he or she is traveling along a public sidewalk that touches the perimeter of any of the premises where the carrying of a concealed pistol is prohibited under subsection (a) and subsection (b) of this section, except for the areas designated in subsection (a)(11) and (a)(12), or along a public street, roadway, or highway" in its place.

Sec. 6. Section 401 of the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; 62 DCR 3600), is repealed.

Sec. 7. Section 308(d)(1) of the District of Columbia Public Space Rental Act, approved October 17, 1968 (82 Stat. 1160; D.C. Official Code § 10-1103.07(d)(1)), is amended by striking the phrase "For periods beginning after June 30, 2015, interest on unpaid vault rent" and

inserting the phrase "Beginning September 15, 2015, interest on any unpaid vault rent for any vault year" in its place.

Sec. 8. Section 2 of the Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code § 32-131.01), is amended as follows:

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

(1) Subparagraph (E) is amended by striking the word "or".

(2) Subparagraph (F) is amended by striking the period and inserting the phrase "; or" in its place.

(3) A new subparagraph (G) is added to read as follows:

"(G) A substitute teacher or a substitute aide who is employed by District of Columbia Public Schools for a period of 30 or fewer consecutive work days.".

(b) New paragraphs (9) and (10) are added to read as follows:

"(9) "Substitute aide" means an individual who is employed by District of Columbia Public Schools to provide instructional assistance (general, specialized, or concentrated) to students on a temporary basis when the regular instructional aide is unavailable. The term "substitute aide" does not include an individual employed by District of Columbia Public Schools on a term or full-time assignment.

"(10) "Substitute teacher" means an individual who is employed by District of Columbia Public Schools to work as a classroom teacher on a temporary basis when the regular teacher is unavailable. The term "substitute teacher" does not include an individual employed by District of Columbia Public Schools on a term or full-time assignment.".

Sec. 9. Section 502(d) of the Sustainable DC Omnibus Act of 2014, effective December 17, 2014 (D.C. Law 20-142; 62 DCR 1243), is amended to read as follows:

"(d) Title III, Subtitle A, section 302(b) shall apply as of October 1, 2015.".

Sec. 10. Section 2(g) of the Youth Employment Act of 1979, effective January 5, 1980 (D.C. Law 3-46; D.C. Official Code § 32-241(g)), is amended as follows:

(a) Paragraph (4) is amended by striking the word "outcomes" and inserting the phrase "outcomes as of December 31, 2015," in its place.

(b) A new paragraph (5) is added to read as follows:

"(5) In Fiscal Year 2016, the District of Columbia Auditor shall conduct an evaluation of multiple years of the summer youth jobs program to assess whether the program has met and is meeting program objectives.".

Sec. 11. Section 2(h)(2)(A) of the School Transit Subsidy Act of 1978, effective March 6, 1979 (D.C. Law 2-152; D.C. Official Code § 35-233(h)(2)(A)), is amended by striking the phrase "Under 22 years of age" and inserting the phrase "A resident of the District of Columbia under 22 years of age" in its place.

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Sec. 12. Section 47-355.07 of the District of Columbia Official Code is amended as follows:

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

(1) Subparagraph (A) is amended by striking the phrase "serve at the pleasure of" and inserting the phrase "shall be appointed by" in its place.

(2) Subparagraph (B) is amended by striking the phrase "serves at the pleasure of" and inserting the phrase "shall be appointed by" in its place.

(3) Subparagraph (D) is amended by striking the phrase "serves at the pleasure of" and inserting the phrase "shall be appointed by" in its place.

(b) Subsection (d)(3)(D) is amended by striking the phrase "taken or proposed to be taken" and inserting the word "recommended" in its place.

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

"(d-1)(1) The Review Board shall conduct an investigation upon receipt of a report of an alleged violation.

"(2) In investigating a report of an alleged violation, the Review Board may:

"(A) Request assistance from the Office of the Chief Financial Officer, the Office of the Inspector General, and the Office of the Attorney General; and

"(B) Consult with the Office of the Attorney General for the purposes of obtaining legal advice.

"(d-2) The Review Board:

"(1) Shall have access, subject to any privileges or confidentiality requirements as provided by law, to all facilities, files, and databases of the District government, including all files, electronic paper records, reports, documents, and other materials that may relate to the investigation;

"(2) May request information or assistance from any District, federal, state, or local government agency as may be necessary for carrying out the investigation; and

"(3) May seek information from parties outside the District government, including government contractors, that may be relevant to the investigation.

"(d-3)(1) Subject to any applicable privileges, all officers, employees, and members of boards, commissions, and councils of the District government shall cooperate in an investigation by the Review Board and shall provide documents, materials, and information to the Review Board upon request.

"(2) Subject to any applicable privileges, officers, employees, and members of boards, commissions, and councils of the District government shall respond truthfully to all questions posed by the Review Board, and shall not prevent or prohibit the Review Board from initiating, carrying out, or completing an investigation within its jurisdiction.

"(3) The Review Board:

"(A) May require any officer, employee, or member of a board, commission, or council of the District government, including the subject of an allegation, to appear before the Review Board; and

"(B) Shall provide any officer, employee, or member of a board, commission, or council of the District who is potentially subject to disciplinary action an opportunity to appear before the Review Board.

"(4) The Review Board may recommend an appropriate disciplinary action with respect to any officer, employee, or member of a board, commission, or council of the District government who fails to cooperate fully with a Review Board investigation.".

Sec. 13. Chapter 13A of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1341 is amended as follows:

(1) Subsection (a)(1) is amended by striking the phrase ", postage prepaid, bearing a postmark from the United States Postal Service,".

(2) Subsection (b-1)(1) is amended by striking the phrase ", postage prepaid, bearing a postmark from the United States Postal Service,".

(b) Section 47-1353.01(a) is amended by striking the phrase ", postage prepaid, bearing a postmark from the United States Postal Service to the last known address of the owner" and inserting the phrase "to the person who last appears as the owner of the real property on the tax roll, at the last address shown on the tax roll, as updated by the filing of a change of address in accordance with § 42-405" in its place.

Sec. 14. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by striking the phrase "Tax haven updates." and inserting the phrase "Tax haven updates. (Repealed)." in its place.

(b) Section 47-1801.04(49) is amended as follows:

(1) Subparagraph (A) is amended by striking the phrase "means the jurisdictions listed in subparagraph (B-i) of this paragraph and any jurisdiction that" and inserting the phrase "means a jurisdiction that" in its place.

(2) Subparagraph (B-i) is repealed.

(c) Section 47-1810.09 is repealed.

Sec. 15. Section 47-1801.04(11) of the District of Columbia Official Code is amended as follows:

(a) Subparagraph (A) is amended by striking the phrase "calendar year beginning January 1, 2011" wherever it appears and inserting the phrase "base year" in its place.

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

"(C) For the purposes of this paragraph, the term "base year" shall mean the calendar year beginning January 1, 2011, or the calendar year beginning one calendar year before the calendar year in which the new dollar amount of a deduction or exemption shall become effective, whichever is later.".

ENROLLED ORIGINAL

Sec. 16. Section 47-1806.02(h-1)(1) of the District of Columbia Official Code is amended to read as follows:

"(h-1)(1) For taxable years beginning after December 31, 2014, the amount of the personal exemption otherwise allowable for the taxable year in the case of an individual whose adjusted gross income exceeds $150,000 shall be reduced by 2% for every $2,500 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $150,000.".

Sec. 17. Section 6(b) of the Food Policy Council and Director Establishment Act of 2014, effective March 10, 2015 (D.C Law 20-191; 62 DCR 3820), is amended to read as follows:

"(b) Section 5 shall apply as of October 1, 2015.".

Sec. 18. Section 6012 of the Unlawfully Parked Vehicles Act of 2015, effective October 22, 2015 (D.C. Law 21-36; 62 DCR 10905), is amended by striking the phrase "shall be a violation of" and inserting the phrase "shall be a violation, to be adjudicated pursuant to" in its place.

Sec. 19. Section 2404 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2404) is amended as follows:

(a) Subsection 2404.15 is amended to read as follows:

"2404.15 Except as provided in § 2424, the rates for parking meters in the "Premium Demand Parking Meter Rate Zones" shall be as follows:

"(a) Fifty cents (50¢) for thirteen minutes (13 min.) for automobile size spaces; and

"(b) Twenty-five cents per hour (25¢/hr.) for motorcycle size spaces.".

(b) Subsection 2404.17 is amended to read as follows:

"2404.17 Except as provided in § 2424, the rates for parking meters in the "Normal Demand Parking Meter Rate Zones" shall be as follows:

"(a) Fifty cents (50¢) for thirteen minutes (13 min.) for automobile size spaces; and

"(b) Twenty-five cents per hour (25¢/hr.) for motorcycle size spaces.".

Sec. 20. Section 8052 of the Fiscal Year 2016 Capital Rescission Act of 2015, effective October 22, 2015 (D.C. Law 21-36; 62 DCR 10905), is amended as follows:

(a) Strike the phrase "YY105C" in the tabular array and insert the phrase "YY159C" in its place.

(b) Strike the phrase "PROSPECT ES MODERNIZATION/RENOVATION" in the tabular array and insert the phrase "ELLINGTON MODERNIZATION/RENOVATION" in its place.

Sec. 21. Section 5 of the Primary Date Alteration Amendment Act of 2014, effective May 2, 2015 (D.C. Law 20-273; 62 DCR 1938), is repealed.

ENROLLED ORIGINAL

Sec. 22. Applicability.
Section 19 shall apply as of June 1, 2016.

Sec. 23. 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. 24. 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)(l) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(l)), 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
December 29, 2015

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-253

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 30, 2015

To amend, on an emergency basis, Title II of the District of Columbia Administrative Procedure Act to allow public access to certain body-worn camera recordings recorded by the Metropolitan Police Department; to amend the Fiscal Year 2016 Budget Support Act of 2015 to require the Mayor to collect additional data; to establish the Metropolitan Police Department Body-Worn Camera Fund; and to adopt regulations governing the Metropolitan Police Department's Body-Worn Camera Program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Body-Worn Camera Program Emergency Amendment Act of 2015".

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

(a) Section 202 (D.C. Official Code § 2-532) is amended as follows:

(1) Subsection (b) is amending by striking the phrase "A public body may establish and collect fees not to exceed the actual cost of searching for, reviewing, and making copies of records." and inserting the phrase "A public body may establish and collect fees not to exceed the actual cost of searching for, reviewing, redacting, and making copies of records." in its place.

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

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

(B) The newly designated paragraph (1) is amended by striking the phrase "A public body" and inserting the phrase "Except as provided in paragraph (2) of this subsection, a public body" in its place.

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

"(2)(A) If the public record requested is a body-worn camera recording recorded by the Metropolitan Police Department, the Metropolitan Police Department, upon request reasonably describing the recording, shall within 25 days (except Saturdays, Sundays, and legal public holidays) of the receipt of any such request either make the requested recording accessible or notify the person making such request of its determination not to make the requested recording or any part thereof accessible and the reasons therefor.

"(B) A request for a body-worn camera recording may only be submitted to the Metropolitan Police Department.".

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

"(d)(1) In unusual circumstances, the time limits prescribed in subsection (c)(1) and (2) of this section may be extended by written notice to the person making such request setting forth the reasons for extension and expected date for determination. Such extension shall not exceed 10 days (except Saturdays, Sundays, and legal public holidays) for records requested under subsection (c)(1) of this section and 15 days (except Saturdays, Sundays, and legal public holidays) for records requested under subsection (c)(2) of this section.

"(2) For the purposes of this subsection, and only to the extent necessary for processing of the particular request, "unusual circumstances" are limited to:

"(A) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request;

"(B) The need for consultation, which shall be conducted with all practicable speed, with another public body having a substantial interest in the determination of the request or among 2 or more components of a public body having substantial subject-matter interest therein; or

"(C) For body-worn camera recordings covered by subsection (c)(2) of this section, the inability to procure a vendor that is able to perform the redactions within the 25-day time period provided under subsection (c)(2) of this section.".

(b) Section 204(a) (D.C. Official Code § 2-534) is amended by adding a new paragraph (2A) to read as follows:

"(2A) Any body-worn camera recordings recorded by the Metropolitan Police Department:

"(A) Inside a personal residence; or

"(B) Related to an incident involving domestic violence as defined in section 3032(1) of the Domestic Violence Hotline Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 4-551(1)), stalking as defined in section 503 of the Omnibus Public Safety and Justice Amendment Act of 2009, effective December 10, 2009 (D.C. Law 18-88; D.C. Official Code § 22-3133), or sexual assault as defined in D.C. Official Code § 23-1907(a)(7).".

Sec. 3. Section 3004(a) of the Fiscal Year 2016 Budget Support Act of 2015, effective October 22, 2015 (D.C. Law 21-36; 62 DCR 10905), is amended as follows:

(a) Paragraph (6) is amended by striking the word "and" at the end.

(b) Paragraph (7) is amended to read as follows:

"(7) How many Freedom of Information Act requests the Metropolitan Police Department received for body-worn camera recordings during the reporting period, the outcome of each request, including any reasons for denial, and the cost to the department for complying with each request, including redaction; and".

(c) A new paragraph (8) is added to read as follows:

"(8) How many recordings were assigned to each body-worn camera recording category.".

Sec. 4. Metropolitan Police Department Body-Worn Camera Fund.

(a) There is established as a special fund the Metropolitan Police Department Body-Worn Camera Fund ("Fund"), which shall be administered by the Metropolitan Police Department.

(b) Funds from the following sources shall be deposited into the Fund:

(1) All fees that are paid as part of Freedom of Information Act requests for body-worn camera recordings recorded by the Metropolitan Police Department;

(2) All monies appropriated to the Fund;

(3) Federal grants to the Fund; and

(4) Private monies donated to the Fund.

(c) Money in the Fund shall be used for the purpose of procuring a vendor to perform any necessary redactions of body-worn camera recordings.

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

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

Sec. 5. Title 24 of the District of Columbia Municipal Regulations is amended by adding a new Chapter 39 to read as follows:

"3900 GENERAL PROVISONS

"3900.1. The purposes of this chapter are to establish rules for the Metropolitan Police Department's Body-Worn Camera Program ("BWC Program") and to implement section 3003 of the Fiscal Year 2016 Budget Support Act of 2015, effective October 22, 2015 (D.C. Law 21-36; 62 DCR 10905).

"3900.2. The intent of the BWC Program is to promote accountability and transparency, foster improved police-community relations, and ensure the safety of both MPD members ("members") and the public.

"3900.3. In addition to these regulations, the Chief of Police of MPD may issue policy directives to members; those policy directives shall be published on the Department's website at http://mpdc.dc.gov/page/written-directives-general-orders.

"3900.4. Members shall successfully complete MPD-offered or approved BWC training before being issued a BWC.

"3900.5. When practicable, members shall inform contact subjects that they are being recorded at the beginning of the contact and shall provide language access services to all limited and non-English proficient persons in a timely and effective manner.

"3900.6. Members may record First Amendment assemblies for the purpose of documenting violations of law and police actions, as an aid to future coordination and deployment of law enforcement units, and for training purposes; provided, that recording First

Amendment assemblies shall not be conducted for the purpose of identifying and recording the presence of participants who are engaged in lawful conduct.

"3900.7. Members shall not create BWC recordings when they are at a school and are engaged in non-critical contacts with students or mediating minor incidents involving students. For purposes of this subsection, "school" means a facility devoted to primary or secondary education.

"3900.8. When reviewing BWC recordings, members shall immediately notify Department officials upon observing, or becoming aware of, an alleged violation of Department policies, laws, rules, regulations, or directives.

"3900.9. Members may review their BWC recordings or BWC recordings that have been shared with them to assist in initial report writing, except in cases involving a police shooting.

"3900.10. The Mayor may, on a case-by-case basis in matters of significant public interest and after consultation with the Chief of Police, the United States Attorney's Office for the District of Columbia, and the Office of the Attorney General, release BWC recordings that would otherwise not be releasable pursuant to a FOIA request. Examples of matters of significant public interest include officer-involved shootings, serious use of force by an officer, and assaults on an officer requiring hospitalization.

"3901 RETENTION OF BODY-WORN CAMERA RECORDINGS

"3901.1. Unless subject to the requirements of § 3901.2, a BWC recording shall be retained by the Department for not more than ninety (90) calendar days from the date the recording was created. All metadata shall be retained by the Department for not less than five (5) years.

"3901.2. The Department shall, through a policy directive, establish and make available on its website retention schedules for BWC recordings that contain the following:

"(a) Recordings related to a criminal investigation;

"(b) Recordings involving conduct by an MPD officer or civilian employee that is under investigation or the subject of a complaint;

"(c) Recordings related to a death investigation;

"(d) Recordings that the Department has actual or constructive knowledge may be:

"(1) Subject to a civil litigation hold;

"(2) Subject to a FOIA request; or

"(3) Used for training purposes by the Department; and

"(e) Any other category of recordings that the Chief of Police determines should be retained.

"3902. ACCESS TO BODY-WORN CAMERA VIDEO.

"3902.1. The Department shall make unredacted BWC recordings available to the United States Attorney's Office for the District of Columbia, the Office of the Attorney General, and the Office of Police Complaints.

"3902.2. The Department shall make BWC recordings available to law enforcement or investigatory agencies, such as the Office of the Inspector General and the Office of the District of Columbia Auditor, pursuant to the officers' or agencies' official duties. Nothing in this

subsection shall be construed to limit those entities' authority under existing law. The cost of any required redactions shall be borne by the Department.

"3902.3. A FOIA request for a BWC recording shall only be submitted to MPD.

"3902.4. The Department shall make unredacted BWC recordings available to the appropriate oversight committee or committees of the Council of the District of Columbia upon request of the committee or committees. BWC recordings in the possession of the Council shall not be publicly disclosed.

"3902.5. (a) Pursuant to policy directives adopted under the authority of § 3900.3, the Department shall schedule a time for any subject of a BWC recording, the subject's legal representative, and the subject's parent or legal guardian if the subject is a minor, to view the BWC recording at the police station in the police district where the incident occurred; provided, that:

"(1) Neither the subject, the subject's legal representative, nor the subject's parent or legal guardian if the subject is a minor shall make a copy of the BWC recording;

"(2) Access to the unredacted BWC recording would not violate the individual privacy rights of any other subject; and

"(3) Access to the unredacted BWC recording would not jeopardize the safety of any other subject.

"(b)(1) To receive a copy of a BWC recording viewed pursuant to paragraph (a) of this subsection, an individual shall file a FOIA request with the Department; provided, that there shall be no cost to the individual for the production of the BWC recording.

"(2) Upon receipt of the copy of the BWC recording, the individual may further copy or distribute the BWC recording.

"3902.6. An individual seeking to obtain a copy of a BWC recording not covered by § 3902.5 may submit a FOIA request to the Department for a copy of the BWC recording.

"3902.7. The Department shall engage academic institutions and organizations to analyze the BWC Program; provided, that any such relationships shall require the protection of any information or unredacted BWC recordings.

"3902.8. The Department shall, through a policy directive, develop procedures to implement this section and District law.

"3903 BODY-WORN CAMERA AUDITS AND DATA PROTECTION

"3903.1. The Department shall conduct audits of the BWC Program to assess the following, at a minimum:

"(a) Member compliance with these regulations and any policy directives issued by the Department;

"(b) The impact of the BWC Program on reports submitted by members;

"(c) Member training and equipment needs;

"(d) The proper protection of individuals' privacy rights;

"(e) The impact of BWCs on the number and type of citizen complaints filed with the Department;

"(f) The impact of BWCs on the number of use-of-force incidents;

"(g) The total number of contacts between members and the public; and

"(h) The maintenance of proper and secure access to shared or retained BWC recordings.

"3903.2. The Department shall regularly monitor the business practices of any third-party entity providing services to the BWC Program to ensure that individuals' privacy rights are protected.

"3903.3. The Department may enter into agreements with other government agencies to provide access to BWC recordings; provided, that any such agreements shall require the other agencies to adhere to the individual privacy protections contained in these regulations or any policy directives issued by the Department.

"3903.4. The Department shall strictly control access to BWC recordings and shall identify each member who accesses BWC recordings. The Department shall perform quarterly audits of member access to BWC recordings.

"3903.5. A member who makes a BWC recording shall not have access to delete that recording.

"3903.6. The deletion of any BWC recording shall be tightly restricted and shall require written justification for the deletion.

"3903.7. If it is discovered through review, audit, or inspection that a member did not record a required event, the Department shall require the member to provide written justification for the failure to record.

"3903.8. The Department shall regularly monitor its BWC recordings data protection policies.

"3999. DEFINITIONS.

"3999.1. When used in this chapter, the following terms and phrases shall have the meanings ascribed:

"Body-worn camera or "BWC"– means a camera system with secured internal memory for storage of recorded audio and video that is designed to be worn on the clothing of or otherwise secured to a person.

"Department" or "MPD" – means the Metropolitan Police Department.

"FOIA" – means Title II of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*).

"Metadata – means descriptors that identify the time, date, location, badge number linked to the creation of the record, and officer interaction/offense categorization of BWC recordings.

"Subject – means an individual who is not an on-duty law enforcement officer at the time of the BWC recording and who has been recorded by a BWC.

"Use of force – means any physical contact used to effect, influence, or persuade an individual to comply with an order from an officer. The term shall not include unresisted handcuffing or hand control procedures that do not result in injury.".

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

ENROLLED ORIGINAL

Sec.7. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 30, 2015

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**

BILLS

B21-563	Protecting Pregnant Workers Fairness Amendment Act of 2016 Intro. 1-5-16 by Councilmember Orange and referred to the Committee on Business, Consumer, and Regulatory Affairs
B21-564	Leaf Blower Regulation Amendment Act of 2016 Intro. 1-5-16 by Councilmember Cheh and referred to the Committee on Business, Consumer, and Regulatory Affairs
B21-565	Elucidating Your Elections Amendment Act of 2016 Intro. 1-5-16 by Councilmembers McDuffie and Silverman and referred to the Committee on Judiciary
B21-566	Living Wages for Publicly Supported Jobs Amendment Act of 2016 Intro. 1-5-16 by Councilmembers Silverman, Nadeau, May, Allen, Cheh, and McDuffie and referred to the Committee on Business, Consumer, and Regulatory Affairs

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

"Fiscal Year 2015 Comprehensive Annual Financial Report"

on

Wednesday, February 3, 2016
9:30 a.m., Council Chamber, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces the scheduling of a public oversight hearing of the Committee of the Whole on the Fiscal Year 2015 Comprehensive Annual Financial Report (CAFR). The public hearing will be held Wednesday, February 3, 2016, at 9:30 a.m. in the Council Chamber, the Council Chamber of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The purpose of this public hearing is to receive testimony from government witnesses, namely the Executive, Chief Financial Officer, and Inspector General, regarding the results of the Fiscal Year 2015 CAFR. By law, the CAFR must be released by February 1, 2016. Copies may be obtained from the Office of the Chief Financial Officer thereafter.

This hearing is the first in a series of hearings to be held by the Council and its committees in connection with its oversight of Fiscal Year 2015 and 2016 agency performance. The full schedule of hearings will be made available on the Council's website (http://www.dccouncil.us) and will be published separately in the D.C. Register.

While this hearing is limited to oral testimony from specified government witnesses, written statements from the public will be made a part of the official record. Copies of written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Wednesday, February 17, 2016.

COUNCIL OF THE DISTRICT OF COLUMBIA

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

MARY M. CHEH, CHAIR

NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE ON

The Implementation of the Sustainable Solid Waste Management Amendment Act of 2014

Monday, January 25, 2016
at 11:00 a.m.
in Room 500 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Monday, January 25, 2016, Councilmember Mary M. Cheh, Chairperson of the Committee on the Transportation and the Environment, will hold a public oversight roundtable on the implementation of L20-154, the Sustainable Solid Waste Management Amendment Act of 2014. The roundtable will begin at 11:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of the roundtable is to receive an update on the implementation of the Sustainable Solid Waste Management Amendment Act of 2014 from the Department of Public Works and the Department of Energy and the Environment. This law became effective on February 26, 2015, and made several updates to the District's laws and policies involving the management of solid waste, including new source separation and reporting requirements, establishment of an Office of Waste Diversion within DPW, establishment of an Interagency Waste Reduction Working Group, and establishment of a manufacturer responsibility program for electronic waste.

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

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on February 8, 2016.

COUNCIL OF THE DISTRICT OF COLUMBIA

CONSIDERATION OF TEMPORARY LEGISLATION

B21-498, Private Security Camera Incentive Program Temporary Act of 2016, **B21-550**, Marijuana Possession Decriminalization Clarification Temporary Amendment Act of 2016, **B21-558**, District Government Attorney Certificate of Good Standing Filing Requirement Temporary Amendment Act of 2016, **B21-560**, Presidential Primary Ballot Access Temporary Amendment Act of 2016, and **B21-562**, Wage Theft Prevention Clarification Temporary Amendment Act of 2016 were adopted on first reading on January 5, 2016. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on February 2, 2016.

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 reprogrammings are available in Legislative Services, Room 10.
Telephone: 724-8050

Reprog. 21-158: Request to reprogram $3,709,634 of Fiscal Year 2016 Local funds budget authority within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary on January 4, 2016. This reprogramming ensures that OSSE will be able to meet legislatively mandated requirements for the Healthy Tots Act of 2014.

RECEIVED: 14 day review begins January 5, 2016

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	January 8, 2016
Petition Date:	February 22, 2016
Roll Call Hearing Date:	March 7, 2016
Protest Hearing Date:	May 4, 2016
License No.:	ABRA-100278
Licensee:	Nussbar, LLC
Trade Name:	Shouk
License Class:	Retailer's Class "D" Restaurant
Address:	655 K Street, N.W.
Contact:	Sean Morris: 301-654-6570

WARD 6 ANC 6E SMD 6E05

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for May 4, 2016 at 4:30pm.

NATURE OF OPERATION

New fast, casual, quick-service restaurant serving Middle -Eastern and Mediterranean food. Total Occupancy Load of 30. Sidewalk Café seating 10 patrons.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR PREMISES AND SIDEWALK CAFÉ

Sunday through Saturday 11am – 11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	January 8, 2016
Petition Date:	February 22, 2016
Roll Call Hearing Date:	March 7, 2016
Protest Hearing Date:	May 4, 2016
License No.:	ABRA-101097
Licensee:	Watergate Liquors LLC
Trade Name:	Watergate Vintners & Spirits
License Class:	Retailer's Class "A" Liquor Store
Address:	2544 Virginia Avenue, N.W.
Contact:	Bernard Dietz: 202-548-8000

WARD 2 ANC 2A SMD 2A04

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for May 4, 2016 at 1:30pm.

NATURE OF OPERATION
New Retail "A" Liquor Store, with Tasting Endorsement.

HOURS OF OPERATION
Sunday through Saturday 8am - 10pm

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION AND TASTING
Sunday through Saturday 10am - 10pm

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING

Fees for Stormwater Management and Soil Erosion and Sediment Control

The Director of the Department of Energy and Environment (DOEE or Department), in accordance with the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006, as amended (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq*. (2012 Repl.)); the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985, as amended (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01 *et seq*. (2012 Repl.)); the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008, effective March 26, 2008 (D.C. Law 17-138; 55 DCR 1689 (February 22, 2008)), as amended by the Anacostia Waterfront Environmental Standards Amendment Act of 2012, effective October 23, 2012 (D.C. Law 19-192; D.C. Official Code §§ 2-1226.31 *et seq*. (2012 Repl. & 2015 Supp.)); the Soil Erosion and Sedimentation Control Act of 1977, effective September 28, 1977 (D.C. Law 2-23; D.C. Official Code §§ 8-1701 *et seq*. (2013 Repl.)), as amended by the Soil Erosion and Sedimentation Control Amendment Act of 1994, effective August 26, 1994 (D.C. Law 10-166; 41 DCR 4892 (July 22, 1994)); the Uniform Environmental Covenants Act of 2005, effective May 12, 2006, as amended (D.C. Law 16-95; D.C. Official Code §§ 8-671.01 *et seq.* (2013 Repl.)); the Water Pollution Control Act of 1984, effective March 16, 1985, as amended (D.C. Law 5-188; D.C. Official Code §§ 8-103.01 *et seq.* (2013 Repl.)); and Mayor's Order 2006-61, hereby gives notice of the intent to adopt the following amendments to Chapter 5 (Water Quality and Pollution) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR), upon publication of this notice in the *D.C. Register*.

These amendments update the fee for the District Stormwater Management Guidebook and existing fees that the Department adjusts annually for inflation using the Urban Consumer Price Index published by the United States Bureau of Labor Statistics, as required by 21 DCMR § 501.1. All fees are rounded to the nearest cent. Adjustments in future years will be applied to the adjusted value of the prior year rather than the rounded value.

The Notice of Proposed Rulemaking was first published in the *D.C. Register* on October 23, 2015 at 62 DCR 013856. No comments were received. This Notice of Final Rulemaking is unchanged from the Proposed Rulemaking. These rules were adopted as final on November 25, 2015, and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 5, WATER QUALITY AND POLLUTION, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:

Section 501, FEES, is amended as follows:

Subsection 501.3 is amended to read as follows:

501.3 An applicant for Department approval of a soil erosion and sediment control plan shall pay the fees in Table 1 for Department services at the indicated time, as applicable:

Table 1. Fees for Soil Erosion and Sediment Control Plan Review

Payment Type	Payment Requirement	Fees by Land Disturbance Type		
		Residential	All Other	
		≥ 50 ft² and < 500 ft²	≥ 50ft² and < 5,000 ft²	≥ 5,000 ft²
Initial	Due upon filing for building permit	$51.10	$444.56	$1,093.53
Final • Clearing and grading > 5,000 ft² • Excavation base fee • Excavation > 66 yd³ • Filling > 66 yd³	Due before building permit is issued	n/a		$0.15 per 100 ft²
		n/a	$444.56	
		$0.10 per yd³		
		$0.10 per yd³		
Supplemental	Due before building permit is issued	$102.20	$102.20	$1,021.99

Subsection 501.04 is amended to read as follows:

501.4 An applicant for Department approval of a Stormwater Management Plan (SWMP) shall pay the fees in Table 2 for Department services at the indicated time, as applicable:

Table 2. Fees for Stormwater Management Plan Review

Payment Type	Payment Requirement	Fees by Combined Area of Land Disturbance and Substantial Improvement Building Footprint	
		≥ 5,000 ft² and ≤ 10,000 ft²	> 10,000 ft²
Initial	Due upon filing for building permit	$3,372.56	$6,234.12
Final	Due before building permit is issued	$1,532.98	$2,452.77
Supplemental	Due before building permit is issued	$1,021.99	$2,043.97

Subsection 501.6 is amended to read as follows:

501.6 An applicant shall be required to pay the fees in Table 3 for review of a Stormwater Pollution Prevention Plan only if the site is regulated under the Construction General Permit issued by Region III of the Environmental Protection Agency.

Table 3. Additional Fees

Review or Inspection Type	Fees by Combined Area of Land Disturbance and Substantial Improvement Building Footprint	
	≤ 10,000 ft^2	> 10,000 ft^2
Soil characteristics inquiry	$153.30	
Geotechnical report review	$71.54 per hour	
Pre-development review meeting	No charge for first hour $71.54 per additional hour	
After-hours inspection fee	$51.10 per hour	
Stormwater pollution plan review	$1,124.19	
Dewatering pollution reduction plan review	$1,124.19	$2,146.17
Application for relief from extraordinarily difficult site conditions	$510.99	$1,021.99

Subsection 501.7 is amended to read as follows:

501.7 An applicant for Department approval of a SWMP for a project being conducted solely to install a Best Management Practice (BMP) or land cover for Department certification of a Stormwater Retention Credit (SRC) shall pay the fees in Table 4 for Department services at the indicated time, as applicable, except that:

(a) A person who is paying a review fee in Table 2 for a major regulated project shall not be required to pay a review fee in Table 4 for the same project; and

(b) A person who has paid each applicable fee to the Department for its review of a SWMP shall not be required to pay a review fee in Table 4 for the same project:

Table 4. Fees for Review of Stormwater Management Plan to Certify Stormwater Retention Credits

Payment Type	Payment Requirement	Fees by Combined Area of Land Disturbance and Substantial Improvement Building Footprint	
		≤ 10,000 ft^2	> 10,000 ft^2
Initial	Due upon filing for building permit	$587.64	$868.69
Final	Due before building permit is issued	$127.75	$204.40
Supplemental	Due before building permit is issued	$510.99	

Subsection 501.10 is amended to read as follows:

501.10 An applicant for Department approval of a Green Area Ratio plan shall pay the fees in Table 5 for Department services at the indicated time:

Table 5. Fees for Review of Green Area Ratio Plan

Payment Type	Payment Requirement	Fees by Combined Area of Land Disturbance and Substantial Improvement Building Footprint	
		≤ 10,000 ft^2	> 10,000 ft^2
Initial	Due upon filing for building permit	$587.64	$868.69
Final	Due before building permit is issued	$127.75	$204.40
Supplemental	For reviews after first resubmission	$510.99	

Subsection 501.11 is amended to read as follows:

501.11 The in lieu fee shall be three dollars and fifty-seven cents ($3.58) per year for each gallon of Off-Site Retention Volume (Offv).

Subsection 501.13 is amended to read as follows:

501.13 A person shall pay the fees in Table 6 for the indicated resource before receipt of the resource:

Table 6. Fees for Resources

Paper Copies of Documents	Cost
District Standards and Specifications for Soil Erosion and Sediment Control	$51.10
District Stormwater Management Guidebook	$89.93
District Erosion and Sediment Control Standard Notes and Details (24 in x 36 in)	$25.55

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. 774; D.C. Official Code § 1-307.02 (2014 Repl.)) 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 amendments to Section 1936, entitled "Wellness Services," of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Register (DCMR).

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

The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for a five-year period beginning November 20, 2012. The corresponding amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; 61 DCR 9990 (October 3, 2014)). CMS approved the amendment to the ID/DD Waiver effective September 24, 2015.

Wellness services are designed to promote and maintain good health and assist in increasing the person's independence, participation, emotional well-being, and productivity in their home, work, and community. Wellness services consist of the following five (5) types of services: bereavement counseling, fitness training, massage therapy, nutrition evaluation/consultation, and sexuality education. The most recent Notice of Final Rulemaking for 29 DCMR § 1936 (Wellness Services) was published in the *D.C. Register* on December 13, 2013, at 60 DCR 016834. A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on May 22, 2015, at 62 DCR 006728. That emergency and proposed rulemaking, which was adopted on May 8, 2015, but was never effective because the Waiver amendment had not been approved by CMS, amended the previously published final rules to: (1) clarify the purpose of wellness services; (2) add small group fitness services; (3) clarify the requirements for a person to receive bereavement services; (4) describe the requirements for an assessment, service plan, progress notes, and quarterly report; (5) clarify the provider's role in the person's support team; (6) eliminate language regarding Direct Support Professional requirements; (7) add provider qualifications for fitness; (8) require that the provider be chosen by the person and/or his substitute decision-maker; (9) clarify service limitations; (10) increase rates to reflect market research; and (11) add definitions for small group fitness and stages of change. A Notice Second of Emergency and Proposed Rulemaking was published in the *D.C. Register* on September 25,

2015, at 62 DCR 12800, with the same changes discussed above. That rulemaking was adopted on September 14, 2015, became effective when CMS approved the ID/DD Waiver amendment on September 24, 2015, and remains in effect until January 12, 2016, or the publication of these final rules in the *D.C. Register*, whichever occurs first. DHCF received written comments requesting the following: (a) the inclusion of chiropractors as qualified health care professionals for wellness services, and (b) additional certifying agencies for personal trainers. As both requests would require a waiver amendment, no substantive changes were made.

The Director of DHCF adopted these rules as final on December 23, 2015, and they shall become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 1936, WELLNESS SERVICES, is deleted in its entirety and amended to read as follows:

1936 WELLNESS SERVICES

1936.1 The purpose of this section is to establish standards governing Medicaid eligibility for wellness services for persons enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver), and to establish conditions of participation for providers of wellness services in order to receive reimbursement.

1936.2 Wellness services are designed to promote and maintain good health, The provision of these services shall be based upon what is important to and for the person as reflected in his or her Person-Centered Thinking tools and the goals in his or her Individual Service Plan (ISP). Wellness services assist in increasing the person's independence, participation, prevent further disability, maintain health and increase emotional well-being, and productivity in their home, work, and community.

1936.3 The wellness services eligible for Medicaid reimbursement are:

(a) Bereavement Counseling;

(b) Fitness Training;

(c) Massage Therapy;

(d) Nutrition Evaluation/Consultation; and

(e) Sexuality Education.

1936.4 Fitness training is available as either an individual service, or in small group 1:2 setting, based upon the recommendation of the person's support team. When a person is enrolled in small group fitness, efforts should be made to match the person with another beneficiary of his or her choosing, or, if not available, with a person who has similar skills and interests.

1936.5 To be eligible for Medicaid reimbursement of bereavement counseling:

(a) The person must have experienced a loss through death, relocation, change in family structure, or loss of employment;

(b) The service must be recommended by the person's support team; and

(c) The service shall be identified as a need in the person's ISP and Plan of Care.

1936.6 To be eligible for Medicaid reimbursement of sexuality education, the services shall be:

(a) Recommended by the person's support team; and

(b) Identified as a need in the person's ISP and Plan of Care.

1936.7 To be eligible for Medicaid reimbursement of fitness training and massage therapy, the services shall be:

(a) Recommended by the person's support team;

(b) Identified as a need in the person's ISP and Plan of Care; and

(c) Ordered by a physician.

1936.8 To be eligible for Medicaid reimbursement of nutritional evaluation/consultation services, each person shall meet one or more of the following criteria:

(a) Have a history of being significantly above or below body weight;

(b) Have a history of gastrointestinal disorders;

(c) Have received a diagnosis of diabetes;

(d) Have a swallowing disorder; or

(e) Have a medical condition that can be a threat to health if nutrition is poorly managed.

1936.9 In addition to the requirements set forth in § 1936.8, nutritional evaluation/ consultative services shall be:

(a) Recommended by the person's support team;

(b) Identified as a need in the person's ISP and Plan of Care based upon the Stage of Change the person is in;

(c) Ordered by a physician; and

(d) Targeted to the identified Stage of Change.

1936.10 The specific wellness service delivered shall be consistent with the scope of the license or certification held by the professional. Service intensity, frequency, and duration shall be determined by the person's individual needs and documented in the person's ISP and Plan of Care.

1936.11 In order to be eligible for Medicaid reimbursement, each professional providing wellness services shall:

(a) Conduct an intake assessment within the first four (4) hours of service delivery with long term and short term goals;

(b) Develop and implement a person-centered plan consistent with the person's choices, goals and prioritized needs that describes wellness strategies and the anticipated and measurable, functional outcomes, based upon what is important to and for the person as reflected in his or her Person-Centered Thinking tools and the goals in his or her ISP. The plan shall include treatment strategies including direct therapy, caregiver training, monitoring requirements and instructions, and specific outcomes;

(c) Deliver the completed plan to the person, family, guardian, residential provider, or other caregiver, and the Department on Disability Services (DDS) Service Coordinator prior to the Support Team meeting;

(d) Participate in the ISP and Support Team meetings, when invited by the person, to provide consultative services and recommendations specific to the wellness professional's area of expertise with the focus on how the person is doing in achieving the functional goals that are important to him or her;

(e) Provide necessary information to the person, family, guardian, residential provider, or other caregivers and assist in planning and implementing the approved ISP and Plan of Care;

(f) Record progress notes on each visit which contain the following:

(1) The person's progress in meeting each goal in the ISP;

(2) Any unusual health or behavioral events or change in status;

(3) The start and end time of any services received by the person; and

(4) Any matter requiring follow-up on the part of the service provider or DDS.

(g) Submit quarterly reports in accordance with the requirements in Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 DCMR; and

(h) Conduct periodic examinations and modify treatments for the person receiving services, as necessary.

1936.12 In order to be eligible for Medicaid reimbursement, each professional providing nutrition evaluation/consultation services shall comply with the following additional requirements, as needed:

(a) Conduct a comprehensive nutritional assessment within the first four (4) hours of delivering the service;

(b) Conduct a partial nutritional evaluation to include an anthropometric assessment;

(c) Perform a biochemical or clinical dietary appraisal;

(d) Analyze food-drug interaction potential, including allergies;

(e) Perform a health and safety environmental review of food preparation and storage areas;

(f) Assess the need for a therapeutic diet that includes an altered/textured diet due to oral-motor problems;

(g) Conduct a needs assessment for adaptive eating equipment and dysphagia management;

(h) Conduct a nutrition evaluation and provide consulting services on a variety of subjects, including recommendations for the use of adaptive equipment, to promote improved health and increase the person's ability to manage his or her own diet or that of his or her child(ren) in an effective manner; and

(i) Provide education to include menu development, shopping, food preparation, food storage, and food preparation procedures consistent with the physician's orders.

1936.13 Each professional providing wellness services shall be employed by a Home and Community-Based Services Waiver provider agency or by a professional service provider who is in private practice as an independent clinician as described in Subsection 1904.2 of Title 29 DCMR.

1936.14 Each provider shall comply with the requirements set forth under Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR.

1936.15 In order to be eligible for Medicaid reimbursement, professionals delivering wellness services shall meet the following licensure and certification requirements:

(a) Bereavement counseling services shall be performed by a professional counselor licensed pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)) and certified by the American Academy of Grief Counseling as a grief counselor;

(b) Fitness services shall be performed by professional fitness trainers who have been certified by the American Fitness Professionals and Associates, or who have a bachelor's degree in physical education, health education, exercise, science or kinesiology, or recreational therapists;

(c) Dietetic and nutrition counselors shall be licensed pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)); and

(d) Massage Therapists shall be licensed pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)) and certified by the National Verification Board for Therapeutic Massage and Bodywork.

1936.16 In order to be eligible for Medicaid reimbursement, sexuality education services shall be delivered by:

(a) A Sexuality Education Specialist who is certified to practice sexuality education by the American Association of Sexuality Educators, Counselors and Therapists Credentialing Board; or

(b) Any of the following professionals with specialized training in Sexuality Education:

(1) Psychologist;

(2) Psychiatrist;

(3) Licensed Clinical Social Worker; or

(4) Licensed Professional Counselor.

1936.17 Each Wellness service provider, and professional, without regard to their employer of record, shall be selected by the person receiving services or his or her authorized representative, and shall be answerable to the person receiving services.

1936.18 Any provider substituting treating professionals for more than a two (2) week period or four (4) visits due to emergency or availability events shall request a case conference with the DDS Service Coordinator to evaluate the continuation of services.

1936.19 In order to be eligible for Medicaid reimbursement, services shall be authorized in accordance with the following requirements:

(a) DDS shall provide a written service authorization before the commencement of services;

(b) The provider shall conduct an intake assessment and develop a person-centered plan within the first four (4) hours of service delivery which: (1) describes wellness strategies and the anticipated and measurable, functional outcomes, based upon what is important to and for the person as reflected in his or her Person-Centered Thinking tools; and (2) includes training goals and techniques in the ISP that will assist the caregivers;

(c) The service name and provider entity delivering services shall be identified in the ISP and Plan of Care; and

(d) The ISP, Plan of Care, and Summary of Supports and Services shall document the amount and frequency of services to be received.

1936.20 Each Provider shall comply with the requirements described under Section 1908 (Reporting Requirement), Section 1909 (Records and Confidentiality of Information), and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.

1936.21 Wellness services shall be limited to one hundred (100) hours per calendar year per service. Additional hours may be authorized before the expiration of the ISP and Plan of Care year and when the person's health and safety are at risk. Requests for additional hours may be approved when accompanied by a physician's order or if the request passes a clinical review by staff designated by DDS.

1936.22 The person may utilize one (1) or more wellness services in the same day, but not at the same time.

1936.23 The Medicaid reimbursement rate for wellness services shall be:

(a) Sixty dollars and eighty cents ($60.80) per hour for Massage Therapy;

(b) Seventy-five dollars and ninety-six cents ($75.96) per hour for Sexuality Education;

(c) Seventy-five dollars ($75.00) per hour for Fitness Training;

(d) Forty-five dollars ($45.00) per hour for Small Group Fitness Training;

(e) Sixty-five dollars ($65.00) per hour for Nutrition Counseling; and

(f) Sixty-five dollars ($65.00) per hour for Bereavement Counseling.

1936.24 The billable unit of service for wellness services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to bill a unit of service.

Section 1999, DEFINITIONS, is amended by adding the following:

Small group fitness training – Exercise training designed to improve health and wellness delivered in small group settings at a ratio of one-to-two for people who want to exercise with a partner.

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. & 2015 Supp.)) and 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 (Medicaid Reimbursement for Intermediate Care Facilities for Individuals with Intellectual Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These rules update the current reimbursement rates for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid services (CMS) requires states to comply with upper payment limits (UPL) under 42 C.F.R. Part 447, and submit annual UPL demonstrations. ICFs/IID are among the services that must comply with the regulatory payment limits under 42 C.F.R. § 447.272. The District's UPL demonstration for Fiscal Year (FY) 2015 revealed that FY 2013 payments exceeded billed charges. In order to achieve UPL compliance, the District is proposing new reimbursement rates in FY 2016 for ICFs/IID in accordance with the existing rate methodology. This rulemaking also clarifies that acuity determinations may be performed by DHCF or its designee and corrects a couple of clerical errors. The decrease in aggregate expenditures related to the update in the reimbursement rates is approximately $8.8 million for FY 2016.

An initial Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on September 25, 2015 at 62 DCR 012809. No comments were received and no substantive changes have been made. The Director adopted these rules as final on December 29, 2015 and they shall become effective on the date of publication of this rulemaking in the *D.C. Register*.

Chapter 41 of Title 29 DCMR, PUBLIC WELFARE, 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-B 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, as determined by DHCF, or its designee;

(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 pervasive 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 October 1, 2015, ICF/IID reimbursement rates, shall be as follows:

	Beds	Facility	Direct care staffing FY 16	Other health care & program FY 16	Non-Pers Oper FY 16	Transp. FY 16	Capital FY 16	Admin FY 16	Active Tx FY 16	Tax FY 16	Total Rate FY 16
Base	4 - 5	Leased	$320.02	$41.60	$19.77	$12.57	$61.30	$59.19	$90.14	$33.25	$637.85
		Owned	$320.02	$41.60	$19.77	$12.57	$30.65	$59.19	$90.14	$31.57	$605.51
		Depreciated	$320.02	$41.60	$19.77	$12.57	$15.33		$90.14	$27.47	$526.90
	6	Leased	$240.73	$43.33	$19.77	$12.57	$55.99	$59.19	$90.14	$28.69	$550.41
		Owned	$240.73	$43.33	$19.77	$12.57	$28.00	$59.19	$90.14	$27.15	$520.88
		Depreciated	$240.73	$43.33	$19.77	$12.57	$14.00	$59.19	$90.14	$26.38	$506.11
Moderate	4 - 5	Leased	$320.02	$41.60	$19.77	$12.57	$61.30	$59.19	$90.14	$33.25	$637.85
		Owned	$320.02	$41.60	$19.77	$12.57	$30.65	$59.19	$90.14	$31.57	$605.51
		Depreciated	$320.02	$41.60	$19.77	$12.57	$15.33	$59.19	$90.14	$30.72	$589.34
	6	Leased	$312.05	$56.17	$19.77	$12.57	$55.99	$59.19	$90.14	$33.32	$639.20
		Owned	$312.05	$56.17	$19.77	$12.57	$28.00	$59.19	$90.14	$31.78	$609.67
		Depreciated	$312.05	$56.17	$19.77	$12.57	$14.00	$59.19	$90.14	$31.01	$594.90
Extensive behavioral	4 - 5	Leased	$391.35	$50.87	$19.77	$12.57	$61.30	$59.19	$90.14	$37.69	$722.87
		Owned	$391.35	$50.87	$19.77	$12.57	$30.65	$59.19	$90.14	$36.00	$690.54
		Depreciated	$391.35	$50.87	$19.77	$12.57	$15.33	$59.19	$90.14	$35.16	$674.37
	6	Leased	$359.60	$64.73	$19.77	$12.57	$55.99	$59.19	$90.14	$36.41	$698.40
		Owned	$359.60	$64.73	$19.77	$12.57	$28.00	$59.19	$90.14	$34.87	$668.86
		Depreciated	$359.60	$64.73	$19.77	$12.57	$14.00	$59.19	$90.14	$34.10	$654.09
Extensive medical	4 - 5	Leased	$431.59	$56.11	$19.77	$12.57	$61.30	$59.19	$90.14	$40.19	$770.85
		Owned	$431.59	$56.11	$19.77	$12.57	$30.65	$59.19	$90.14	$38.50	$738.51
		Depreciated	$431.59	$56.11	$19.77	$12.57	$15.33	$59.19	$90.14	$37.66	$722.34
	6	Leased	$374.71	$67.45	$19.77	$12.57	$55.99	$59.19	$90.14	$37.39	$717.21
		Owned	$374.71	$67.45	$19.77	$12.57	$28.00	$59.19	$90.14	$35.85	$687.67
		Depreciated	$374.71	$67.45	$19.77	$12.57	$14.00	$59.19	$90.14	$35.08	$672.90

Pervasive 8 h / 7 d	4 - 5	Leased	$462.67	$60.15	$19.77	$12.57	$61.30	$59.19	$90.14	$42.12	$807.90
		Owned	$462.67	$60.15	$19.77	$12.57	$30.65	$59.19	$90.14	$40.43	$775.56
		Depreciated	$462.67	$60.15	$19.77	$12.57	$15.33	$59.19	$90.14	$39.59	$759.40
	6	Leased	$383.38	$69.01	$19.77	$12.57	$55.99	$59.19	$90.14	$37.95	$727.99
		Owned	$383.38	$69.01	$19.77	$12.57	$28.00	$59.19	$90.14	$36.41	$698.46
		Depreciated	$383.38	$69.01	$19.77	$12.57	$14.00	$59.19	$90.14	$35.64	$683.69
Pervasive 8 h / 5 d	4 - 5	Leased	$417.33	$54.25	$19.77	$12.57	$61.30	$59.19	$90.14	$39.30	$753.86
		Owned	$417.33	$54.25	$19.77	$12.57	$30.65	$59.19	$90.14	$37.61	$721.52
		Depreciated	$417.33	$54.25	$19.77	$12.57	$15.33	$59.19	$90.14	$36.77	$705.35
	6	Leased	$338.04	$60.85	$19.77	$12.57	$55.99	$59.19	$90.14	$35.01	$671.56
		Owned	$338.04	$60.85	$19.77	$12.57	$28.00	$59.19	$90.14	$33.47	$642.02
		Depreciated	$338.04	$60.85	$19.77	$12.57	$14.00	$59.19	$90.14	$32.70	$627.25
Pervasive 16 h	4 - 5	Leased	$605.32	$78.69	$19.77	$12.57	$61.30	$59.19	$90.14	$50.98	$977.96
		Owned	$605.32	$78.69	$19.77	$12.57	$30.65	$59.19	$90.14	$49.30	$945.62
		Depreciated	$605.32	$78.69	$19.77	$12.57	$15.33	$59.19	$90.14	$48.45	$929.45
	6	Leased	$526.02	$94.68	$19.77	$12.57	$55.99	$59.19	$90.14	$47.21	$905.58
		Owned	$526.02	$94.68	$19.77	$12.57	$28.00	$59.19	$90.14	$45.67	$876.04
		Depreciated	$526.02	$94.68	$19.77	$12.57	$14.00	$59.19	$90.14	$44.90	$861.27
Pervasive 24 h	4 - 5	Leased	$747.96	$97.24	$19.77	$12.57	$61.30	$59.19	$90.14	$59.85	$1,148.02
		Owned	$747.96	$97.24	$19.77	$12.57	$30.65	$59.19	$90.14	$58.16	$1,115.68
		Depreciated	$747.96	$97.24	$19.77	$12.57	$15.33	$59.19	$90.14	$57.32	$1,099.51
	6	Leased	$668.67	$120.36	$19.77	$12.57	$55.99	$59.19	$90.14	$56.47	$1,083.16
		Owned	$668.67	$120.36	$19.77	$12.57	$28.00	$59.19	$90.14	$54.93	$1,053.62
		Depreciated	$668.67	$120.36	$19.77	$12.57	$14.00	$59.19	$90.14	$54.16	$1,038.85
Nursing 1:1 8 h / 7 d	4 - 5	Leased	$543.15	$70.61	$19.77	$12.57	$61.30	$59.19	$90.14	$47.12	$903.85
		Owned	$543.15	$70.61	$19.77	$12.57	$30.65	$59.19	$90.14	$45.43	$871.51
		Depreciated	$543.15	$70.61	$19.77	$12.57	$15.33	$59.19	$90.14	$44.59	$855.34
	6	Leased	$463.86	$83.49	$19.77	$12.57	$55.99	$59.19	$90.14	$43.18	$828.18
		Owned	$463.86	$83.49	$19.77	$12.57	$28.00	$59.19	$90.14	$41.64	$798.65
		Depreciated	$463.86	$83.49	$19.77	$12.57	$14.00	$59.19	$90.14	$40.87	$783.88

Nursing 1:1 8 h / 5 d	4 - 5	Leased	$472.24	$61.39	$19.77	$12.57	$61.30	$59.19	$90.14	$42.71	$819.31
		Owned	$472.24	$61.39	$19.77	$12.57	$30.65	$59.19	$90.14	$41.03	$786.97
		Depreciated	$472.24	$61.39	$19.77	$12.57	$15.33	$59.19	$90.14	$40.18	$770.80
	6	Leased	$392.94	$70.73	$19.77	$12.57	$55.99	$59.19	$90.14	$38.57	$739.91
		Owned	$392.94	$70.73	$19.77	$12.57	$28.00	$59.19	$90.14	$37.03	$710.37
		Depreciated	$392.94	$70.73	$19.77	$12.57	$14.00	$59.19	$90.14	$36.26	$695.60
Nursing 1:1 16 hours	4 - 5	Leased	$766.28	$99.62	$19.77	$12.57	$61.30	$59.19	$90.14	$60.99	$1,169.85
		Owned	$766.28	$99.62	$19.77	$12.57	$30.65	$59.19	$90.14	$59.30	$1,137.51
		Depreciated	$766.28	$99.62	$19.77	$12.57	$15.33	$59.19	$90.14	$58.46	$1,121.34
	6	Leased	$686.98	$123.66	$19.77	$12.57	$55.99	$59.19	$90.14	$57.66	$1,105.96
		Owned	$686.98	$123.66	$19.77	$12.57	$28.00	$59.19	$90.14	$56.12	$1,076.42
		Depreciated	$686.98	$123.66	$19.77	$12.57	$14.00	$59.19	$90.14	$55.35	$1,061.65
Nursing 1:1 24 hours	4 - 5	Leased	$989.41	$128.62	$19.77	$12.57	$61.30	$59.19	$90.14	$74.85	$1,435.85
		Owned	$989.41	$128.62	$19.77	$12.57	$30.65	$59.19	$90.14	$73.17	$1,403.51
		Depreciated	$989.41	$128.62	$19.77	$12.57	$15.33	$59.19	$90.14	$72.33	$1,387.34
	6	Leased	$910.11	$163.82	$19.77	$12.57	$55.99	$59.19	$90.14	$72.14	$1,383.73
		Owned	$910.11	$163.82	$19.77	$12.57	$28.00	$59.19	$90.14	$70.60	$1,354.19
		Depreciated	$910.11	$163.82	$19.77	$12.57	$14.00	$59.19	$90.14	$69.83	$1,339.42

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 C.F.R. § 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 30th 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 30th 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.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission ("Commission"), pursuant to the authority set forth in Sections 8(c) (1), (2), (3), (4), (7), (10), (11), (14), (16), (18), (19) and (20), 14, 15, and 20j of the District of Columbia Taxicab Commission Establishment Act of 1985 ("Establishment Act"), effective March 25, 1986, as amended by the Vehicle for Hire Innovation Amendment Act of 2015 ("Vehicle-for-Hire Act"), effective March 10, 2015 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(1),(2),(3), (4) (7), (10), (11), (14), (16), (18), (19) and (20), 50-313, 50-314, and 50-329 (2012 Repl. & 2015 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 2 (Panel on Rates and Rules: Rules of Organization and Rules of Procedure for Ratemaking), Chapter 4 (Taxicab Payment Service Providers), Chapter 6 (Taxicab Parts and Equipment), Chapter 7 (Enforcement), Chapter 8 (Operation of Public Vehicles for Hire), Chapter 9 (Insurance Requirements), Chapter 10 (Public Vehicles For Hire), Chapter 11 (Public Vehicles For Hire Consumer Service Fund), Chapter 12 (Luxury Services - Owners, Operators, and Vehicles), Chapter 14 (Operation of Black Cars), Chapter 16 (Dispatch Services and District of Columbia Taxicab Industry Co-op) and Chapter 99 (Definitions), and add a new Chapter 19 (Private Vehicle-for-Hire), of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking amends Chapters 2, 4, 6, 7, 8, 9, 10, 11, 12, 14, 16, and 99, and adds a new Chapter 19, in order to conform Title 31 DCMR to the provisions of the Vehicle-for-Hire Act. No provision of this rulemaking is intended to exceed or alter any person's legal obligations under the Establishment Act, as amended by the Vehicle-for-Hire Act. The proposed rulemaking, which was combined with an emergency rulemaking (expiring on July 9, 2015), was adopted by the Commission on March 11, 2015 and published in the *D.C. Register* on August 14, 2015 at 62 DCR 011313. A second emergency rulemaking (expiring on November 5, 2015) was approved on July 8, 2015, and published in the *D.C. Register* on August 21, 2015 at 62 DCR 011603. A third emergency rulemaking (expiring on February 11, 2016) was approved on October 14, 2015, and published in the *D.C. Register* on December 11, 2015 at 62 DCR 15875. The Commission received several comments during the comment period, which expired on September 13, 2015. Changes to the proposed rules were made by the Commission based on the comments received, and also to correct grammar, clarify initial intent, and lessen the burdens established by the proposed rules. No substantial changes were required to be made, however, and none have been made.

The Commission voted to adopt this rulemaking as final on November 18, 2015, and it will become effective upon publication in the *D.C. Register*.

Chapter 2, PANEL ON RATES AND RULES: RULES OF ORGANIZATION AND RULES OF PROCEDURE FOR RATEMAKING, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is repealed and reserved.

Chapter 4, TAXICAB PAYMENT SERVICE PROVIDERS, is amended as follows:

Section 410, ENFORCEMENT, is amended as follows:

Subsection 410.1 is amended to read as follows:

410.1 The enforcement of this chapter shall be governed by Chapter 7.

Subsection 410.2 is repealed and reserved.

Chapter 6, TAXICAB PARTS AND EQUIPMENT, is amended to read as follows:

Subsection 600.4 is repealed and reserved.

Section 610, NOTICE OF PASSENGER RIGHTS, is amended as follows:

Subsection 610.1 is amended to read as follows:

610.1 There shall be displayed in a conspicuous location in each taxicab in clear view of the passenger a notice in a form created by Office which contains the following information:

(a) A statement that a taxicab must accept credit cards through the approved taximeter system;

(b) A statement that a taxicab shall not operate without a functioning taximeter system;

(c) A statement that failure to accept a credit card is in violation of the law and is punishable by a fine; and

(d) Information required for passengers to submit an alleged violation or complaint, including the Commission's telephone number and website address.

Subsection 610.2 is repealed.

Section 611, [RESERVED], is amended to read as follows:

611 PENALTIES

611.1 Each violation of this chapter by a taxicab company, independent owner, or taxicab operator shall subject the violator to:

(a) The civil fines and penalties set forth in § 825 or in an applicable provision of this title, provided, however, that where a specific civil fine or penalty is not listed in § 825 or in this chapter, the fine shall be:

(1) One hundred dollars ($100);

(2) Two hundred fifty dollars ($250) where a fare is charged to any person based on information entered by the operator into any device other than as required for an authorized additional charge under § 801.7 (b); and

(3) Double for the second violation of the same provision and triple for each violation of the same provision thereafter, in all instances where a civil fine may be imposed;

(b) Impoundment of a vehicle operating in violation of this chapter;

(c) Confiscation of an MTS unit or unapproved equipment used for taxi metering in violation of this chapter;

(d) Suspension, revocation, or non-renewal of such person's license or operating authority; or

(e) Any combination of the sanctions listed in (a)-(d) of this subsection.

611.2 A PSP that violates a provision of this chapter shall be subject to the penalties in Chapters 4 and 20.

Section 612, PENALTIES, is amended to read as follows:

612 ENFORCEMENT

612.1 The enforcement of this chapter shall be governed by Chapter 7.

Chapter 7, ENFORCEMENT, is amended to read as follows:

Section 700, APPLICATION AND SCOPE, is amended to read as follows:

700.1 This chapter is intended by the Commission to establish fair and consistent procedural rules for enforcement of and compliance with this title.

700.2 This chapter applies to all persons regulated by this title.

700.3 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act, as amended by Vehicle-for-Hire Act, and the Impoundment Act.

700.4 No provision of this chapter requiring a delegation of authority from the Mayor shall apply in the absence of such authority.

700.5 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, including a penalty provision, the provision of this chapter shall control.

700.6 The provisions of this chapter shall apply to all matters and contested cases pending on the date of final publication of this chapter to the extent allowed by the Administrative Procedure Act and any other applicable laws.

Section 702, COMPLIANCE ORDERS, is amended to read as follows:

702 COMPLIANCE ORDERS

702.1 An authorized employee or official of the Office, or a District enforcement official, may issue a written or oral compliance order to any person licensed or regulated by this title or other applicable law. Oral compliance orders may be issued during traffic stops, as provided in § 702.7.

702.2 A compliance order may require the respondent to take any lawful action related to enforcement, compliance, or verification of compliance, with this title or other applicable law, to the extent authorized or required by this title and the Establishment Act or other applicable law, through an order to:

(a) Appear at the Office for a meeting or other purpose provided that the order clearly states that the appearance is mandatory;

(b) Make a payment to the District for an amount such person owes under a provision of this title or other applicable law;

(c) Allow an administrative inspection of a place of business;

(d) Surrender, or produce for inspection and copying, a document or item related to compliance with this title or other applicable law, such as an original licensing or insurance document, at:

(1) The location where document or item is maintained in the ordinary course of business;

(2) The Office; or

(3) Another appropriate location as determined by the Office or a District enforcement official in their sole discretion;

(e) Submit a vehicle or equipment in the vehicle for testing or inspection in connection with a traffic stop;

(f) Provide information to locate or identify a person, where there is reasonable suspicion of a violation of this title or other applicable law; or

(g) Take any lawful action to assist with or accomplish the enforcement of a provision of this title or other applicable law.

702.3 Each compliance order shall include the following information:

(a) The action the respondent must take to comply;

(b) Except for oral compliance orders, the deadline for compliance; and

(c) If the compliance order is in writing:

(1) A statement of the circumstances giving rise to the order;

(2) A citation to the relevant chapter of this title or other applicable law; and

(3) If the order requires a person to provide information to assist the Office or a District enforcement official in an enforcement action against a person with whom the respondent is believed to be or has been associated: the name of and contact information for such person to the extent available.

702.4 Where a compliance order is issued to a private sedan business to allow the Office to inspect and copy records under § 702.2 (d), the following limitations shall apply:

(a) The Office's inspection shall be limited to safety and consumer protection-related records to ensure compliance with the applicable provisions of Chapter 19, where the Office has a reasonable basis to suspect noncompliance; and

(b) Any records disclosed to the Office shall not be released by the Office to a third party, including through a FOIA request.

702.5 OAH may draw an adverse inference where any person who is required by this title or other applicable law to maintain documents or information fails to maintain such documents or information as required.

702.6 A written compliance order shall be served in the manner prescribed by § 712.

702.7 The civil penalties for failure to comply with a compliance order are as provided by Chapter 20 of this title.

702.8 Each traffic stop shall comply with all applicable provisions of this title, any other applicable laws, and the following requirements:

(a) No vehicle shall be stopped while transporting a passenger without reasonable suspicion of a violation of this title or other applicable laws.

(b) An oral compliance order may be issued in connection with a traffic stop for the purpose of:

(1) Determining compliance with this title and other applicable laws;

(2) Securing the presence and availability of the operator, the vehicle, and any other evidence at the scene;

(3) Preventing hindrance, disruption, or delay of the traffic stop;

(4) Ensuring the orderly and timely completion of the traffic stop;

(5) Requiring full and complete cooperation by the operator;

(6) Requiring the operator to provide access to a device for the purpose of demonstrating compliance with this title and other applicable law;

(7) Making inquiries regarding the operator and/or vehicle to government agencies for law enforcement and related regulatory purposes; and

(8) Protecting the safety of the vehicle inspection officer, the operator, or any other individual.

(c) Notwithstanding the requirements of paragraph (b) of this section, a vehicle inspection officer shall not take possession of a device which may contain evidence relevant to the enforcement of this title or other applicable law, unless:

(1) The device is or appears to be a component of a taxicab's modern taximeter system (MTS);

(2) The operator denies ownership, possession, or custody of the device;

(3) The operator abandons the device or attempts to transfer its possession with intent to prevent access to the device for purposes of enforcement; or

(4) The operator is determined to be an unlawful operator in violation of D.C. Official Code § 47-2829.

(e) The term "possession" as used in paragraph (c) of this section shall not include handling, operation, or examination of a device for purposes of enforcement of this title or other applicable law.

(f) A private sedan operator's lack of registration with a private sedan business registered under Chapter 19 may be considered evidence of a violation of D.C. Official Code § 47-2829.

Section 703, ENFORCEMENT ACTIONS, is amended as follows:

Subsections 703.7 and 703.8 are amended to read as follows:

703.7 In addition to any other enforcement action authorized by this title or other applicable law, where a private sedan business certifies an intentionally false or misleading statement on a form required by this title or other applicable law, the Office may refer the matter for civil and/or criminal investigation by an appropriate agency of the District or Federal Government.

703.8 The circumstances giving rise to a respondent's suspension may be considered by the Office in any determination of whether to issue or renew a license to the respondent.

A new Subsection 703.9 is added to read as follows:

703.9 Each impoundment of a vehicle shall be conducted in compliance with the Impoundment Act.

Section 704, NOTICES OF INFRACTION, is amended as follows:

Subsection 704.1 is amended to read as follows:

704.1 The Office or a District enforcement official (including a vehicle inspection officer) may issue an NOI, imposing a civil fine or other civil penalty, whenever the Office or the District enforcement official has reasonable grounds to believe the respondent is in violation of a provision of this title or other applicable law.

Chapter 8, OPERATION OF PUBLIC VEHICLES FOR HIRE, is amended as follows:

The title of Chapter 8 is amended to read as follows:

Chapter 8 OPERATING RULES FOR PUBLIC VEHICLES-FOR-HIRE

Section 800, APPLICATION AND SCOPE, is amended to read as follows:

800.1 This chapter shall apply to every person that provides a public vehicle-for-hire service subject to licensing or regulation by the Commission, provided however that provisions of § 819 apply to any vehicle-for-hire in the District, including private vehicles-for-hire.

800.2 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act.

Subsections 800.3 and 800.4 are repealed.

Section 819, CONSUMER SERVICE AND PASSENGER RELATIONS, is amended as follows:

Subsection 819.5 is amended to read as follows:

819.5 No public or private vehicle-for-hire operator shall refuse to transport a person while holding his or her vehicle-for-hire, unless:

(a) Previously engaged;

(b) Unable or forbidden by the provisions of this title to do so;

(c) The vehicle-for-hire operator has reason to believe the person is engaged in a violation of law;

(d) The operator has cause to fear injury to his or her person, property, or vehicle; or

(e) The passenger(s) is engaged in lewd, lascivious, or sexual behavior in the vehicle-for-hire at any time while the trip is in progress, after the operator has asked the passenger(s) at least once to stop the conduct.

A new Subsection 819.10 is added to read as follows:

819.10 Once a trip has been accepted by a public or private vehicle-for-hire operator through a digital dispatch service, the vehicle-for-hire operator shall not fail to pick up the passenger or to complete the trip after the passenger has been picked up except for a bona fide reason not prohibited by § 819.5 or other applicable provision of this title. A violation of this subsection shall be treated as a refusal to haul pursuant to § 818.2 or 819.5. In addition, a violation of § 818.2 may be reported to the D.C. Office of Human Rights.

Section 823, MANIFEST RECORD, is amended as follows:

A new Subsection 823.7 is added to read as follows:

823.7 A trip manifest maintained in an electronic format by an operator who connects with a passenger through digital dispatch may include a phrase "as directed" or similar phrase in lieu of including a passenger's trip destination; provided, that the destination is included upon completion of the trip.

Section 825, TABLE OF CIVIL FINES AND PENALTIES, is amended as follows:

Subsection 825.2 is amended as follows:

Conduct

Unlawful activities as outlined in § 816	$500
Threatening, harassing, or abusive conduct or attempted threatening, harassing, or abusive conduct as outlined in § 817	$750
Violation of any affirmative obligation or prohibition outlined in Chapter 5 of this title	$500 Impoundment of the vehicle, license suspension, revocation, or non-renewal, or a combination of the sanctions listed in § 817

Passenger Safety and Service

Loading or unloading in crosswalk	$50
Overloading	$50

Asking destination/violation of § 819.9	$50
Refusal to haul/discrimination/violation of § 818/819.4	$750
Illegal shared ride	$250

Chapter 9, INSURANCE REQUIREMENTS, is amended as follows:

The title of Chapter 9, INSURANCE REQUIREMENTS, is amended to read as follows:

Chapter 9 INSURANCE REQUIREMENTS FOR PUBLIC VEHICLES-FOR-HIRE

The title of Section 900, APPLICATION AND SCOPE OF INSURANCE REQUIREMENTS, is amended to read as follows:

900 APPLICATION AND SCOPE

Chapter 10, PUBLIC VEHICLES-FOR-HIRE, is amended as follows:

Section 1000, GENERAL REQUIREMENTS, is amended as follows:

Subsections 1000.1 and 1000.2 are amended to read as follows:

1000.1 No individual shall operate a public vehicle-for-hire in the District unless such individual has a valid DCTC operator's license (face card), the vehicle has a valid DCTC vehicle license, and the operator and vehicle are in compliance with all applicable provisions of this title and other applicable laws.

1000.2 Notwithstanding the provisions of § 1000.1, a valid DCTC operator's license (face card) and valid DCTC vehicle license shall not be required where the operator is in strict compliance with the applicable provisions of § 828 (reciprocity regulations).

Section 1001, ELIGIBILITY FOR HACKER'S LICENSE, is amended as follows:

Subsection 1001.9 is amended to read as follows:

1001.9 The Chairperson shall not issue nor renew a license under this chapter to a person who has not, immediately preceding the date of application for a license, been a bona fide resident for at least one (1) year of the multistate area ("MSA"), and has not had at least one (1) year's driving experience as a licensed vehicle operator within the MSA during such one (1) year period.

Section 1003, HEALTH REQUIREMENTS, is amended as follows:

Subsection 1003.1 is amended to read as follows:

1003.1 Each application (including a renewal application) shall be accompanied by a certificate from a licensed physician who is a resident of the MSA, certifying that, in, the opinion of that physician, the applicant does not have a physical or cognitive disability or disease which might make him or her an unsafe driver of a public vehicle-for-hire.

Subsection 1003.7 is amended to read as follows:

1003.7 An operator's license shall not be issued or renewed under this chapter for an individual who has a mental illness, cognitive disability, or other impairment that would negatively impact his or her ability to meet the requirements of this chapter with respect to the operation of a public vehicle-for-hire, unless he or she provides a certificate from a licensed physician who is a resident of the MSA certifying that, in the opinion of that physician, the person's impairment, as may be currently treated, does not negatively impact his or her ability to meet the requirements of this chapter with respect to the operation of a taxicab. If the person's impairment, or his or her treatment, substantially changes during the period of licensure, he or she shall provide a recertification from a physician who is a resident of the MSA or shall immediately surrender his or her license to the Commission.

Section 1004, INVESTIGATION AND EXAMINATION OF APPLICANTS, is amended as follows:

Subsection 1004.3 is amended to read as follows:

1004.3 The examination shall test the following subject areas:

(a) General familiarity with the MSA, including history and geography;

(b) Monuments, landmarks, and other places of interest;

(c) Customer service for interaction with passengers and the general public;

(d) Business and accounting practices;

(e) Cultural sensitivity;

(f) Disability accommodation and non-discrimination requirements;

(g) Familiarity with applicable provisions of this title, Title 18 of the DCMR (Vehicles and Traffic), and other applicable laws; and

(h) Such other topics as the Office may identify in an administrative issuance.

Section 1005, ISSUANCE OF LICENSES, is amended as follows:

Subsection 1005.5 is amended to read as follows:

1005.5 A person to whom an operator's license has been issued shall continue to reside within the MSA during the term of the license and shall, no later than five (5) days after the termination of the residence within the MSA, surrender the license to the Office.

Section 1013, ENFORCEMENT OF THIS CHAPTER, is repealed and reserved.

Chapter 11, PUBLIC VEHICLES-FOR-HIRE CONSUMER SERVICE FUND, is amended as follows:

Section 1100, PURPOSE, is amended as follows:

Subsection 1100.1 is amended to read as follows:

1100.1 The purpose of this chapter is to establish procedural and substantive rules governing assessment and collection of all funds to be deposited into the Public Vehicle-for-hire Consumer Service Fund as authorized by the Establishment Act.

Subsection 1100.2 is amended to read as follows:

1100.2 The Consumer Service Fund shall consist of:

(a) All funds collected from a passenger surcharge on taxicab trips;

(b) All funds collected by the Commission from the issuance and renewal of a public vehicle-for-hire license pursuant to D.C. Official Code § 47-2829 (2012 Repl. & 2014 Supp.), including such funds held in miscellaneous trust funds by the Commission and the Office of the People's Counsel prior to June 23, 1987, pursuant to D.C. Official Code § 34-912(a) (2012 Repl. & 2014 Supp.);

(c) All funds collected by the Commission from the Department of Motor Vehicles through the Out-Of-State Vehicle Registration Special Fund, pursuant to Section 3a of the District of Columbia Revenue Act of 1937, effective March 26, 2008 (D.C. Law 17-130; D.C. Official Code § 50-1501.03a (2012 Repl. & 2014 Supp.) ("Revenue Act");

(d) All taxicab operator and passenger vehicle-for-hire operator assessment fund fees collected by the Commission pursuant to Subsections (c) and (d) of Section 20a of the Revenue Act; and

(e) All funds collected by the Office of the Chief Financial Officer from the quarterly payments of a digital dispatch service pursuant to § 1604.7.

Section 1103, PASSENGER SURCHARGE, is amended as follows:

Subsection 1103.1 is amended to read as follows:

1103.1 Each trip provided by taxicab licensed by the Office, shall be assessed a twenty-five cent ($0.25) per trip passenger surcharge.

Chapter 12, LUXURY SERVICES – OWNERS, OPERATORS, AND VEHICLES, is amended as follows:

The title of Chapter 12 is amended to read as follows:

Chapter 12 LUXURY CLASS SERVICES – OWNERS, OPERATORS, AND VEHICLES

Section 1201, GENERAL REQUIREMENTS, is amended as follows:

Subsection 1201.3 is amended to read as follows:

1201.3 Operator requirements. An individual shall be authorized to provide luxury class service if he or she:

(a) Has a valid and current driver's license issued by a jurisdiction within the MSA;

(b) Has a valid and current DCTC operator's license authorizing the person to provide luxury class service under § 1209; and

(c) Is in compliance with Chapter 9 (Insurance Requirements).

Subsection 1201.5 is amended to read as follows:

1201.5 Operating requirements. Luxury class service shall not be provided unless, from the time each trip is booked, through the conclusion of the trip, all of the following requirements are met:

(a) The operator is in compliance with § 1201.3;

(b) The vehicle is in compliance with § 1201.4;

(c) The owner is in compliance with § 1202.1;

(d) The operator is maintaining with the Office current contact information, including his or her full legal name, residence address, cellular telephone number, and, if associated with an LCS organization, contact information for such organization or for the owner for which the operator drives;

(e) The operator informs the Office of any change in the information required by subsection (d) within five (5) business days through U.S. Mail with delivery confirmation, by hand delivery, or in such other manner as the Office may establish in an Office issuance;

(f) The operator is maintaining in the vehicle a manifest that:

(1) Is either:

(A) In writing, compiled by the operator not later than the end of each shift using documents stored safely and securely in the vehicle; or

(B) In electronic format, compiled automatically and in real time throughout each shift;

(2) Is in a reasonable, legible, and reliable format that safely and securely maintains the information;

(3) Reflects all trips made by the vehicle during the current shift;

(4) Includes:

(A) The date, the time of pickup;

(B) The address or location of the pickup;

(C) The final destination, which may be phrased "as directed" for electronic manifest maintained in accordance with Chapter 16; and

(D) The time of discharge; and

(5) For manifest maintained in a non-electronic format, does not include terms such as "as directed" in lieu of any information required by this paragraph in accordance with § 1201.8; and

(6) Is kept in the vehicle readily available for immediate inspection by a District enforcement official (including a public vehicle enforcement inspector (hack inspector)).

(g) Where limousine service is provided, the trip is booked by contract reservation based on an hourly rate;

(h) Where black car service is provided, the trip is conducted in accordance with the operating requirements of Chapter 14 of this title;

(i) The trip is not booked in response to a street hail solicited or accepted by the operator or by any other person acting on the operator's behalf; and

(j) There is no individual present in the vehicle who is not the operator or a passenger for whom a trip is booked or payment is made.

A new Subsection 1201.8 is added to read as follows:

1201.8 A trip manifest maintained in an electronic format by an operator who connects with a passenger through digital dispatch may include a phrase "as directed" or similar phrase in lieu of including a passenger's trip destination; provided that the destination is added to the manifest immediately upon the completion of the trip.

Section 1204, LICENSING OF LCS VEHICLES, is amended as follows:

Subsection 1204.4 is amended to read as follows:

1204.4 The DMV or any District enforcement official may inspect the vehicle to determine whether it meets the definitions of "black car", "limousine", or both, as set forth in § 9901.1, consistent with the applicant's stated intentions for the use of vehicle.

Section 1212, ENFORCEMENT OF THIS CHAPTER, is amended as follows:

Subsections 1212.2 through 1212.10 are repealed.

Chapter 14, OPERATION OF BLACK CARS, is amended as follows:

Section 1400, APPLICATION AND SCOPE, is amended to read as follows:

1400.1 This chapter establishes regulations for the businesses, operators, and vehicles which participate in providing black car service.

1400.2 Additional provisions applicable to the operators and vehicles which participate in providing black car service appear in Chapter 12.

1400.3 Additional provisions applicable to the digital dispatch services which participate in providing black car service appear in Chapter 16.

1400.4 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act, as amended by Vehicle-for-Hire Act, and by the Impoundment Act.

1400.5 No provision of this chapter requiring a delegation of authority from the Mayor shall apply in the absence of such authority.

1400.6 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the more restrictive provision shall control**.**

Section 1402, OPERATING REQUIREMENTS, is amended as follows:

Subsection 1402.6 is amended to read as follows:

1402.6 The fare for black car service, if any, shall:

(a) Be based on time and distance rates as set by the DDS except for a set fare for a route approved by the Office order for a well-traveled route, including a trip to an airport or to an event;

(b) Be consistent with the DDS' statement of its fare calculation method posted on its website pursuant to Chapter 16;

(c) Be disclosed to the passenger in a statement of the DDS' fare calculation method in accordance with Chapter 16;

(d) Be used to calculate an estimated fare, if any, and disclosed to the passenger prior to the acceptance of service;

(e) State whether demand pricing applies and, if so, the effect of such pricing on the estimate; and

(f) Not include a gratuity that does not meet the definition of a "gratuity" as defined in this title.

Section 1404, PENALTIES, is amended as follows:

Subsection 1404.2 (f) and (g) are amended to read as follows:

(f) For a violation of § 1403.3 by soliciting or accepting a street hail: a civil fine of seven hundred fifty dollars ($750);

(g) For a violation of § 1403.3 by engaging in false dispatch: a civil fine of one thousand dollars ($1,000);

Chapter 16, DISPATCH SERVICES AND DISTRICT OF COLUMBIA TAXICAB INDUSTRY CO-OP, is amended as follows:

Section 1600, APPLICATION AND SCOPE, is amended to read as follows:

1600.1 This chapter establishes regulations for the businesses, operators, and vehicles which participate in providing dispatch services, and establishes the District of Columbia Taxicab Industry Co-op.

1600.2 Additional provisions applicable to the businesses, owners, operators, and vehicles which participate in providing taxicab service appear in Chapters 4-11.

1600.3 Additional provisions applicable to the businesses, owners, operators, and vehicles which participate in providing black car service appear in Chapters 12 and 14.

1600.4 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act, as amended by Vehicle-for-Hire Act, and by the Impoundment Act.

1600.5 The definitions in Chapter 99 shall apply to all terms used in this chapter.

1600.6 The phrase "company that uses digital dispatch for public vehicle-for-hire service", as used in the Establishment Act, as amended by the Vehicle-for-Hire Act, shall include only a digital dispatch service, as defined in Chapter 99, and shall not include any other person regulated by this title in connection with the provision of a public vehicle-for-hire service, such as a taxicab company.

1600.7 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the more restrictive provision shall control**.**

Section 1601, GENERAL REQUIREMENTS, is amended as follows:

Subsections 1601.3 and 1601.4 are amended to read as follows:

1601.3 No person regulated by this title shall be associated with, integrate with, or conduct a transaction in cooperation with, a dispatch service that is not in compliance with this chapter.

1601.4 No telephone dispatch service shall participate in providing a vehicle for hire service in the District unless it is operated by a taxicab company with current operating authority under Chapter 5.

Section 1602, RELATED SERVICES, is amended as follows:

Subsection 1602.2 is repealed.

Section 1603, OPERATING REQUIREMENTS FOR ALL DISPATCH SERVICES, is amended to read as follows:

1603 TELEPHONE DISPATCH SERVICES – OPERATING REQUIREMENTS

1603.1 Each telephone dispatch service shall operate in compliance with this title and other applicable laws.

1603.2 Each telephone dispatch service shall be licensed to do business in the District of Columbia.

1603.3 Each gratuity charged by a telephone dispatch service shall comply with the definition of "gratuity".

1603.4 Each telephone dispatch service shall comply with the requirements for passenger rates and charges set forth in § 801.

1603.5 Each telephone dispatch service shall provide a passenger seeking wheelchair service with such service, when available, and if not available through the telephone dispatch service, shall make reasonable efforts to assist the passenger in locating available wheelchair service through another source within the District.

1603.6 Where a telephone dispatch service shares a request for wheelchair service with another person, the passenger's destination shall not be provided.

1603.7 Each telephone dispatch service shall maintain a customer service telephone number for passengers with a "202" prefix or a toll-free area code, posted on its website, which is answered or replied to promptly during normal business hours.

1603.8 Each telephone dispatch service shall maintain a website with current information that includes:

(a) The name of the telephone dispatch service;

(b) Contact information for its bona fide administrative office or registered agent authorized to accept service of process;

(c) Its customer service telephone number or email address, and;

(d) The following statement prominently displayed:

> Vehicle-for-hire services in Washington, DC are
> regulated by the DC Taxicab Commission
> 2235 Shannon Place, S.E., Suite 3001
> Washington, D.C. 20020-7024
> www.dctaxi.dc.gov
> dctc3@dc.gov 1-855-484-4966 TTY: 711

and

(e) A link to § 801 allowing passengers to view applicable rates and charges.

1603.9 Each telephone dispatch service shall comply with §§ 508 through 513.

1603.10 Each telephone dispatch service shall provide its service throughout the District.

1603.11 Each telephone dispatch service shall perform the service agreed to with a passenger in a dispatch, including picking up the passenger at the agreed-upon time and location, except for a bona fide reason specified by § 819.5 or other applicable provision of this title.

1603.12 Protection of certain information relating to passenger privacy and safety.

(a) A telephone dispatch service shall not:

(1) Release information to any person that would result in a violation of the personal privacy of a passenger or that would threaten the safety of a passenger or an operator; or

(2) Permit access to real-time information about the location, apparent gender, or number of passengers awaiting pick up by a person not authorized by the telephone dispatch service to receive such information. Where a telephone dispatch service shares a request for wheelchair service with another person pursuant to § 1603.5, the passenger's destination shall not be provided.

(b) This subsection shall not limit access to information by the Office or a District enforcement official.

1603.13 A telephone dispatch service shall not transmit to the operator any information about the destination of a trip, except for the jurisdiction of the destination, until

the trip has been booked. Where a telephone dispatch service shares a request for wheelchair service with another person pursuant to § 1603.5, the passenger's destination shall not be provided.

1603.14 Each telephone dispatch service shall store its business records in compliance with industry best practices and all applicable laws, make its business records related to compliance with its legal obligations under this title available for inspection and copying as directed by the Office, and retain its business records for five (5) years.

1603.15 Each telephone dispatch service shall comply with all applicable provisions of this title and other laws regulating origins and destinations of trips, including all reciprocal agreements between governmental bodies in the Washington Metropolitan Area governing public vehicle-for-hire service such as those in § 828.

1603.16 A telephone dispatch service shall not transmit to the operator any information about the destination of a trip, except for the jurisdiction of the destination, until the trip has been booked.

1603.17 Each telephone dispatch service shall store its business records in compliance with industry best practices and all applicable laws, make its business records related to compliance with its legal obligations under this title available for inspection and copying as directed by the Office, and retain its business records for five (5) years.

1603.18 Each telephone dispatch service shall comply with all applicable provisions of this title and other laws regulating origins and destinations of trips, including all reciprocal agreements between governmental bodies in the Washington Metropolitan Area governing public vehicle-for-hire service such as those in § 828.

Section 1604, REGISTRATION, is amended to read as follows:

1604 DIGITAL DISPATCH SERVICES – OPERATING REQUIREMENTS

1604.1 Each digital dispatch service shall operate in compliance with this title and other applicable laws.

1604.2 Each digital dispatch service shall calculate fares and, where applicable, provide receipts to passengers, as provided in: Chapter 8 for taxicabs, Chapter 14 for black cars, and Chapter 19 for private sedans.

1604.3 Each digital dispatch service shall submit proof that the company maintains a website containing information on its:

(a) Method of fare calculation

(b) Rates and fees charged, and

(c) Customer service telephone number or email address

1604.4 If a digital dispatch service charges a fare other than a metered taxicab rate, the company shall, prior to booking, disclose to the passenger:

(a) The fare calculation method;

(b) The applicable rates being charged; and

(c) The option to receive an estimated fare.

1604.5 Each digital dispatch service shall review any complaint involving a fare that exceeds the estimated fare by twenty (20) percent or twenty-five (25) dollars, whichever is less.

1604.6 Each digital dispatch service shall provide its service throughout the District.

1604.7 Every three (3) months, based on the District's fiscal year calendar, each digital dispatch service shall separately transmit to the Office of the Chief Financial Officer (OCFO), for deposit into the Consumer Service Fund in accordance with Chapter 11 of the Title, each of the following amounts, reflecting business activity from (1) October through December; (2) January through March; (3) April through June; and (4) July through September:

(a) For trips by taxicab: the per trip taxicab passenger surcharge; and

(b) For trips by black cars and private sedans: one (1) percent of all gross receipts.

1604.8 An authorized representative of each digital dispatch service shall certify in writing under oath, using a form provided by the Office, that each amount transmitted to OCFO pursuant to § 1604.7 meets the requirements of § 1604.7, accompanied by documentation of the digital dispatch service's choosing which reasonably supports the amount of the deposit. Each certification and supporting documentation shall be provided to OCFO.

1604.9 Not later than January 1, 2016, each digital dispatch service shall ensure that its website and mobile applications are accessible to the blind and visually impaired, and the deaf and hard of hearing.

1604.10 Each digital dispatch service shall train its associated operators in the proper and safe handling of mobility devices and equipment, and how to treat individuals with disabilities in a respectful and courteous manner. Completion of training acceptable to qualify an individual for an AVID operator's license issued by the Office shall satisfy this training requirement.

1604.11 Each digital dispatch service shall:

(a) Use technology that meets or exceeds current industry standards for the security and privacy of all payment and other information provided by a passenger, or made available to the digital dispatch service as a result of the passenger's use of the digital dispatch service;

(b) Promptly inform the Office of a security breach requiring a report under the Consumer Personal Information Security Breach Notification Act of 2006, effective March 8, 2007 (D.C. Law 16-237, D.C. Official Code §§ 28-3851 *et seq.*), or other applicable law;

(c) Not release information to any person that would result in a violation of the personal privacy of a passenger or that would threaten the safety of a passenger or an operator; and

(d) Not permit access to real-time information about the location, apparent gender, or number of passengers awaiting pick up by a person not authorized to receive such information. Where a digital dispatch service shares a request for service with another person for the purpose of providing wheelchair service to a passenger, the passenger's destination shall not be provided.

1604.12 Subsection 1604.11 shall not limit access to information by the Office.

1604.13 During a state of emergency declared by the Mayor, a digital dispatch service which engages in surge pricing shall limit the multiplier by which its base fare is multiplied to the next highest multiple below the three highest multiples set on different days in the sixty (60) days preceding the declaration of a state of emergency for the same type of service in the Washington Metropolitan Area.

1604.14 Each digital dispatch service shall comply with § 828.

Section 1605, PROHIBITIONS, is repealed, and a new Section 1605, DIGITAL DISPATCH SERVICES – REGISTRATION, is added to read as follows.

1605 DIGITAL DISPATCH SERVICES - REGISTRATION

1605.1 No digital dispatch service shall operate in the District unless it is registered with the Office as provided in this section.

1605.2 Each digital dispatch service operating in the District on the effective date of the Vehicle-for-Hire Act shall register with the Office within five (5) business days of the effective date of this chapter, and all other digital dispatch services shall register with the Office prior to commencing operations in the District.

1605.3 Where a digital dispatch service provides digital dispatch for an associated or affiliated private sedan business, the digital dispatch service and its associated or affiliated private sedan business shall contemporaneously apply for registration under this chapter and Chapter 19, respectively.

1605.4 Each digital dispatch service shall register by completing an application form made available by the Office, which shall include information and documentation:

(a) Demonstrating that the digital dispatch service is licensed to do business in the District;

(b) Demonstrating that the digital dispatch service maintains a registered agent in the District;

(c) Demonstrating that the digital dispatch service maintains a website that complies with § 1604.3;

(d) Describing in writing the digital dispatch service's app, with accompanying screenshots, to allow District enforcement officers to understand the functionality of the app, and to verify during a traffic stop:

(1) If the vehicle is a public vehicle-for-hire: that the operator and the vehicle are associated with the digital dispatch service;

(2) If the vehicle is a private sedan: that the operator and the vehicle are registered with the digital dispatch service's associated or affiliated private sedan business and not under suspension; and

(3) The time and location of the most recent request for service.

(e) A certification that the digital dispatch service is in compliance with the operating requirements of § 1604.

1605.5 Each registration application form filed under § 1605.3 shall be executed under oath by an individual with authority to complete the filing and shall be accompanied by a filing fee of five hundred dollars ($500).

1605.6 The Office shall complete its review of a registration application form within fifteen (15) business days of filing. Each applicant shall cooperate with the Office to supplement or correct any information needed to complete the review. The Office may deny registration where it appears the private sedan business will not be operating in compliance with this title and other applicable laws.

1605.7 Each registration under this section shall be effective for twenty four (24) months.

1605.8 Each registered digital dispatch service shall renew its registration at least fourteen (14) days prior to its expiration as provided in § 1605.6.

1605.9 Each registered digital dispatch service shall promptly inform the Office of any of the following occurrences in connection with its most recent registration:

(a) A change in the operation of its app which affects how a District enforcement official uses the app during a traffic stop to determine that the operator and vehicle are in compliance with this title and other applicable laws;

(b) A change in contact information; and

(c) A materially incorrect, incomplete, or misleading statement.

Section 1606, ENFORCEMENT, is repealed, and a new Section 1606, PROHIBITIONS, is added to read as follows.

1606 PROHIBITIONS

1606.1 No person shall violate an applicable provision of this chapter.

1606.2 No dispatch service shall provide dispatch for a person subject to regulation under this title which the dispatch service knows or has been informed by the Office is not in compliance with this title and other applicable laws.

1606.3 No dispatch service shall attempt through any means to contradict or evade the requirements of this title or other applicable laws.

1606.4 No dispatch service shall impose additional or special charges for an individual with a disability for providing services to accommodate the individual or require the individual to be accompanied by an attendant.

1606.5 No fee charged by a dispatch service in addition to a taximeter fare shall be processed by a payment service provider (PSP), or displayed on or paid using any component of an MTS unit, except for a telephone dispatch fee under § 801, or

where a digital dispatch service and the PSP have integrated pursuant to Chapter 4.

1606.6 Each digital dispatch service shall ensure that a private sedan operator cannot log in to the digital dispatch service's app while the operator is suspended or after the operator has been terminated by the private sedan business.

Section 1607, PENALTIES, is repealed, and a new Section 1607, ENFORCEMENT, is added to read as follows:

1607 ENFORCEMENT

1607.1 The provisions of this chapter shall be enforced pursuant to Chapter 7.

A new Section 1608, PENALTIES, is added to read as follows:

1608 PENALTIES

1608.1 A dispatch service that violates this chapter shall be subject to:

(a) A civil fine established by a provision of this chapter;

(c) Enforcement action other than a civil fine, as provided in Chapter 7; or

(d) A combination of the sanctions enumerated in parts (a) and (b).

1608.2 Except where otherwise specified in this title, the following civil fines are established for violations of this chapter by a dispatch service, which shall double for the second violation of the same provision, and triple for the third and subsequent violations of the same provision thereafter:

(a) A civil fine of one thousand dollars ($1,000) where no civil fine is enumerated;

(b) A civil fine not to exceed twenty five thousand dollars ($25,000) per day or portion thereof, based on the circumstances, for a violation of § 1604.7 by a digital dispatch service for failure to timely transmit to OCFO any amount required to be transmitted under that subsection, provided however, that a penalty shall not be assessed under both this section and § 1907.4(x) where a digital dispatch service and a private sedan business are not separate legal entities;

(c) A civil fine of two thousand five hundred dollars ($2,500) per day or portion thereof for a violation of § 1604.8 by a digital dispatch service for failure to timely provide a required certification for an amount required to

be transmitted to OCFO; and

(d) A civil fine of two thousand five hundred dollars ($2,500) for a violation of § 1604.8 by a digital dispatch service for failure to ensure that a private sedan operator suspended or terminated by a private sedan business is unable to log in to the digital dispatch service's app.

A new Chapter 19, PRIVATE VEHICLES-FOR-HIRE, is added to read as follows:

1900 APPLICATION AND SCOPE

1900.1 This chapter establishes regulations for the businesses, operators, and vehicles which participate in providing private vehicle-for-hire service.

1900.2 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act, as amended by Vehicle-for-Hire Act, and of the Impoundment Act.

1900.3 The definitions in Chapter 99 shall apply to all terms used in this chapter. The phrase "company that uses digital dispatch for public vehicle-for-hire service", as used in the Establishment Act, as amended by the Vehicle-for-Hire Act, shall include only a digital dispatch service, as defined in Chapter 99, and shall not include any other person regulated by this title in connection with the provision of a public vehicle-for-hire service, such as a taxicab company or association.

1900.4 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the more restrictive provision shall control**.**

1901 GENERAL PROVISIONS

1901.1 Each private sedan business shall be registered under this chapter.

1901.2 Each digital dispatch service associated or affiliated with a private sedan business shall be registered with the Office under Chapter 16.

1901.3 Nothing in this chapter shall be construed as soliciting or creating a contractual relationship, agency relationship, or employer-employee relationship between the District and any other person.

1901.4 The District shall have no liability for the negligent, reckless, illegal, or otherwise wrongful conduct of any individual or entity which provides private sedan service.

1902 PRIVATE SEDAN BUSINESSES - REGISTRATION

1902.1 Each private sedan business operating in the District shall be registered with the Office as provided in this section.

1902.2 Each private sedan business operating in the District on the effective date of the Vehicle-for-Hire Act shall register with the Office within five (5) business days of the effective date of this chapter, and all other private sedan businesses shall register with the Office prior to commencing operations in the District.

1902.3 Each private sedan business and its associated or affiliated digital dispatch service shall contemporaneously apply for registration under this chapter and Chapter 16.

1902.4 Each private sedan business shall apply for registration by providing a certification on a form made available by the Office, which shall include the following information and documentation:

(a) Proof that the private sedan business is licensed to do business in the District;

(b) Proof that the private sedan business maintains a registered agent in the District;

(c) Proof that the private sedan business maintains a website that includes the information required by § 1903.3;

(d) Proof that the private sedan business has established a trade dress required by § 1903.8, including an illustration or photograph of the trade dress;

(e) Identification of the private sedan business's associated or affiliated digital dispatch service;

(f) Proof that the private sedan business or its associated private sedan operators are in compliance with the insurance requirements of § 1905, including a complete copy of the policy(ies), the accord form(s), all endorsements, the declarations page(s), and all terms and conditions; and

(g) Contact information for one or more designated individuals with whom the Office shall be able to communicate at all times for purposes of enforcement and compliance under this title and other applicable laws, including cellphone number(s) and an email address which shall be dedicated exclusively to the purposes of this paragraph.

1902.5 Each certification filed under § 1902.4 shall be executed under oath by an individual with authority to complete the filing and shall be accompanied by a filing fee of twenty five thousand dollars ($25,000) for each initial certification, and one thousand dollars ($1,000) for each renewal certification.

1902.6 The Office shall complete its review of a certification within fifteen (15) business days of filing. All proof of insurance shall be subject to a review by DISB. Each applicant shall cooperate with the Office to supplement or correct any information needed to complete the review. The Office may deny registration where it appears the private sedan business will not be operating in compliance with this title and other applicable laws.

1902.7 Each registration under this section shall be effective for twenty-four (24) months.

1902.8 Each registered private sedan business shall renew its registration by filing a certification at least fourteen (14) days prior to its expiration as provided in § 1902.7.

1902.9 Each registered private sedan business shall promptly inform the Office of either of the following occurrences in connection with its most recent registration:

(b) A change in contact information; or

(c) A materially incorrect, incomplete, or misleading statement.

1902.10 No document submitted with an application for registration under § 1904.4 shall contain any redaction or omission of original text or an original attachment, provided however that insurance premium information may be redacted from the proof of insurance required by § 1902.4(f).

1902.11 Proof of insurance consistent with § 1902.4(f) shall immediately be filed with the Office for each insurance policy obtained by a private sedan business to replace an existing, lapsing, terminated, or cancelled policy. The Office shall review the proof of insurance within ten (10) business days of filing. The private sedan business shall cooperate with the Office to supplement or correct any information needed to complete the review. The Office may suspend or revoke the private sedan business's registration where it appears the private sedan business will not be operating in compliance with the insurance requirements of this title or other applicable laws.

1903 PRIVATE SEDAN BUSINESSES – OPERATING REQUIREMENTS

1903.1 Each private sedan business shall create an application process for an individual to apply to the private sedan business to register as a private sedan operator.

1903.2 Each private sedan business shall maintain a current and accurate registry of the operators and vehicles associated with the business.

1903.3 Each private sedan business shall display the following information on its website:

(a) The private sedan business's customer service telephone number or electronic mail address;

(b) The private sedan business's zero tolerance policies established pursuant to §§ 1903.9 and 1903.11 of this chapter;

(c) The private sedan business's procedure for reporting a complaint about an operator who a passenger reasonably suspects violated the zero tolerance policy pursuant to §§ 1903.9 and 1903.11 of this chapter; and

(d) A telephone number or electronic mail address for the Office.

1903.4 Each private sedan business shall verify that an initial safety inspection of a motor vehicle used as a private sedan was conducted within ninety (90) days of when the vehicle enters service and that the vehicle passed the inspection and was determined to be safe by a licensed mechanic in the District, pursuant to D.C. Official Code § 47-2851.03(a)(9) or an inspection station authorized by the State of Maryland or the Commonwealth of Virginia to perform vehicle safety inspections, provided however, that an initial safety inspection need not be conducted if the vehicle is compliant with an annual state-required safety inspection.

1903.5 Each safety inspection conducted pursuant to § 1903.4 shall check the following motor vehicle equipment to ensure that such equipment is safe and in proper operating condition:

(a) Brakes and parking brake;

(b) All exterior lights, including headlights, parking lights, brake lights, and license plate illumination lights;

(c) Turn signal devices;

(d) Steering and suspension;

(e) Tires, wheels, and rims;

(f) Mirrors;

(g) Horn;

(h) Windshield and other glass, including wipers and windshield defroster;

(i) Exhaust system;

(j) Hood and area under the hood, including engine fluid level and belts;

(k) Interior of vehicle, including driver's seat, seat belts, and air bags;

(l) Doors;

(m) Fuel system; and

(n) Floor pan.

1903.6 Each private sedan business shall verify the safety inspection status of a vehicle as described in § 1903.5 on an annual basis after the initial safety inspection is conducted.

1903.7 Each private sedan business shall perform the background checks required by § 1903.16 on each applicant before such individual is allowed to provide private sedan service and update such background checks every three (3) years thereafter.

1903.8 Each private sedan business shall establish and maintain a trade dress policy as follows:

(a) A trade dress:

(1) Utilizing a consistent and distinctive logo, insignia, or emblem;

(2) Which is sufficiently large and color contrasted so as to be readable during daylight hours at a distance of at least fifty (50) feet;

(3) Which is reflective, illuminated, or otherwise patently visible in darkness; and

(b) A policy requiring the trade dress to be displayed in a specific manner in a designated location on the vehicle at all times when the operator is logged into the private sedan business's associated or affiliated DDS, in a manner consistent with all DMV regulations and other applicable laws, and removed at all other times.

1903.9 Each private sedan business shall establish and maintain a policy of zero tolerance for the use of alcohol or illegal drugs or impairment by the use of alcohol or drugs while a private sedan operator is logged into the private sedan business's associated or affiliated DDS.

1903.10 Each private sedan business shall:

(a) Conduct an investigation when a passenger alleges that a private sedan operator violated the zero tolerance policy established by § 1903.9; and

(b) Immediately suspend for the duration of the investigation required by subparagraph (b) of this subsection, a private sedan operator upon receiving a written complaint from a passenger submitted through regular mail or electronic means containing a reasonable allegation that the operator violated the zero tolerance policy established by § 1903.9.

1903.11 Each private sedan business shall establish a policy of zero tolerance for discrimination and discriminatory conduct on the basis of any protected characteristic under D.C. Official Code § 2-1402.31, while a private sedan operator is logged into a private sedan business's associated or affiliated DDS.

1903.12 Discriminatory conduct under § 1903.11 may include but shall not be limited to:

(a) Refusal of service on the basis of a protected characteristic, including refusal of service to an individual with a service animal unless the operator has a documented serious medical allergy to animals on file with the private sedan business;

(b) Using derogatory or harassing language on the basis of a protected characteristic of the passenger under D.C. Official Code § 2-1402.31;

(c) Refusal of service based on the pickup or drop-off location of the passenger;

(d) Refusal of service based solely on an individual's disability which leads to an appearance or to involuntary behavior which may offend, annoy, or inconvenience the operator or another individual; and

(e) Rating a passenger on the basis of a protected characteristic.

1903.13 It shall not constitute discrimination under § 1903.11 for a private sedan operator to refuse to provide service or to cease providing service to an individual who engages in violent, seriously disruptive, or illegal conduct.

1903.14 Each private sedan business shall:

(a) Conduct an investigation when a passenger makes a reasonable allegation that an operator violated the zero tolerance policy established by § 1903.11; and

(b) Immediately suspend, for the duration of the investigation conducted pursuant to subparagraph (a) of this subsection a private sedan operator upon receiving a written complaint from a passenger submitted through regular mail or electronic means containing a reasonable allegation that the operator violated the zero tolerance policy established by § 1903.11.

1903.15 Each private sedan business shall maintain records relevant to the requirements of this section for the purposes of enforcement.

1903.16 Each private sedan business shall register private sedan operators in accordance with the following requirements:

(a) Each individual applying to register with a private sedan business ("applicant") shall be at least twenty-one (21) years of age.

(b) A third party accredited by the National Association of Professional Background Screeners or a successor accreditation entity shall conduct the following examinations:

(1) A local and national criminal background check;

(2) The national sex offender database background check; and

(3) A full driving record check.

(c) A private sedan business shall reject an application and permanently disqualify an applicant who:

(1) As shown in the local or national criminal background check conducted in accordance with subparagraph (b) of this subsection, has been convicted within the past seven (7) years of:

(A) An offense defined as a crime of violence under D.C. Official Code § 23-1331(4);

(B) An offense under Title II of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law l0-257; D.C. Official Code §§ 22-3002 *et seq*.);

(C) An offense under Section 3 of the District of Columbia Protection Against Minors Act of 1982, effective March 9, 1983 (D.C. Law 4-173; D.C. Official Code § 22-3102);

(D) Burglary, robbery, or an attempt to commit robbery under An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1323; D.C. Official Code §§ 22-801, 22-2801 and 22-2802);

(E) Theft in the first degree under Section 112 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3212);

(F) Felony fraud or identity theft under Sections 112, 121, or 127b of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code §§ 22-3212, 22-3221, and 22-3227.02); or

(G) An offense under any state or federal law or under the law of any other jurisdiction in the United States involving conduct that would constitute an offense described in subparagraphs (A), (B), (C), (D), (E), and (F) of this paragraph if committed in the District;

(2) Is a match in the national sex offender registry database;

(3) As shown in the national background check or driving record check conducted in accordance with subparagraphs (b)(l) and (b)(3) of this section, has been convicted within the past seven (7) years of:

(A) Aggravated reckless driving under Section 9(b-1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1123; D.C. Official Code § 50-2201.04 (b-1));

(B) Fleeing from a law enforcement officer in a motor vehicle under section l0b of the District of Columbia Traffic Act, 1925, effective March 16, 2005 (D.C. Law 15-239; D.C. Official Code § 50-2201.05b);

(C) Leaving after colliding under section 10c of the District of Columbia Traffic Act, 1925, effective April 27, 2013 (D.C. Law 19-266; D.C. Official Code § 50-2201.05c);

(D) Negligent homicide under Section 802(a) of An Act To amend an Act of Congress entitled "An Act to establish a

Code of Law for the District of Columbia", approved March 3, 1901, as amended, by adding three new sections to be numbered 802(a), 802(b), and 802(c), respectively, approved June 17, 1935 (49 Stat. 385; D.C. Official Code § 50-2203.01);

(E) Driving under the influence of alcohol or a drug, driving a commercial vehicle under the influence of alcohol or a drug, or operating a vehicle while impaired under Sections 3b, 3c, or 3e of the Anti-Drunk Driving Act of 1982, effective April 27, 2013 (D.C. Law 19-266; D.C. Official Code §§ 50-2206.11, 50-2206.12, and 50-2206.14);

(F) Unauthorized use of a motor vehicle under Section 115 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3215); and

(G) An offense under any state or federal law or under the law of any other jurisdiction in the United States involving conduct that would constitute an offense described in subparts (A), (B), (C), (D), (E), or (F) of this part if committed in the District; or

(4) Has been convicted within the past three (3) years of driving with a suspended or revoked license under Section 13(e) of the District of Columbia Traffic Act,1925, approved March 3,1925 (43 Stat. 1123; D.C. Official Code § 50-1403.01(e)), according to the driving record check conducted in accordance with § 1902.16 (b).

1903.17 Each private sedan business shall allow its operators to use only vehicles which:

(1) Have a manufacturer's rated seating capacity of eight (8) persons or fewer, including the operator;

(2) Have at least four (4) doors and meet applicable federal motor vehicle safety standards for vehicles of its size, type, and proposed use; and

(3) Are not more than ten (10) model years of age at entry into service and not more than twelve (12) model years of age while in service.

1903.18 A private sedan business may offer service at no charge, suggest a donation, or charge a fare, provided however, that if a fare is charged the private sedan business shall comply with the provisions of § 1604.4.

1903.19 Each private sedan business shall possess the insurance required by § 1905 and be registered with the Office as required by § 1905.4.

1903.20 Each private sedan business shall notify the Office immediately upon the suspension or termination of an operator, by providing the operator's name, address, driver's license information, and the vehicle's make, model, year, color, and tag information.

1903.21 Each private sedan business shall designate and maintain one or more individuals with whom the Office shall be able to communicate at all times for purposes of enforcement and compliance under this title and other applicable laws, whom the private sedan business shall identify in its registration under § 1902.4, and shall maintain an email address dedicated exclusively to the purposes of this paragraph.

1903.22 Each private sedan business shall ensure a private sedan operator cannot log in to the app of the private sedan business's associated or affiliated DDS app while the operator is suspended or after the operator is terminated by the private sedan business.

1904 PRIVATE SEDAN OPERATORS – REQUIREMENTS

1904.1 Each private sedan operator shall comply with the following requirements for providing private sedan service in the District:

(a) The operator shall provide service only when registered with and not under suspension by a private sedan business which is registered under this chapter. The provision of private sedan service while under suspension shall be deemed a failure to be registered with any private sedan business.

(b) The operator shall accept trips only through the use of, and when logged into, an app provided by a digital dispatch service, registered under Chapter 16, and associated or affiliated with the private sedan business with which the operator is registered.

(c) The operator shall not solicit or accept a street hail, engage in false dispatch, or use a taxicab or limousine stand.

(d) The operator shall not be logged in to the app of a private sedan business's associated or affiliated digital dispatch service without displaying the trade dress of such private sedan business in the manner required by its trade dress policy as established pursuant to § 1903.8.

(e) The operator shall keep the following items present in the vehicle, readily accessible for inspection by a vehicle inspection officer, police officer, and other District enforcement official:

(1) A current and valid personal driver's license issued by a jurisdiction within the MSA;

(2) Written proof of the personal motor vehicle insurance coverage required by D.C. Official Code § 31-2403; and

(3) A device through which the operator provides service and demonstrates compliance with this title and other applicable laws.

(f) The operator shall fully and timely cooperate with vehicle inspection officers, police officers, and other District enforcement officials, during traffic stops, and during all other enforcement and compliance actions under this title and other applicable laws. A violation of this paragraph shall be treated as a violation of a compliance order under § 702(g).

(g) The operator shall, in the event of an accident arising from or related to the operation of a private sedan originating in or occurring in the District:

(1) Notify the private sedan business with which the operator is associated if required by the private sedan business; and

(2) Notify the Office within three (3) business days if the accident is accompanied by the loss of human life or by serious personal injury without the loss of human life. The notice shall include a copy of each report filed with MPD or other police agency, a copy of each insurance claim made by the private sedan operator, and such other information and documentation as required by the Office.

(h) The operator shall be chargeable with knowledge of the applicable provisions of this title and other applicable laws, applicable notices published in the *D.C. Register,* and applicable administrative issuances, instructions and guidance posted on the Commission's website.

1905 PRIVATE SEDAN BUSINESSES AND OPERATORS - INSURANCE REQUIREMENTS

1905.1 Each private sedan business or private sedan operator shall maintain a primary automobile liability insurance policy that provides coverage for the vehicle and the operator when the operator is engaged in a prearranged ride of at least one million dollars ($1,000,000) per occurrence for accidents involving a private

sedan operator, for all private sedan trips originating in or occurring in the District, under which the District is a certificate holder and a named additional insured.

1905.2 Each private sedan business or private sedan operator shall maintain a primary automobile liability insurance policy that provides coverage for the vehicle and the operator, for all private sedan trips originating in or occurring in the District, under which the District is a certificate holder and a named additional insured, for the time period when the operator is logged in to a private sedan business's DDS, showing that the operator is available to pick up passengers but is not engaged in a prearranged ride.

1905.3 The coverage amounts under § 1905.2 shall be minimum coverage of at least fifty thousand dollars ($50,000) per person per accident, with up to one hundred thousand dollars ($100,000) available to all persons per accident, and twenty-five thousand dollars ($25,000) for property damage per accident and either:

(a) Offers full-time coverage similar to the coverage required under § 15 of the Act;

(b) Offers an insurance rider to, or endorsement of, the operator's personal automobile liability insurance policy as required by § 7 of the Compulsory/No Fault Motor Vehicle Insurance Act (D.C. Official Code §§ 31–2401 *et seq.*); or

(c) Offers a liability insurance policy purchased by the private sedan business that provides primary coverage for the time period in which the operator is logged into the private sedan business's DDS showing that the operator is available to pick up passengers.

1905.4 Each private sedan business that purchases an insurance policy under this chapter shall provide proof to the Office, at the time of registration, that the private sedan business has secured the policy, and shall provide proof of its compliance with § 1905.11 within five (5) business days of such compliance.

1905.5 A private sedan business shall not allow a private sedan operator who has purchased his or her own policy to fulfill the requirements of this chapter to accept a trip request through the DDS used by the private sedan business until the private sedan business verifies that the operator maintains insurance as required under this chapter. If the insurance maintained by a private sedan operator to fulfill the insurance requirements of this chapter has lapsed or ceased to exist, the private sedan business shall provide the coverage required by this chapter beginning with the first dollar of a claim.

1905.6 If more than one insurance policy purchased by a private sedan business provides valid and collectable coverage for a loss arising out of an occurrence involving a motor vehicle operated by a private sedan operator, the responsibility for the claim shall be divided on an equal basis among all of the applicable polices; provided, that a claim may be divided in a different manner by written agreement of all of the insurers of the applicable policies and the policy owners.

1905.7 In a claims coverage investigation, a private sedan business shall cooperate with any insurer that insures the private sedan operator's motor vehicle, including providing relevant dates and times during which an accident occurred that involved the operator to determine whether the operator was logged into a private sedan business's DDS showing that the operator is available to pick up passengers.

1904.8 The insurance requirements set forth in this chapter shall be disclosed on each private sedan business's website, and the business's terms of service shall not contradict or be used to evade the insurance requirements of this chapter.

1905.9 Within ninety (90) days of the effective date of the Vehicle-for-Hire Act, a private sedan business that purchases insurance on an operator's behalf under this chapter shall disclose in writing to the operator, as part of its agreement with the operator:

(a) The insurance coverage and limits of liability that the private sedan business provides while the operator is logged into the business's DDS showing that the operator is available to pick up passengers; and

(b) That the operator's personal automobile insurance policy may not provide coverage, including collision physical damage coverage, comprehensive physical damage coverage, uninsured and underinsured motorist coverage, or medical payments coverage because the operator uses a vehicle in connection with a private sedan business.

1905.10 An insurance policy required by this chapter may be obtained from an insurance company authorized to do business in the District or with a surplus lines insurance company with an AM Best rating of at least A-.

1905.11 Each private sedan business and operator shall have one hundred twenty (120) days from the effective date of the Vehicle-for-Hire Act to procure primary insurance coverage that complies with the requirements of § 1905.2; provided however, that until such time, each private sedan business shall maintain a contingent liability policy meeting at least the minimum limits of § 1905.2 that will cover a claim in the event that the private sedan operator's personal insurance policy denies a claim.

1905.12 Each insurance policy required by this chapter shall provide that the Office receive all notices of policy cancellations and changes in coverage.

1905.13 Each private sedan business shall ensure that the Office receives all notices of policy lapses.

1905.14 Each private sedan business shall file proof of insurance as required by § 1902.11 whenever an insurance policy is obtained to replace an existing, lapsing, terminated, or cancelled policy, including where a private sedan business changes from allowing its associated operators to provide the coverage required by the chapter to providing the coverage itself.

1906 PROHIBITIONS

1906.1 No person shall violate any applicable provision of this chapter.

1906.2 No private sedan operator shall threaten, harass, or engage in abusive conduct, or attempt to use or use physical force against any District enforcement official.

1906.3 No private sedan operator shall provide service if such operator is not registered with a private sedan business registered under this chapter.

1906.4 No private sedan operator shall log in to the app of the DDS associated or affiliated with the private sedan business with which the operator is registered during any period when the operator has been suspended by the private sedan business. An operator suspended by a private sedan business shall be deemed not registered with such private sedan business.

1906.5 No private sedan operator shall provide service while under the influence of illegal intoxicants, or under the influence of legal intoxicants that have been prescribed with a warning against use while driving or operating equipment.

1906.6 No private sedan operator shall solicit or accept a street hail, engage in false dispatch, or use a taxicab or limousine stand.

1906.7 No private sedan operator shall access or attempt to access a passenger's payment information after the payment has been processed.

1906.8 No private sedan operator or private sedan business shall engage in conduct which hinders or prevents the District from receiving an amount which the private sedan business's associated or affiliated digital dispatch service must transmit to OCFO pursuant to § 1604.7.

1906.9 No private sedan business shall commence operating in the District after March 11, 2015, unless it has been granted a registration by the Office pursuant to § 1902.6.

1906.10 No insurance policy which provides the coverage required by this chapter shall contain language that does not conform with this title or the Act.

1906.11 No private sedan business or private sedan operator shall attempt through any means to contradict or evade the requirements of this title or other applicable laws.

1907 PENALTIES

1907.1 Each violation of this chapter by a private sedan operator shall subject the operator to:

(a) A civil fine established by a provision of this chapter;

(b) Impoundment pursuant to the Impoundment Act, where a vehicle is operated without a document required by § 1904.1(e);

(c) Enforcement action other than a civil fine, as provided in Chapter 7; or

(d) A combination of the sanctions enumerated in parts (a) through (c).

1907.2 Each violation of this chapter by a private sedan business shall subject the business to:

(a) A civil fine established by a provision of this chapter;

(b) Enforcement action other than a civil fine, as provided in Chapter 7; or

(c) A combination of the sanctions enumerated in parts (a) and (b).

1907.3 The following civil fines are established for violations of this chapter by a private sedan business or private sedan operator, which shall double for the second violation of the same provision, and triple for the third and subsequent violations of the same provision thereafter:

(a) For a violation of a provision of this chapter, where no civil fine is enumerated:

(1) By a private sedan operator: a civil fine of one hundred fifty dollars ($150); and

(2) By a private sedan business: a civil fine of one thousand dollars ($1,000).

(b) A civil fine of two hundred fifty dollars ($250) for a violation of § 1904.1 (d) by a private sedan operator for failing to display trade dress while providing service;

(c) A civil fine of two hundred fifty dollars ($250) for a violation of § 1904.1 (e)(4) by a private sedan operator for failure to maintain in the vehicle proof of insurance required by § 1905;

(d) A civil fine of two hundred fifty dollars ($250) for a violation of § 1904.1 (g)(2) by a private sedan operator for failure to notify the Office within three (3) business days where there has been an accident accompanied by the loss of human life or by serious personal injury without the loss of human life

(e) A civil fine of one thousand dollars ($1,000) for a violation of § 1905 by a private sedan operator for failure to maintain the insurance required by § 1905;

(f) A civil fine of seven hundred fifty dollars ($750) for a violation of § 1906.2 by a private sedan operator for threatening, harassing, or engaging in abusive conduct toward a District enforcement official;

(g) A civil fine of two thousand five hundred dollars ($2,500) for a violation of § 1906.2 by a private sedan operator for attempting to use or for using physical force against any District enforcement official;

(h) A civil fine of five hundred dollars ($500) for a violation of § 1906.4 by a private sedan operator by logging in to the app if the operator knows the private sedan business is under suspension;

(i) A civil fine of two thousand five hundred dollars ($2,500) for a violation of § 1906.5 by a private sedan operator for providing service while under the influence of an illegal or legal intoxicants;

(j) A civil fine of five hundred dollars ($500) for a violation of § 1906.6 by a private sedan operator for using a taxicab or limousine stand;

(k) A civil fine of seven hundred fifty dollars ($750) for a violation of § 1906.6 by a private sedan operator for soliciting or accepting a street hail;

(l) A civil fine of one thousand dollars ($1,000) for a violation of § 1906.6 by engaging in false dispatch;

(m) A civil fine of three thousand dollars ($3,000) for a violation of § 1903.2 by a private sedan business for failure to maintain a current and accurate registry of the operators and vehicles associated with the business;

(n) A civil fine of one thousand five hundred dollars ($1,500) for a violation of §§ 1903.4-1903.7 by a private sedan business for failure to conduct an appropriate motor vehicle safety inspection or failure to verify that such an inspection has been completed;

(o) A civil fine of three thousand dollars ($3,000) for a violation of §§ 1903.9-1903.14 by a private sedan business for failure to maintain a required zero tolerance policy, failing to investigate a violation, or failure to suspend an operator;

(p) A civil fine of two thousand five hundred dollars ($2,500) for a violation of § 1903.20 by a private sedan business for failure to immediately notify the Office upon the suspension or termination of an operator;

(q) A civil fine of four thousand dollars ($4,000) for a violation of § 1903.21 by a private sedan business for failure to maintain 24/7/365 communication for enforcement and compliance purposes;

(r) A civil fine of two thousand five hundred dollars ($2,500) for a violation of § 1903.22 by a private sedan business for failure to prevent a private sedan operator from logging in to the app of the private sedan business's associated or affiliated digital dispatch service while the operator is suspended or after the operator has been terminated;

(s) A civil fine of three thousand dollars ($3,000) for a violation of § 1903.15 by a private sedan business for failure to maintain business records;

(t) A civil fine of five thousand dollars ($5,000) for a violation of § 1903.16 (b) by a private sedan business for failure to conduct a required check of an operator's criminal background, presence on the national sex offender registry database, or driving record;

(u) A civil fine of seven thousand dollars ($7,500) for a violation of § 1903.16 (b) by a private sedan business for allowing the registration of an operator where the private sedan business knew or should have known the operator was ineligible for registration;

(v) A civil fine not to exceed twenty five thousand dollars ($25,000) per day based on the circumstances, for a violation of § 1905 by a private sedan business, for each day or portion thereof where a private sedan business

fails to maintain in force and effect insurance coverage it has notified the Office it will provide;

(w) A civil fine of five thousand dollars ($5,000) for a violation of § 1905 by a private sedan business other than for a failure to maintain in force and effect insurance coverage it has notified the Office it will provide; and

(x) A civil fine of twenty five thousand dollars ($25,000) per day or portion thereof for a violation of § 1906.8 for engaging in conduct which hinders or prevents the District from receiving an amount which the private sedan business's associated or affiliated digital dispatch service must transmit to OCFO pursuant to § 1604.7, provided however, that a penalty shall not be assessed under both this section and § 1608.2 (b) where a digital dispatch service and a private sedan business are not separate legal entities.

1907.4 An operator charged with a violation of § 1906.7 for false dispatch may be adjudicated liable for the lesser-included violation of solicitation or acceptance of a street hail, in the discretion of the trier of fact based on the evidence presented, but shall not be held liable for both violations.

1907.5 In addition to any other penalty or action authorized by a provision of this title, the Office may report violations to another government agency for appropriate action which may include the denial, revocation or suspension of any license that may be issued by the other agency.

Chapter 99, DEFINITIONS, Section 9901, DEFINITIONS, is amended as follows:

Subsection 9901.1, is amended to add the following definitions:

"App" - an application, as defined in this chapter.

"Application" – a piece of software designed to fulfill a particular purpose, which is downloadable by a user to a mobile device, such as a tablet or smartphone. For purposes of this title, unless otherwise stated, an app's purpose shall be assumed to be the digital dispatch of, or the digital dispatch and digital payment of, trips by vehicles-for-hire.

"Black car" – a luxury class vehicle which operates exclusively through advance reservation made by a digital dispatch service, which may not solicit or accept street hails, and for which the fare is calculated by time and distance. The term "black car" in this title is synonymous with the term "sedan" as defined in the Establishment Act.

"Compulsory/No Fault Motor Vehicle Insurance Act" - the Compulsory/No Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982

(D.C. Law 4-155; D.C. Official Code § 31-2406 (2012 Repl. & 2014 Supp.)).

"Consumer Service Fund" – the Public Vehicle-for-Hire Consumer Service Fund as authorized by the Establishment Act, as defined in this chapter, as amended by the Vehicle-for-Hire Act, as defined in this chapter.

"Digital dispatch" – hardware and software applications and networks, including mobile phone applications, used for the provision of vehicle-for-hire services.

"Digital dispatch service" – a dispatch service that provides digital dispatch for vehicles-for-hire. The phrase "company that uses digital dispatch for public vehicle-for-hire service", as used in the Establishment Act, as amended by the Vehicle-for-Hire Act, shall include only a digital dispatch service, and shall not include any other person regulated by this title in connection with the provision of a public vehicle-for-hire service, such as a taxicab company.

"DISB" – the District of Columbia Department of Insurance, Securities and Banking.

"Dispatch" – a means of booking a vehicle-for-hire through advance reservation.

"Dispatch service" – an organization, including a corporation, partnership, or sole proprietorship, operating in the District that provides telephone or digital dispatch, as defined in this chapter, for vehicles-for-hire.

"District enforcement official" - a vehicle inspection officer or other authorized official, employee, general counsel or assistant general counsel of the Office, or any law enforcement officer authorized to enforce a provision of this title or other applicable law.

"Establishment Act" - the District of Columbia Taxicab Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301 *et seq*. (2012 Repl. & 2014 Supp.).

"Hack Inspector" – a vehicle inspection officer as defined in this chapter.

"Limousine" – a luxury class vehicle which operates exclusively though advance reservation by the owner or operator, which may not solicit or accept street hails, and for which the fare is calculated by time.

"Luxury class vehicle" – a public vehicle-for-hire that:

(a) Has a manufacturer's rated seated capacity of fewer than 10 person;

(b) Is not a salvaged vehicle or a vehicle rented from an entity whose predominant business is that of renting motor vehicles on a time basis; and

(c) Is no more than ten (10) model years of age at entry into service and no more than twelve (12) model years of age while in service.

"MSA" – the Multi-State Area, as defined in this chapter.

"Multi-State Area" – the area comprised of the District of Columbia, the State of Maryland, and the Commonwealth of Virginia.

"Pre-arranged ride" - A period of time that begins when a private sedan operator accepts a requested ride through digital dispatch (an app), continues while the operator transports the passenger in the operator's private sedan, and ends when the passenger departs from the private sedan.

"Private sedan" – a private motor vehicle that shall:

(a) Have a manufacturer's rated seating capacity of eight (8) or fewer, including the private vehicle-for-hire operator;

(b) Have at least four (4) doors and meet applicable federal motor vehicle safety standards for vehicles of its size, type, and propose use; and

(c) Be no more than ten (10) model years of age at entry into service and no more than twelve (12) model years of age while in service.

The term "private sedan" in this title is synonymous with the term "private vehicle-for-hire", as defined in the Establishment Act.

"**Private sedan business" –** an organization, including a corporation, partnership, or sole proprietorship, operating in the District, that uses digital dispatch to connect passengers to a network of operators of private sedans, as defined in this chapter.

"Private sedan operator" – an individual who operates a personal motor vehicle to provide private sedan service, as defined in this chapter, in association with a private sedan business, as defined in this chapter.

"Private sedan service" - a class of transportation service by which a network of private sedan operators, as defined in this chapter, registered with a private sedan business, as defined in this chapter, provides vehicle-for-hire service

through a digital dispatch service, as defined in this chapter.

"Public vehicle-for-hire" – classes of for-hire transportation which exclusively use operators and vehicles licensed by the Office pursuant to D.C. Official Code § 47-2829.

"Taxicab" – a public vehicle-for-hire which may be hired by dispatch or hailed on the street, and for which the fare complies with the provisions of § 801.

"Telephone dispatch" – a traditional means for dispatching a vehicle-for-hire, originating with a telephone call by the passenger. The term "telephone dispatch" in this title is synonymous with the term "dispatch" as defined in the Establishment Act, as amended by the Vehicle-for-Hire Act.

"Trade Dress" – a logo, insignia, or emblem established by a private sedan business for display on its associated vehicles while providing service.

"Vehicle-for-hire" – a public vehicle-for-hire or a private sedan, as defined in this chapter.

"Vehicle-for-Hire Act" – the Vehicle-for-Hire Innovation Amendment Act of 2014, effective March 10, 2015 (D.C. Law 20-0197).

"Vehicle-for-hire industry" – all persons directly involved in providing public vehicle-for-hire and private sedan services, including companies, associations, owners, operators, and any individual who, by virtue of employment or office, is directly involved in providing such services.

"Vehicle inspection officer" – an Office employee trained in the laws, rules, and regulations governing vehicle-for-hire service to ensure the proper provision of service and to support safety through street enforcement efforts, including traffic stops of vehicles-for-hire, pursuant to this title, the Establishment Act, and other applicable laws.

Subsection 9901.1, is amended to remove the following definitions:

"Public vehicle inspection officer" – a Commission employee trained in the laws, rules, and regulations governing public vehicle-for-hire services to ensure the proper provision of service and to support safety through street enforcement efforts, including traffic stops of public vehicles-for-hire, pursuant to protocol established by the Commission

"Vehicle" – a public vehicle-for-hire subject to licensing and regulation by the Commission.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act), effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.0l(a); 38-1202.06)(3),(13) (2012 Repl. & 2015 Supp.)), hereby gives notice of its intent to amend Chapter 1 (Board of Trustees) of Title 8 (Higher Education), Subtitle B (University of the District of Columbia) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the proposed rule is to adjust the minimum number of Regular Meetings which must be held annually consistent with D.C. Official Code § 38-1204.01(a)(1).

The substance of the rules adopted herein was published as a Notice of Proposed Rulemaking in the *D.C. Register* on August 7, 2015 at 62 DCR 10716, for a period of public comment of not less than thirty (30) days, in accordance with D.C. Official Code § 2-505(a) (2012 Supp.). No public comment was received by the Board within the public comment period. The rules were adopted as final on December 18, 2015, and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 1, BOARD OF TRUSTEES, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Section 105, MEETINGS OF THE BOARD OF TRUSTEES, Subsection 105.4 is amended as follows:

105.4 Meetings of the Board of Trustees shall be held in the District of Columbia in accordance with D.C. Official Code § 38-1204.01 (2012 Repl.) and shall be called or scheduled as follows:

(a) Regular Meetings. In accordance with D.C. Official Code § 38-1204.01 (2012 Repl.) the Chairperson or a majority of the members of the Trustees may convene a meeting. Regular meetings of the Board shall be based upon a schedule established by the Chairperson or majority of the members of the Board in consultation with the President. The Board shall conduct at least four (4) regular meetings each year.

(b) Special Meetings. Special meetings of the Board shall be called by the Chairperson, or by a majority of the members of the Board. In the case of a meeting called by the Chairperson or a majority of the members of the Board, the Chairperson or majority shall notify the President in writing not less than forty-eight (48) hours prior to the meeting of the time and place of the meeting.

(c) Emergency Meetings. The Chairperson may call an emergency meeting of the Board by notifying the President as promptly as possible of the nature of the emergency, and the purpose, time, and place of the meeting.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.0l(a); 38-1202.06)(3),(13) (2001 & 2011 Supp.) hereby gives notice of its intent to amend Chapter 2 (Administration and Management) of Title 8 (Higher Education), Subtitle B (University of the District of Columbia) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rule is to eliminate the one year limit on acting appointments and to provide continuation of Academic services until such time that a permanent replacement is hired.

The substance of the rules adopted herein was published as a Notice of Emergency and Proposed Rulemaking in the *D.C. Register* on August 7, 2015 at 62 DCR 10750, for a period of public comment of not less than thirty (30) days, in accordance with D.C. Official Code § 2-505(a) (2012 Supp.). No public comment was received by the Board within the public comment period. The rules were adopted as final on December 18, 2015, and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 2, ADMINISTRATION AND MANAGEMENT, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Section 210, EXECUTIVE APPOINTMENTS: GENERAL PROVISIONS, Subsection 210.4 is amended as follows:

210.4 The President may appoint a current employee to serve in an "acting" status in a position designated to be filled by executive appointment without requiring that employee to resign from his or her current position. Compensation of appointees with "acting" status shall be determined in accordance with the provisions of § 210.6 and other applicable subsections of this chapter. Service in an "acting" status in a position designated to be filled by executive appointment shall be limited to one (1) year. The President shall seek Board approval for an extension forty five (45) days prior to the year ending if he/she determines and can demonstrate that additional time is needed. Should an extension be approved by the Board, the President shall provide the Board immediately with a plan and time line for making the permanent appointment within ninety days (90) of the end of the one (1) year period should the appointment be necessary. The Board may annually approve an extension of an acting appointment for no more than one year at a time, due to extenuating circumstances as determined by the Board.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act), effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.0l(a), 38-1202.06)(3),(13) (2012 Repl. & 2015 Supp.)), hereby gives notice of the intent to amend Chapter 7 (Admissions and Academic Standards) of Title 8 (Higher Education), Subtitle B (University of the District of Columbia) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rule is to adjust tuition rates for degree granting programs beginning in the fall semester of 2016.

The substance of the rules adopted herein was published as a Notice of Proposed Rulemaking in the *D.C. Register* on May 22, 2015 at 62 DCR 6689, for a period of public comment of not less than thirty (30) days, in accordance with D.C. Official Code § 2-505(a) (2012 Repl.). No public comment was received by the Board within the public comment period. The rules were adopted as final on July 14, 2015, and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 7, ADMISSIONS AND ACADEMIC STANDARDS, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Section 728, TUITION AND FEES: DEGREE-GRANTING PROGRAMS, Subsection 728.1 is amended as follows:

728.1 The following tuition and fees have been approved by the Board of Trustees consistent with D.C. Official Code § 38-1202.06(8):

Subsection 728.2 is amended as follows:

728.2 COMMUNITY COLLEGE ASSOCIATE DEGREE-GRANTING PROGRAMS

	Per Credit Hour
Washington, D.C. Residents	$105.00
Metropolitan Area Residents	$177.00
All Other Residents	$298.00

Subsection 728.3 is amended as follows:

728.3 FLAGSHIP BACCALAUREATE DEGREE-GRANTING PROGRAMS

	Per Credit Hour
Washington, D.C. Residents	$291.00

Metropolitan Area Residents	$336.00
All Other Residents	$610.00

Subsection 728.4 is amended as follows:

728.4 FLAGSHIP GRADUATE DEGREE-GRANTING PROGRAMS

	Per Credit Hour
Washington, D.C. Residents	$461.00
Metropolitan Area Residents	$521.00
All Other Residents	$886.00

Subsection 728.5 is amended as follows:

728.5 DAVID A. CLARKE SCHOOL OF LAW DEGREE-GRANTING PROGRAMS FULL TIME PROGRAM STUDENTS (FALL & SPRING SEMESTERS ONLY)

	Per Semester
Washington, D.C. Residents	$5,585.00
All Other Residents	$11,169.00

Subsection 728.6 is amended as follows:

728.6 DAVID A. CLARKE SCHOOL OF LAW DEGREE-GRANTING PROGRAMS ALL OTHER STUDENTS

	Per Credit Hour
Washington, D.C. Residents	$379.00
All Other Residents	$757.00

Subsection 728.7 is amended as follows:

728.7 DEFINITIONS

(a) Full-Time Students. Any undergraduate or community student enrolled in at least twelve (12) credits hours per semester, or any graduate student enrolled in at least nine (9) credit hours per semester, shall be considered a full-time student for the purposes of calculation of tuition in accordance with this chapter. Full-time undergraduate and community college students shall be charged tuition for each semester in which they are enrolled in the amount of twelve (12) credit hours, regardless of the number of credit hours actually taken. Full-time graduate students shall be charged tuition for each semester in which they are enrolled in the amount of nine (9) credit hours, regardless of the number of credit hours actually taken.

(b) Metropolitan Area Residents. Any individual who can establish residency in one of the following counties shall be considered a Metropolitan Area Resident: Montgomery County, Maryland; Prince George's County, Maryland; Arlington County, Virginia; Alexandria County, Virginia; Fairfax County, Virginia. The standards used to establish residency shall be the same standards used to establish residency for District residents.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 14-13
Z.C. Case No. 14-13
(Text Amendment to Chapters 1, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 18, 19, 24, 26, 27, 28, 29, 30, 31, 33, and 35 - Penthouse Regulations)
November 9, 2015

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Repl.)), hereby gives notice of adoption of the following text amendments to Chapters 1, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 18, 19, 24, 26, 27, 28, 29, 30, 31, 33, and 35 of Title 11 (Zoning) of the District of Columbia Municipal Regulations (DCMR). A Notice of Proposed Rulemaking was published in the *D.C. Register* on August 7, 2015, at 62 DCR 10718. The amendments shall become effective upon the publication of this notice in the *D.C. Register*.

Description of the Amendments

The amendments re-define most roof structures as "penthouses" and provide regulation for penthouse height, design, and uses. The proposed rules, in part, provide complimentary regulations needed to effectuate an amendment[1] to the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (2012 Repl.)) (Height Act), which permits occupancy of rooftop penthouses of one (1) story and twenty feet (20 ft.) or less. Because the current Zoning Regulations pertaining to penthouses are in some instances more stringent than what the amendment would permit, the changes to the Height Act cannot be given effect until corresponding changes to the Zoning Regulations are also adopted. The amendments provide, among other things, the uses allowed in penthouses, the height and other area limitations that apply to them, and the affordable housing requirements that are generated by either residential or non-residential uses.

Procedures Leading to Adoption of the Amendments

On July 24, 2014, the Office of Planning (OP) submitted a memorandum that served as a petition and setdown report requesting amendments to the Zoning Regulations to effectuate the recent amendment to the Height Act and to address other identified penthouse related provisions. (Exhibit [Ex.] 1.)

[1] An Act to amend the Act entitled "An Act to regulate the height of buildings in the District of Columbia" to clarify the rules of the District of Columbia regarding human occupancy of penthouses above the top story of the building upon which the penthouse is placed, approved May 16, 2014 (128 Stat. 1155; D.C. Official Code § 6-601.05).

At its regularly scheduled public meeting on July 28, 2014, the Commission considered the proposal and requested that OP work with the Office of the Attorney General to draft text amendment language for the proposal. On September 2, 2014, OP submitted a supplemental report, which included draft language for the amendments, as requested. (Ex. 2.)

In its supplemental report, OP recommended that the Commission amend the regulations as follows:

- Allow twenty feet (20 ft.) of height for all rooftop penthouses and uses within a penthouse, except within low-density residential zones or above one (1)-family dwellings and flats;

- Permit two (2) stories within a rooftop penthouse if located entirely below the Height Act limit, except in overlay zones where penthouse height is currently limited, within low-density residential zones, or above one (1)-family dwellings and flats;

- Eliminate limits on penthouses pertaining to the percentage of roof area and floor-to-area-ratio ("FAR"), allowing a one-to-one (1:1) setback requirement to dictate the maximum area of a penthouse, except to retain the one-third (1/3) of roof area limit in low-density residential zones;

- Allow all forms of habitable space within a penthouse, as permitted by the zone district, except within low-density residential zones; and

- Provide a linkage between new penthouse habitable space and affordable housing.

At the Commission's request, OP also included alternative text to be advertised for the following:

- Retain the current permitted height of eighteen feet, six inches (18 ft. 6 in.) for penthouses; and

- Require that: (1) an equal amount of affordable housing be provided for each square foot of penthouse habitable space; (2) this new affordable housing be targeted at low-income households; and (3) the affordable housing standards be applicable to new habitable penthouse space in all parts of the District, including zones where Inclusionary Zoning (Chapter 26 of Title 11 DCMR) is not otherwise applicable.

At a special public meeting on September 4, 2014, the Commission voted to set down the proposed regulations for a public hearing, including several alternative concepts offered by the Commission. A Notice of Public Hearing was published in the *D.C. Register* on September 19, 2014, at 61 DCR 9547. (Ex. 3.)

On October 27, 2014, OP submitted a hearing report regarding the proposed amendments. On November 6, 2014, the Commission held a properly noticed public hearing at which it heard testimony regarding the amendments.

On November 24, 2014, OP submitted a supplemental report in response to the Commission's request for additional analysis and information regarding the following issues: the definitions of "Story" and "Story, Top"; current solar panel interpretations; uses permitted within a rooftop penthouse for mixed-use zones; the affordable housing linkage for penthouse habitable space in a non-residential building; and the applicability of Inclusionary Zoning to habitable penthouse space in a residential building. (Ex. 40.)

On December 8, 2014, the Commission held a properly noticed public meeting at which the Commissioners deliberated on the proposed amendments, OP's supplemental report, and comments submitted by various members of the public and representatives of community organizations. Specifically, a large number of comments suggested that more discussion and community input was needed before the Commission took further action on the proposed amendments. The Commission requested that OP provide an outline of the various options before the Commission for the proposed regulations and that another public meeting and public hearing be scheduled before the Commission took further action.

On February 13, 2015, OP submitted a supplemental report including the outline of issues and alternatives requested by the Commission. (Ex. 56.) On February 23, 2015, the Commission held a properly noticed public meeting at which the Commissioners deliberated on the proposed amendments.

On April 20, 2015, OP submitted a second hearing report for the proposed regulations. (Ex. 62.) In its report, OP detailed the notice given to the public regarding the proposed amendments, as well as a full discussion of the amendments and the alternatives advertised.

On April 29, 2015, National Capital Planning Commission (NCPC) staff submitted comments regarding the amendments. (Ex. 65.) NCPC noted concern about how the proposed amendments would affect two areas — Independence Avenue, which abuts the National Mall, and Pennsylvania Avenue, N.W., which connects the White House and the United States Capitol. NCPC requested that the Commission review amendments to the penthouse regulations for these two areas as part of the comprehensive Zoning Regulations Review (ZRR), rather than addressing the issue separately before the ZRR.

On April 30, 2015, the United States Secret Service submitted comments expressing concerns about how the proposed amendments would affect White House security. (Ex. 74.)

On April 30, 2015, the Commission held a properly noticed public hearing at which it heard testimony regarding the amendments from various District residents, representatives of community organizations and Advisory Neighborhood Commission (ANC) Single Member Districts, and members of the development community. Additionally, leading up to and following the public hearing, the Commission received a number of written comments regarding the proposed regulations.

On May 29, 2015, OP submitted a supplemental report. (Ex. 119.) The report addressed a number of issues raised by the Commission at the April 30, 2015 hearing. On June 4, 2015, OP submitted a proposed worksheet for the Commission to use during its deliberations on the proposed amendments. (Ex. 121.) The worksheet included a summary of each of the major issues, the alternatives before the Commission for each issue, and OP's recommendation as to each issue.

On June 8, 2015, the Commission held a properly noticed public meeting at which the Commissioners again deliberated on the proposed amendments. At the conclusion of the public meeting, the Commission voted to take proposed action on the amendments as recommended by OP, subject to specific revisions, as follows:

- Detached and Row Dwellings and Flats in All Zones. The Commission proposed not to allow a penthouse by right, but to allow a penthouse of ten feet (10 ft.) and one (1) story by special exception, if approved by the Board of Zoning Adjustment. As proposed, any approved penthouse space would be limited to stair or elevator access to the roof and habitable use only as space ancillary to a rooftop deck not to exceed thirty square feet (30 sq. ft.);

- Other Uses in Residential Zones Permitting a Maximum Building Height of Forty Feet (40 ft.). The Commission proposed to permit a maximum height of ten feet (10 ft.) for habitable space or fifteen feet (15 ft.) for mechanical equipment, stairways, and elevator overrides, measured from the building roof upon which the penthouse sits. As proposed, any penthouse would be limited to one (1) story and to habitable use only as space ancillary to a rooftop deck;

- Other Uses in Zones Permitting a Maximum Height of More than Forty Feet (40 ft.) and up to Fifty Feet (50 ft.). The Commission proposed to permit a maximum height of ten feet (10 ft.) for habitable space or fifteen feet (15 ft.) for mechanical equipment, stairways, and elevator overrides, measured from the building roof upon which the penthouse sits. As proposed, any penthouse would be limited to one (1) story of habitable space, with a second story permitted for mechanical equipment. Additionally, certain uses, such as a bar, restaurant, or nightclub, would be permitted only by special exception, if those uses are also permitted within the zone;

- Other Uses in Zones Permitting a Maximum Height of More than Fifty Feet (50 ft.) and up to Sixty-Five Feet (65 ft.). The Commission proposed to retain the current maximum height of eighteen feet, six inches (18 ft. 6 in.) and limit habitable space to a height of ten feet (10 ft.). As proposed, penthouse habitable space would be limited to one (1) story, with a second story permitted for mechanical equipment. Additionally, certain uses, such as a bar, restaurant, or nightclub, would be permitted only by special exception, if those uses are also permitted within the zone;

- Other Uses in Zones Permitting a Maximum Height of Seventy Feet (70 ft.) or More but Less Than Ninety Feet (90 ft.). The Commission proposed to permit a maximum height of twenty feet (20 ft). As proposed, penthouses would be limited to one (1) habitable story, with a second story permitted for mechanical equipment. Additionally, certain uses, such as a bar, restaurant, or nightclub, would be permitted only by special exception;

- Other Uses in Zones Permitting a Maximum Height of Ninety Feet (90 ft.) or More. The Commission proposed to permit a maximum height of twenty feet (20 ft.), including for habitable space within the Pennsylvania Avenue Development Corporation (PADC) Plan or on property fronting Independence Avenue. As recommended by OP, in response to concerns raised by NCPC regarding these two areas, the Commission proposed to impose an expanded setback requirement in these areas, with a setback-to-height ratio of two-to-one (2:1). As proposed, penthouses would be limited to one (1) habitable story plus a habitable mezzanine level, with a second story permitted for mechanical equipment. Additionally, certain uses, such as a bar, restaurant, or nightclub, would be permitted only by special exception if those uses are also permitted within the zone, and the amendments would incorporate restrictions proposed by the U.S. Secret Service regarding areas surrounding the White House;

- Penthouse Setback. The Commission proposed to incorporate the text regarding setbacks proposed as part of the ZRR, except to clarify that the setback is to be measured from the edge of the roof upon which the penthouse sits and to retain the two-to-one (2:1) setback in the PADC Plan and also impose it on a portion of Independence Avenue;

- Penthouse Area. The Commission proposed to retain the current restriction which limits penthouses to one-third (1/3) of the area of the roof upon which it sits, other than in the C-3-B Zone District, as well as to include the area restrictions for properties fronting on a portion of Independence Avenue. The Commission further proposed to exempt enclosed mechanical space and enclosed communal rooftop recreation space from calculations of FAR, but to count other forms of habitable space towards permitted FAR, except to provide an exemption of zero point four (0.4) FAR for such space;

- Penthouse Design. The Commission proposed to permit up to three (3) different heights for penthouse structures on any given roof — one (1) for covered mechanical equipment, one (1) for habitable space, and one (1) for screening for uncovered mechanical equipment. As proposed, the walls of a penthouse would be required to be vertical, as they currently are, but with a clarification that a wall that is up to twenty percent (20%) from vertical would be considered vertical. Further, all penthouses and mechanical equipment would be required to be placed in a single enclosure, while permitting emergency egress stairwells required by the building code to be in a separate enclosure;

- Affordable Housing. For non-residential buildings in all zones, the Commission proposed to require the owner to produce or financially assist in the production of residential uses that are affordable to low-income households if new habitable space

exceeds one thousand square feet (1,000 sq. ft.). For residential buildings, as proposed, new habitable penthouse space in any zone would be included in Inclusionary Zoning calculations, with one hundred percent (100%) of the resulting inclusionary units being set aside for "low-income households" as defined in § 2602. Further, a contribution to a housing trust fund would be permitted in lieu of providing set-aside units on-site under the circumstances described in a new § 2607.9;

- Parking. The Commission proposed to exempt mechanical space and communal recreation space within a penthouse from parking requirements, but to apply the parking requirements of the relevant zone and use to other habitable space;

- Amendment Process for a Previously Approved Planned Unit Development (PUD) or Design Review Project. The Commission proposed to allow adding habitable penthouse space within such a project, with additional criteria, including that notice be given to any affected ANC as a minor modification pursuant to the Consent Calendar procedures of § 3030;

- Special Exception Review. The Commission proposed to retain the current review criteria for special exception relief from specified penthouse regulations, but to clarify the term "operating difficulties"; and

- Definitions. The Commission proposed to provide definitions for the terms "Height Act" and "Penthouse," and also amend the definitions of "Story" and "Story, top."

Pursuant to the Commission's vote, the proposed amendments were referred to NCPC on June 8, 2015, and again on July 28, 2015, for the thirty (30)-day period of review required under § 492 of the District Charter. A Notice of Proposed Rulemaking was published in the *D.C. Register* on August 7, 2015, at 62 DCR 10718.

At a properly noticed public meeting on July 27, 2015, the Commission considered a request by ANC 4B to extend the deadline for submitting comments beyond the proposed deadline of September 11, 2015. The Commission granted the request, extending the deadline to October 9, 2015.

In a letter dated September 10, 2015, the NCPC Executive Director advised the Zoning Commission that NCPC, at a meeting held September 3, 2015, approved an action in which it noted that the proposed amendments addressed NCPC's prior comments, commended the District of Columbia for working with NCPC and the Secret Service for addressing concerns related to security around the White House, and supported the proposed text amendments to restrict penthouses to one-third (1/3) of the total roof area, with a setback distance equal to two (2) times its height along Independence Avenue, S.W. (Ex. 26.)

In response to the Notice of Proposed Rulemaking, the Commission received a number of comments. Specifically, the Developer Roundtable recommended that the amendments be revised to increase flexibility by permitting a penthouse to have walls of multiple heights,

regardless of the use to which the penthouse is to be put. (Ex. 27.) A representative of the Friendship Neighborhood Association submitted comments stating that the amendments would result in matter-of-right heights and densities that are inconsistent with the Comprehensive Plan. (Ex. 128.) Additionally, Mr. Lindsley Williams submitted comments recommending a number of revisions to the amendments, some substantive and others technical. (Ex. 129.) ANCs 4B and 1C both submitted reports in support of the amendments, while recommending a few revisions, as discussed in detail below. (Ex. 130, 132.) Alma Gates submitted comments stating general opposition to the amendments. (Ex. 131.) Andrea Rosen submitted comments in support of the amendments, as revised. (Ex. 133.) The law firms of Goulston & Storrs PC and Holland & Knight LLP filed comments (Ex. 134 and 136, respectively) recommending a number of revisions to the amendments, both technical and substantive, including that certain types of projects be vested under the existing rules. The Committee of 100 on the Federal City submitted comments in opposition to the proposed amendments. (Ex. 135.) The Kalorama Citizens Association and Lyn Abrams both submitted comments echoing those of ANCs 4B and 1C. (Ex. 137, 139.) Lastly, the Penn-Branch Citizens/Civic Association recommending several revisions to the amendments. (Ex. 138.)

In response to these comments, OP filed a supplemental report dated October 14, 2015. (Ex. 140.) OP stated that it was continuing to prepare corrections and clarifications to the text of the amendments. OP requested additional time prior to final action to complete these revisions, and also requested guidance from the Commission at its upcoming public meeting of October 19, 2015, regarding several issues raised by the comments submitted since the Commission took proposed action. OP also filed a summary of the issues raised in public comments, which was noted to be not a definitive documentation of public comments. (Ex. 141.)

At a properly noticed public meeting on October 19, 2015, the Commission voted to deliberate on the issues raised in OP's supplemental report at its public meeting on October 26, 2015. On October 26, 2015, the Commission deliberated on the issues raised by OP and provided guidance as to the following issues:

- Height and Stories. For zones where the proposed amendments limit penthouse height for mechanical space to fifteen feet (15 ft.), the Commission decided to maintain this limit as proposed, rather than raising this height to sixteen feet, six inches (16 ft., 6 in.). For zones where the proposed amendments limit penthouse height to ten feet (10 ft.), the Commission decided to raise this limit to twelve feet (12 ft.) in order to provide for roof drainage and mechanical systems. With respect to the number of stories permitted, the Commission decided to maintain the proposed amendments rather than limiting the number of permitted stories to only one (1). With respect to the number of different heights permitted for penthouse enclosing walls, the Commission decided to permit multiple heights for penthouses with only mechanical space, one (1) for elevator overrides and another for other mechanical space;

- Penthouse Area. The Commission indicated that the proposed limitation of thirty square feet (30 sq. ft.) applicable to penthouses on one-family dwellings does not include space used for stair and elevator access. The Commission decided to maintain the proposed

exemption of zero point four (0.4) FAR of habitable penthouse space for calculations of building FAR;

- Penthouse Setback. In response to comments from ANCs 4B and 1C, the Commission decided to extend the setback limitations applicable to the R-1 through R-4 Zone Districts to all detached dwellings, semi-detached dwellings, rowhouses, and flats, regardless of the zone district;

- Minor Modifications of Approved PUDs. The Commission decided to maintain the proposed amendments with respect to the minor modification process provided for approved PUDs that incorporate habitable penthouse space;

- Conversions of Existing Nonconforming Penthouses. The Commission indicated that no additional language was needed in order to permit conversions of nonconforming penthouses to habitable use;

- Affordable Housing Requirements. The Commission decided to maintain the existing twenty (20)-year term limit for affordable housing units provided as a requirement for non-residential penthouse space. The Commission also requested that OP study the potential impacts of eliminating this term and instead requiring that affordable units be provided in perpetuity. The Commission declined to exempt institutional and non-profit uses from the proposed affordable housing requirements. With respect to recreation space within a penthouse, the Commission decided to impose the affordable housing requirements on such space in non-residential buildings, but not to subject such space in residential buildings to Inclusionary Zoning requirements. Lastly, the Commission decided to exempt rental units in the South East Federal Center Overlay District from Inclusionary Zoning requirements because those units are subject to separate affordable housing requirements. However, the Commission decided not to exempt condominium units in the overlay because those units are not subject to any separate affordability requirements.

OP submitted a supplemental report dated November 2, 2015, in which it discussed a number of revisions made to the amendments in response to public comments in coordination with the Office of the Attorney General and the Department of Consumer and Regulatory Affairs. (Ex. 142.) These revisions were made pursuant to the guidance and clarification provided by the Commission at its public meeting on October 26, 2015, as discussed above, as well as technical corrections and clarifications of the text of the amendments.

On November 9, 2015, the Commission considered whether to take final action to approve the proposed amendments. The Commission voted to adopt the rule as proposed, subject to the changes it agreed to during its October 26th deliberations, the changes proposed by OP in its November 2nd Report, and two technical changes proposed by OP during its current deliberations. Those two changes involved making a reference to "rowhouses" in § 411.18(c) when discussing penthouse setbacks applicable to buildings used as a detached dwelling, semi-detached dwelling, rowhouses, and flats and providing penthouse setbacks when those building

in any zone or other building in the R-1 through R-4 Zone Districts are on a corner lot. The Commission believes that all of these changes rationally flow from the proposed rules, and therefore no additional notice of proposed rulemaking is required. Both OP and the Office of the Attorney General were granted flexibility to make any conforming or clarifying changes needed, and several such changes were made; such as adding a specific reference to the setback requirement of § 411.18 as one of the exceptions to § 411.3, which exempts penthouses less than four feet (4 ft.) in height above a roof or parapet wall from the requirements of that section. The Commission was not persuaded by comments suggesting the need for vesting provisions and therefore no such provisions were included.

In response to notice given pursuant to § 13 of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10), the Commission received written reports from a number of ANCs.

ANC 7B submitted a report on November 24, 2014. (Ex. 54.) At its public meeting held November 20, 2014, the ANC voted, with a quorum present 4-3 to adopt a resolution stating several concerns. The ANC's primary concern was the complexity and timing of the hearing, which, the ANC stated, did not allow for full public debate and consideration of the proposed amendments. The ANC further objected "to the entire language and thrust of Section 400.7(b)(5)," which was included in the Public Hearing Notice as an alternative to the proposed text. ANC 7B also recommended that § 400.7(c) include a requirement that all R-1 through R-4 Zone Districts permit structures of over four feet (4 ft.) by special exception only. The ANC requested that the Commission hold the record open for an additional ninety (90) days to allow for full public comment, to hold roundtables requiring OP to provide visual representations explaining the intent of the proposed amendments, to make this representation available on the Office of Zoning website, and to coordinate the proposal with the Commission's action to amend the R-4 regulations in Z.C. Case No. 14-11.

ANC 1C submitted three (3) reports regarding the proposed amendments. The first report was dated January 9, 2015. (Ex. 55.) At a duly noticed public meeting held on January 7, 2015, ANC 1C voted, with a quorum present, 6-0 to adopt a resolution regarding the proposed amendments. The ANC recommended that the amendments include the following: allow only a single story of human occupancy within a penthouse; to retain the one-to-one (1:1) setback ratio and one-third (1/3) roof occupancy limitations, particularly for rowhouses, including those in the R-5-B Zone District; impose a ten foot (10 ft.) height limit on penthouses on any rowhouses; and require that any occupied space within a penthouse be included in FAR calculations.

ANC 1C's second report was dated April 30, 2015. (Ex. 73.) It includes an outline of the ANC's position on several issues.[2] The ANC stated that, with respect to the R-5-B Zone District, the proposed amendments are out of character with the Comprehensive Plan in terms of setback and the integrity of residential rowhouse neighborhoods. The ANC stated that, for R-4

[2] The Commission notes that the report does not indicate that these comments were adopted by any vote by the ANC at a duly noticed public meeting. Accordingly, the comments are not entitled to the same "great weight" as the ANC's other reports. However, the Commission has taken these comments into consideration in its decisions regarding the amendments.

and R-5-B Zone Districts, it recommended limiting penthouse heights to ten feet (10 ft.), which would be sufficient for staircase access to a roof. The ANC also supported permitting penthouses on one (1)-family dwellings only by special exception. ANC 1C opposed permitting habitable space in penthouses in the R-5-B Zone District because it would encourage over-development and conversion of one-family structures into multi-unit buildings. Further, the ANC stated that permitting habitable enclosed recreation space in a penthouse in this district would encourage additional noise and density in residential neighborhoods, contrary to the Comprehensive Plan. ANC 1C recommended that setback requirements be applied to all exterior walls, including common walls, in order to avoid structural pressure on such walls and impinging on the development rights of abutting property owners, as well as the potential for snow load problems, interference with chimneys on abutting properties, and fire safety problems. Lastly, ANC 1C reiterated that it was opposed to exempting penthouse enclosed space from FAR calculations.

ANC 1C's third report was dated October 8, 2015. (Ex. 132.) At a properly noticed public meeting on October 7, 2015, ANC 1C voted, with a quorum present, 8-0, to adopt a resolution regarding the proposed amendments. In its report, the ANC noted that the Comprehensive Plan includes an instruction to amend procedures for roof structure review so that a party wall of a rowhouse or a semi-detached house is treated as an exterior wall for purposes of applying zoning regulations and height requirements. The ANC also stated that expansive redevelopment is destructive in rowhouse neighborhoods, and that the market has increasingly incentivized such development. The ANC stated that the proposed amendments incorporate changes from previously proposed alternatives that could forestall the damaging effects of this development, especially with respect to restrictions on height and width. ANC 1C stated that there is no perceptible reason for requiring setback from adjoining walls in R-1 through R-4 Zone Districts where the buildings have the same legal height limit, but, for R-5 and other zones, imposing this requirement only to walls adjacent to a property with a lower permitted height. Accordingly, the ANC recommended extending the setback requirement currently proposed for the R-1 through R-4 Zone Districts to all detached dwellings, semi-detached dwellings, rowhouses, and flats. ANC 1C stated that the proposed amendments would substantially curtail exemptions of habitable penthouse space from gross floor area. The ANC recommended that the amendments prohibit matter-of-right penthouses on any "detached dwelling, semi-detached dwelling, rowhouse or flat in any zone," and limit the use and dimensions of any penthouses by special exception review by enacting proposed § 411.5 and clarifying that thirty square feet (30 sq. ft.) is the maximum floor area of a penthouse. The ANC further recommended that the amendments impose the side-wall setback formula provided in proposed § 411.18(a), with subsection (a)(3) amended so as to apply to any "detached dwelling, semi-detached dwelling, rowhouse or flat in any zone."

ANC 6C submitted a report dated April 13, 2015. (Ex. 60.) At a duly noticed, regularly scheduled meeting, ANC 6C voted, with a quorum present, 6-0-0 to recommend that the amendments limit rowhouse penthouse height to ten feet (10 ft.) and permit such penthouses only by special exception. The ANC stated that it was concerned that penthouses would otherwise be used as a means of circumventing R-4 Zone District height restrictions.

ANC 3D submitted a report on April 14, 2015. (Ex. 61.) At a duly noticed special public meeting on April 9, 2015, ANC 3D voted, with a quorum present, 8-0-0 to adopt a resolution regarding the proposed amendments. The ANC noted the policy embodied in the Land Use Element of the Comprehensive Plan to conserve one-family neighborhoods, which is reiterated in the Rock Creek West Area Element. The ANC stated that most one-family dwellings and low-density apartment and commercial buildings do not have the need for a mechanical penthouse. The ANC further stated that the proposal to permit a penthouse of one (1) story and ten feet (10 ft.) would encourage "tear downs" and new construction and would lead to a loss of the neighborhood character of the Rock Creek West area. The ANC stated that the proposal to allow penthouses in the C-1 and C-2-A Zone Districts would also aesthetically intrude upon the scale, function, and character of the surrounding low-density residential neighborhoods. Accordingly, ANC 3D recommended that the Commission reject the proposal to permit penthouses in areas where the existing height of buildings is limited to fifty feet (50 ft.) or less.

ANC 6B submitted a report dated April 20, 2015. (Ex. 63.) At a regularly scheduled, properly noticed meeting on April 20, 2015, ANC 6B voted, with a quorum present, 10-0-0 in support of the proposed amendments on the condition that rooftop penthouses be permitted in residential areas only by special exception.

ANC 4B submitted a report dated October 7, 2015. (Ex. 130.) At a regularly scheduled public meeting on October 6, 2015, ANC 4B voted, with a quorum present, 7-0 to adopt a resolution regarding the proposed amendments. In its report, the ANC gave comments and recommendations substantially similar to those included in ANC 1C's report submitted October 7, 2015. The ANC further stated that the proposed amendments, with the recommended refinements, would achieve the objectives of the Comprehensive Plan.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give "great weight" to the issues and concerns raised in the written report of the affected ANCs. To satisfy the great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. For this docket the Commission received written reports from ANCs 1C, 3D, 4B, 6B, 6C, and 7B, all of which were described above. In response to these reports, the Commission finds first that, after additional public hearings and meetings, initial concerns regarding the timing and notice for the amendments have been addressed and resolved. Despite, ANC 7B's request to do so, the Commission did not formally coordinate these amendments with those adopted for the R-4 regulations in Z.C. Case No. 14-11, finding that the amendments at issue here merited a full separate discussion. The Commission finds persuasive the requests of multiple ANCs to limit penthouses in residential zones and on detached dwellings, semi-detached dwellings, rowhouses, and flats in all zones. Accordingly, the Commission has incorporated these limitations into the amendments, including a new restriction that a penthouse would be permitted only by special exception, and a limit of thirty square feet (30 sq. ft.) for penthouses on these structures. With respect to FAR calculations, the Commission finds that counting habitable penthouse space towards FAR limitations, but also exempting up to zero-point-four (0.4) FAR, strikes the right balance in order to enable habitable penthouse space to be realized while still imposing moderate restrictions. Likewise, the Commission finds that a

proper balance is struck by permitting habitable penthouse space in zones with a maximum height above forty feet (40 ft.) for structures that are not detached dwellings, semi-detached dwellings, rowhouses, or flats.

With respect to the amendments' consistency with the Comprehensive Plan, the Commission finds persuasive OP's finding, detailed in several reports, that the regulations are not inconsistent with the Comprehensive Plan. (Ex. 1, 6, 119.) With respect to the issue of setback from adjoining walls for buildings used as detached dwellings, semi-detached dwellings, rowhouses, and flats, the Commission finds persuasive the recommendation of ANCs 1C and 4B that the setback requirements for R-1 through R-4 Zone Districts be extended to such building in other zones. Accordingly, the Commission has extended these requirements to all detached dwellings, semi-detached dwellings, rowhouses, and flats, regardless of the zone district.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990, (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001) to give great weight to OP recommendations. The Commission believes that its final determination in this case substantially reflects the recommendation of OP.

For the reasons stated above, the Commission concludes that the adoption of the following text amendments is consistent with the best interests of the public and not inconsistent with the Comprehensive Plan.

Title 11 DCMR, ZONING, is amended as follows:

Chapter 1, THE ZONING REGULATIONS, § 199, DEFINITIONS, § 199.1 is amended as follows:

By inserting the following new definitions for "The Height Act," "Penthouse," "Penthouse habitable space," and "Penthouse mechanical space," in alphabetical order:

Height Act, The - Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09).

Penthouse - A structure on or above the roof of any part of a building. The term includes all structures previously regulated as "roof structures" by § 411 prior to January 8, 2016. Skylights, gooseneck exhaust ducts serving kitchen and toilet ventilating systems, roof mounted antennas, and plumbing vent stacks shall not be considered as penthouses.

Penthouse habitable space - enclosed space within a penthouse devoted to any use permitted in the zone, unless otherwise restricted, other than penthouse mechanical space. The term penthouse habitable space shall include communal recreation space and associated facilities such as storage, kitchen space, change rooms, or lavatories.

Penthouse mechanical space - enclosed space within a penthouse devoted to mechanical equipment for the building, elevator over-rides, or stair towers.

By amending the definition of "Story" to delete the phrases "stairway or elevator" and "other roof structures; provided, that the total area of all roof structures located above the top story shall not exceed one-third (1/3) of the total roof area"; and by amending the definition of "Story, top" to delete the phrase "housing for mechanical equipment or stairway or elevator" so that the definitions will read as follows:

Story - the space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing. The number of stories shall be counted at the point from which the height of the building is measured.

For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars or penthouses.

Story, top - the uppermost portion of any building or structure that is used for purposes other than penthouses. The term "top story" shall exclude architectural embellishments.

Chapter 4, RESIDENCE DISTRICT: HEIGHT, AREA, AND DENSITY REGULATIONS, is amended as follows:

Section 400, HEIGHT OF BUILDINGS OR STRUCTURES (R), is amended as follows:

By amending § 400.1 to add the phrase ", not including the penthouse," so that the entire subsection reads as follows:

400.1 Except as specified in this chapter and in Chapters 20 through 25 of this title, the height of buildings or structures, not including the penthouse, in a Residence District shall not exceed that given in the following table:

ZONE DISTRICT	MAXIMUM HEIGHT (Feet)	MAXIMUM HEIGHT (Stories)
R-1-A, R-1-B, R-2, R-3, R-5-A	40	3
R-5-B	50	no limit
R-5-C	60	no limit
R-5-D	90	no limit
R-5-E	90	no limit
R-4 ZONE DISTRICT		
New construction of 3 or more immediately adjoining one- or two-family row dwellings built concurrently on separate record lots	40	3
All other structures	35	3

By amending §§ 400.5 through 400.8 by repealing §§ 400.7 and 400.8, re-designating the existing text of §§ 400.5 and 400.6 as §§ 400.7 and 400.8 and adding new text to §§ 400.5 and 400.6, so that the subsections will read as follows:

400.5 A penthouse may be erected to a height in excess of that authorized in the district in which it is located. The height of a penthouse, except as restricted in § 400.6 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in any zone in § 411.5, as measured from the surface of the roof upon which the penthouse is located, shall not exceed that given in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
R-1-A, R-1-B, R-2, R-3, R-4, R-5-A	12 ft.	1
R-5-B	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
R-5-C	12 ft., except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
R-5-D	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space
R-5-E	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

400.6 A non-residential building constructed pursuant to §§ 400.7 through 400.12 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6. in.).

400.7 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.); provided, that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the natural grade.

400.8 A church may be erected to a height of sixty feet (60 ft.); provided, that it shall not exceed the number of stories permitted in the district in which it is located.

Section 411, ROOF STRUCTURES (R), is retitled PENTHOUSES (R), and is amended to read as follows:

411.1 A penthouse permitted in this title shall comply with the conditions specified in this section.

411.2 [RESERVED]

411.3 Except for compliance with the setbacks required by § 411.18 and as otherwise noted in this section, a penthouse that is less than four feet (4 ft.) in height above a roof or parapet wall shall not be subject to the requirements of this section.

411.4 A penthouse may house mechanical equipment or any use permitted within the zone, except as follows:

(a) Penthouse habitable space on a detached dwelling, semi-detached dwelling, rowhouse, or flat shall be limited pursuant to § 411.5 below;

(b) Within residential zones and the Capitol Interest Overlay in which the building is limited to forty feet (40 ft.) maximum penthouse use shall be limited to penthouse mechanical space and ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop unenclosed and uncovered deck, terrace, or recreation space;

(c) A nightclub, bar, cocktail lounge, or restaurant use shall only be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104; and

(d) Penthouse habitable space is not permitted on any building within an area bound by I Street, N.W. to the north; Constitution Avenue, N.W. to the south; 19th Street, N.W. to the west, and 13th Street, N.W. to the east.

411.5 Notwithstanding § 411.4, a penthouse, other than screening for rooftop mechanical equipment or a guard-rail required by Title 12 DCMR (*CONSTRUCTION CODE SUPPLEMENT OF 2013*) for a roof deck, shall not be permitted on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in any zone; however, the Board of Zoning Adjustment may approve a penthouse as a special exception under § 3104, provided the penthouse:

(a) Is no more than ten feet (10 ft.) in height and contains no more than one (1) story; and

(b) Contains only stair or elevator access to the roof, and a maximum of thirty square feet (30 sq. ft.) of storage space ancillary to a rooftop deck.

411.6 All penthouses shall be placed in one (1) enclosure, and shall harmonize with the main structure in architectural character, material, and color; except that a rooftop egress stairwell enclosure not containing any other form of habitable or mechanical space may be contained within a separate enclosure.

411.7 Mechanical equipment shall be enclosed fully, except that louvers for the enclosing walls may be provided. A roof over a cooling tower need not be provided when the tower is located at or totally below the top of enclosing walls.

411.8 When roof levels vary by one (1) floor or more or when separate elevator penthouses are required, there may be one (1) enclosure for each elevator penthouse at each roof level.

411.9 Enclosing walls of the penthouse shall be of equal, uniform height as measured from roof level, except that:

(a) Enclosing walls of penthouse habitable space may be of a single different height than walls enclosing penthouse mechanical space;

(b) For a penthouse containing no habitable space, enclosing walls of penthouse mechanical space shall be of a single uniform height except walls enclosing an elevator override may be of a separate uniform height; and

(c) Required screening walls around uncovered mechanical equipment may be of a single, different uniform height.

411.10 Enclosing walls of a penthouse from roof level shall rise vertically to a roof, with a slope not exceeding twenty percent (20%) from vertical.

411.11 The Board of Zoning Adjustment may grant special exceptions under § 3104 from §§ 411.6 through 411.10 and 400.18 upon a showing that:

(a) Operating difficulties such as meeting Building Code requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly, or unreasonable;

(b) The intent and purpose of this chapter and this title will not be materially impaired by the structure; and

(c) The light and air of adjacent buildings will not be affected adversely.

411.12 Penthouses shall not exceed one-third (1/3) of the total roof area upon which the penthouse sits in the following areas:

(a) Zones where there is a limitation on the number of stories other than the C-3-B Zone District; and

(b) Any property fronting directly onto Independence Avenue, S.W. between 12th Street, S.W. and Second Street, S.W.

411.13 For the purposes of calculating floor area ratio for the building, the aggregate square footage of all space on all penthouse levels or stories measuring six and one-half feet (6.5 ft.) or more in height shall be included in the total floor area ratio permitted for the building, with the following exceptions:

(a) Penthouse mechanical space;

(b) Communal recreation space;

(c) Penthouse habitable space, other than as exempted in § 411.13(b), with a floor area ratio of less than four-tenths (0.4); and

(d) Mechanical equipment owned and operated as a penthouse by a fixed right-of-way public mass transit system.

411.14 Areas within curtain walls or screening without a roof, used where needed to give the appearance of one (1) structure, shall not be counted in floor area ratio, but shall be computed as a penthouse to determine if they comply with § 411.12.

411.15 The gross floor area of penthouse habitable space shall be included in calculations to determine the amount of off-street vehicle parking, bicycle parking, and loading as required elsewhere in this title; except that recreation space for residents or tenants of the building or other ancillary space associated with a rooftop deck shall not be included.

411.16 For residential buildings, the construction of penthouse habitable space, except penthouse habitable space devoted exclusively to communal rooftop recreation or amenity space for the primary use of residents of the residential building, is subject to the Inclusionary Zoning set-aside provisions of Chapter 26.

411.17 For non-residential buildings, the construction of penthouse habitable space, including all forms of habitable space, shall trigger the affordable housing requirement as set forth in § 414.

411.18 Penthouses, screening around unenclosed mechanical equipment, rooftop platforms for swimming pools, roof decks, trellises, and any guard rail on a roof shall be set back from the edge of the roof upon which it is located as follows:

(a) A distance equal to its height from the front building wall of the roof upon which it is located;

(b) A distance equal to its height from the rear building wall of the roof upon which it is located;

(c) A distance equal to its height from the side building wall of the roof upon which it is located if:

(1) In any zone, it is on a building used as a detached dwelling, semi-detached dwelling, rowhouse, or flat, that is:

(A) Adjacent to a property that has a lower or equal permitted matter-of-right building height, or

(B) On a corner lot adjacent to a public or private street or alley right-of-way or a public park;

(2) In the R-1 through R-4 Zone Districts, it is on any building not described in (c)(1) that is:

(A) Adjacent to a property that has a lower or equal permitted matter-of-right building height, or

(B) On a corner lot adjacent to a public or private street or alley right-of-way or a public park;

(3) For zones not listed in paragraph (c)(2), it is on a building not described in paragraph (c)(1) that is located adjacent to a property that has a lower permitted matter-of-right building height;

(4) For any zone, it is on a building adjacent to a property improved with a designated landmark or contributing structure to a historic district that is built to a lower height regardless of the permitted matter-of-right building height; and

(5) For any zone, it is on a building with walls that border any court other than closed courts;

(d) A distance equal to one-half (1/2) of its height from any side building wall of the roof upon which it is located that is not adjoining another building wall and not meeting the conditions of paragraphs (c)(1) through (5); or

(e) A distance equal to two (2) times its height from any building wall of the roof upon which it is located which fronts onto Independence Avenue, S.W. between 12th Street, S.W. and 2nd Street, S.W., or fronting onto Pennsylvania Avenue, N.W. between 3rd Street, N.W and 15th Street, N.W., subject to any penthouse constraints contained within adopted PADC Guideline documents.

411.19 For the administration of this section, mechanical equipment shall not include telephone equipment, radio, television, or electronic equipment of a type not necessary to the operation of the building or structure. Antenna equipment cabinets and antenna equipment shelters shall be regulated by Chapter 27 of this title.

411.20 [RESERVED]

411.21 [RESERVED]

411.22 [RESERVED]

411.23 [RESERVED]

411.24 A request to add penthouse habitable space to a building approved by the Zoning Commission as a planned unit development or through the design review requirements of Chapters 16, 18, 28, or 29 prior to January 8, 2016, may be filed as a minor modification for placement on the Zoning Commission consent calendar, pursuant to § 3030 provided:

(a) The item shall not be placed on a Consent Calendar for a period of thirty (30) days minimum following the filing of the application; and

(b) The Office of Planning shall submit a report with a recommendation a minimum of seven (7) days in advance of the meeting.

411.25 In addition to meeting the requirements of § 3030, an application made pursuant to § 411.24 shall include:

(a) A fully dimensioned copy of the approved and proposed roof plan and elevations as necessary to show the changes;

(b) A written comparison of the proposal to the Zoning Regulations; and

(c) Verification that the affected ANC has been notified of the request.

411.26 Pursuant to § 5 of the Height Act, D.C. Official Code § 601.05(h), a penthouse may be erected to a height in excess of that permitted therein if authorized by the Mayor or his or her designee and subject to the setback and other restrictions stated in the Act.

By adding a new § 414, AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION ON A NON-RESIDENTIAL BUILDING OF PENTHOUSE HABITABLE SPACE, to read as follows:

414 AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION ON A NON-RESIDENTIAL BUILDING OF PENTHOUSE HABITABLE SPACE

414.1 The owner of a non-residential building proposing to construct penthouse habitable space shall produce or financially assist in the production of residential uses that are affordable to low-income households, as those households are defined by § 2601.1, in accordance with this section.

414.2 The requirements of this provision shall be triggered by the filing of a building permit application that, if granted, would result in the amount of penthouse habitable space exceeding one thousand square feet (1,000 sq. ft.).

414.3 The requirements of this section shall not apply to properties owned by the District government or the Washington Metropolitan Area Transit Authority and used for government or public transportation purposes.

414.4 Qualifying residential uses include one (1)-family dwellings, flats, multiple-family dwellings, including apartment houses, rooming houses, and boarding houses, but shall not include transient accommodations, all as defined in § 199.1.

414.5 If the owner constructs or rehabilitates the required housing, the provisions of §§ 414.6 through 414.11 shall apply.

414.6 The gross square footage of new or rehabilitated housing shall equal:

(a) Not less than one-fourth (1/4) of the proposed penthouse habitable space if the required housing is situated on an adjacent property;

(b) Not less than one-third (1/3) of the proposed penthouse habitable space if the location of the required housing does not comply with paragraph (a) of this subsection, but is nonetheless within the same Advisory Neighborhood Commission area as the property, or if it is located within a Housing Opportunity Area as designated in the Comprehensive Plan; and

(c) Not less than one-half (1/2) of the proposed penthouse habitable space if the location of the required housing is other than as approved in paragraphs (a) and (b) above.

414.7 If the housing is provided as new construction, the average square feet of gross floor area per dwelling or per apartment unit shall be not less than eight hundred and fifty square feet (850 sq. ft.); provided, that no average size limit shall apply to rooming houses, boarding houses, or units that are deemed single-room occupancy housing.

414.8 For purposes of this section, the word "rehabilitation" means the substantial renovation of housing for sale or rental that is not habitable for dwelling purposes because it is in substantial violation of the Housing Regulations of the District of Columbia (14 DCMR).

414.9 In the case of rental housing, the required housing shall be maintained as affordable dwelling units for not less than twenty (20) years beginning on the issuance date of the first certificate of occupancy for the residential development, or if for a one (1)-family dwelling, the effective date of the first lease agreement.

414.10 If the required housing is provided for home ownership, it shall be maintained as affordable dwelling units for not less than twenty (20) years beginning on the issuance date of the first certificate of occupancy for the residential development, or if for a one-family dwelling, the effective date of the first sales agreement.

414.11 No certificate of occupancy shall be issued for the owner’s building to permit the occupancy of penthouse habitable space until a certificate of occupancy has been issued for the housing required pursuant to this section, or in the case of a

residential unit for which a certificate of occupancy is not required, prior to the final building inspection.

414.12 If the owner instead chooses to contribute funds to a housing trust fund, as defined in § 2499.2, the provisions of §§ 414.13 through 414.16 shall apply.

414.13 The contribution shall be equal to one-half (1/2) of the assessed value of the proposed penthouse habitable space.

414.14 The assessed value shall be the fair market value of the property as indicated in the property tax assessment records of the Office of Tax and Revenue no earlier than thirty (30) days prior to the date of the building permit application to construct the penthouse habitable space.

414.15 The contribution shall be determined by dividing the assessed value per square foot of land that comprises the lot upon which the building is or will be located by the maximum permitted non-residential FAR and multiplying that amount times the penthouse habitable space to be constructed.

414.16 Not less than one-half (1/2) of the required total financial contribution shall be made prior to the issuance of a building permit for construction of the penthouse habitable space, and the balance of the total financial contribution shall be made prior to the issuance of a certificate of occupancy for any or all of the building's penthouse habitable space.

Chapter 5, SPECIAL PURPOSE DISTRICTS, is amended as follows:

Section 530, HEIGHT (SP), is amended as follows:

By amending § 530.1 to add the phrase ", not including a penthouse," so that the entire subsection reads as follows:

530.1 Except as specified in §§ 530 through 537 and in Chapters 20 through 25 of this title, the height of buildings or structures, not including a penthouse, in an SP Zone District shall not exceed the height set forth in the following table:

By amending § 530.4 to delete the phrase "over elevator shafts" so that the entire subsection reads as follows:

530.4 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.

By amending § 530.5 to read as follows:

530.5 A penthouse may be erected to a height in excess of that which this section otherwise authorizes but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
SP-1	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
SP-2	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

Subsection 530.6 is repealed.

Section 537, ROOF STRUCTURES (SP) is renamed PENTHOUSES (SP), and is amended as follows:

By amending § 537.1 to replace the phrase "roof structures" with "penthouses" so that the subsection reads as follows:

537.1 The provisions of § 411 shall also regulate penthouses in SP Zone Districts.

Subsection 537.2 is repealed.

Chapter 6, MIXED USE, COMMERCIAL RESIDENTIAL) DISTRICTS, is amended as follows:

Section 630, HEIGHT (CR), is amended as follows:

By amending § 630.1 to add the phrase ", not including a penthouse," so that the entire subsection reads as follows:

630.1 Except as provided in this section, the height of buildings and structures, not including a penthouse, shall not exceed ninety feet (90 ft.).

Subsection § 630.4 is amended to read as follows:

630.4 A penthouse may be erected to a height in excess of that which this section otherwise authorizes, but shall not exceed a height of twenty feet (20 ft.) or one (1) story, as measured from the surface of the roof upon which the penthouse sits. A mezzanine for habitable or mechanical space is permitted; and a second story is permitted for penthouse mechanical space only.

Subsection 630.5 is repealed.

Section 639, ROOF STRUCTURES (CR) is renamed PENTHOUSES (CR), and is amended as follows:

By amending § 639.1 to replace the phrase "roof structures" with "penthouses" to read as follows:

639.1 The provisions of § 411 shall also regulate penthouses in CR Zone Districts.

Subsection 639.2 is repealed.

Chapter 7, COMMERCIAL DISTRICTS, is amended as follows:

Section 770, HEIGHT OF BUILDINGS AND STRUCTURES (C), is amended as follows:

By amending § 770.1 to add the phrase ", not including a penthouse," so that the entire subsection reads as follows:

770.1 Except as provided in this section and in Chapters 17 and 20 through 25 of this title, the height of a building or structure, not including a penthouse, in a Commercial District shall not exceed that set forth in the following table:

Subsection § 770.3 is amended by deleting the phrase "over elevator shafts" so that the entire subsection reads as follows:

770.3 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this sections otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.

Subsection 770.6 is amended to read as follows:

770.6 A penthouse may be erected to a height in excess of that which this section otherwise authorizes but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
C-1, C-2-A	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
C-2-B, C-3-A	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
C-2-B-1, C-3-B	20 ft.	1; second story permitted for penthouse mechanical space
C-2-C; C-3-C; C-4; C-5	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

Subsections 770.7 and 770.8 are repealed.

Section 777, ROOF STRUCTURES (C) is renamed PENTHOUSES (C), and is amended as follows:

By amending § 777.1 to replace the phrase "roof structures" with "penthouses" to read as follows:

777.1 The provisions of § 411 shall also regulate penthouses in the Commercial Districts.

Subsection 777.2 is repealed.

Chapter 8, INDUSTRIAL DISTRICTS, is amended as follows:

Section 840, HEIGHT OF BUILDINGS AND STRUCTURES (C-M, M), is amended as follows:

By amending § 840.1 to add the phrase ", not including a penthouse," so that the entire subsection reads as follows:

840.1 Except as provided in § 840.2 and in Chapters 20 through 25 of this title, the height of buildings or structures, not including a penthouse, in an Industrial District shall not exceed that given in the following table:

By amending § 840.2 to delete the phrase "over elevator shafts" so that the entire subsection reads as follows:

840.2 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.

Subsection 840.3 is amended to read as follows:

840.3 A penthouse may be erected to a height in excess of that which this section otherwise authorizes but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
CM-1	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
CM-2	12 ft. except 18 ft. 6 in. for penthouse	1; second story permitted for

	mechanical space	penthouse mechanical space
CM-3, M	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

Subsections 840.4 and 840.5 are repealed.

Section 845, ROOF STRUCTURES (C-M, M) is renamed PENTHOUSES (C-M, M), and is amended as follows:

By amending § 845.1 to replace the phrase "roof structures" with "penthouses" to read as follows:

845.1 Section 411 shall be applicable to penthouses in the Industrial Districts.

Subsection 845.2 is repealed.

Chapter 9, WATERFRONT DISTRICTS, is amended as follows:

Section 930, HEIGHT OF BUILDINGS AND STRUCTURES (W), is amended as follows:

By amending § 930.1 to add the phrase ", not including a penthouse," so that the entire subsection reads as follows:

930.1 Except as provided in this section, the height of buildings and structures, not including a penthouse, shall not exceed the maximum height in the following table:

By amending § 930.2 to delete the phrase "over elevator shafts" so that the entire subsection reads as follows:

930.2 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews or mayoral approvals.

Subsection 930.3 is amended to read as follows:

930.3 A penthouse may be erected to a height in excess of that which this section otherwise authorizes but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
W-0; W-1	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space

W-2	12 ft., except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
W-3	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

Subsection 930.4 is repealed.

Section 936, ROOF STRUCTURES (W) is renamed PENTHOUSES (W), and is amended as follows:

By amending § 936.1 to replace the phrase "roof structures" with "penthouses" to read as follows:

936.1 The provisions of § 411 shall apply to penthouses in the Waterfront Zone Districts.

Subsection 936.2 is repealed.

Chapter 12, CAPITOL INTEREST OVERLAY DISTRICT, is amended as follows:

Section 1203, HEIGHT, AREA, AND BULK REGULATIONS, is amended as follows:

By amending § 1203.2(a) to delete the phrase "over elevator shaft", and to replace § 1203.2(b) in its entirety so that the entire subsection reads as follows:

1203.2 The height of buildings or structures as specified in § 1203.1 may be exceeded in the following instances:

(a) A spire, tower, dome, minaret, pinnacle, or penthouse may be erected to a height in excess of that authorized in § 1203.1; and

(b) If erected or enlarged, a penthouse may be erected to a height in excess of that authorized in the zone district in which located; provided that:

(1) It meets the requirements of § 411; and

(2) It does not exceed ten feet (10 ft.) or one (1) story in height above the roof upon which it is located.

Subsection 1203.4 is repealed.

Chapter 13, NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT, is amended as follows:

Section 1305, PLANNED UNIT DEVELOPMENT GUIDELINES, is amended as follows:

By amending § 1305.1 to add the word "penthouse" to reads as follows:

1305.1 In the NC Overlay District, the matter-of-right height**,** penthouse**,** and floor area ratio limits shall serve as the guidelines for planned unit developments.

Section 1307, WOODLEY PARK NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT, is amended as follows:

The existing §§ 1307.7 and 1307.8 are renumbered 1307.8 and 1307.9, respectively. A new § 1307.7 is added to read as follows:

1307.7 A penthouse within the WP/C-2-A or WP/C-2-B Overlay Districts may be erected to a height in excess of that authorized in the zone district in which located; provided that:

(a) The maximum permitted height shall be twelve feet (12 ft.) above the roof upon which it is located, except that the maximum permitted height for penthouse mechanical space shall be fifteen feet (15 ft.); and

(b) The maximum permitted number of stories within the penthouse shall be one (1) except that a second story for mechanical equipment only shall be permitted.

Section 1309, EIGHTH STREET SOUTHEAST NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT, is amended by adding a new § 1309.8 to read as follows:

1309.8 A penthouse within the ES Overlay District may be erected to a height in excess of that authorized in the zone district in which located; provided, that:

(a) The maximum permitted height shall be twelve feet (12 ft.) above the roof upon which it is located, except that the maximum permitted height for penthouse mechanical space shall be fifteen feet (15 ft.); and

(b) The maximum permitted number of stories within the penthouse shall be one (1).

Chapter 14, REED-COOKE OVERLAY DISTRICT, is amended as follows:

Section 1402, HEIGHT AND BULK PROVISIONS, is amended as follows:

Subsection 1402.2 is amended to read as follows:

1402.2 For the purpose of this chapter, no planned unit development shall exceed the matter-of-right building height, bulk, and area requirements or penthouse provisions of the underlying zone district.

By adding new §§ 1402.4 and 1402.5 to read as follows:

1402.4 If erected or enlarged as provided in § 411, a penthouse within the RC/C-2-A or RC/R-5-B Overlay Districts may be erected to a height in excess of that authorized in the zone district in which located; provided, that:

(a) The maximum permitted height shall be twelve feet (12 ft.) above the roof upon which it is located, except that the maximum permitted height for penthouse mechanical space shall be fifteen feet (15 ft.);

(b) The maximum permitted number of stories within the penthouse shall be one (1); and

(c) It shall contain no form of habitable space, other than ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop deck, terrace, or recreation space.

1402.5 A penthouse within the RC/C-2-B Overlay District may be erected to a height in excess of that authorized in the zone district in which located; provided, that:

(a) The maximum permitted height shall be twelve feet (12 ft.) above the roof upon which it is located, except that the maximum permitted height for penthouse mechanical space shall be fifteen feet (15 ft.); and

(b) The maximum permitted number of stories within the penthouse shall be one (1), except that a second story for mechanical equipment only shall be permitted.

Chapter 15, MISCELLANEOUS OVERLAY DISTRICTS, is amended as follows:

Section 1503, PLANNED UNIT DEVELOPMENT (DC), § 1503.1 is amended read as follows:

1503.1 In the DC Overlay District, the matter-of-right building height, penthouse height, and floor area ratio limits shall serve as the maximum permitted building height, penthouse height, and floor area ratio for a planned unit development.

Section 1524, PLANNED UNIT DEVELOPMENT (FB), § 1524.1 is amended to read as follows:

1524.1 In the FB Overlay District, the matter-of-right building height, penthouse height, and floor area ratio limits shall serve as the maximum permitted building height, penthouse height, and floor area ratio for planned unit developments.

Section 1534, HEIGHT, AREA, AND BULK REGULATIONS (NO), § 1524.4 is amended to read as follows:

1534.4 Except as limited in § 411.5, a penthouse within the NO Overlay District may be erected to a height in excess of that authorized in the zone district in which located; provided, that:

(a) The maximum permitted height shall be twelve feet (12 ft.) above the roof upon which it is located, except that the maximum permitted height for penthouse mechanical space shall be fifteen feet (15 ft.);

(b) The maximum permitted number of stories within the penthouse shall be one (1); and

(c) It shall contain no form of habitable space, other than ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop deck, terrace, or recreation space.

Section 1563, HEIGHT, BULK, AND USE PROVISIONS (FT), § 1563.4 is amended to read as follows:

1563.4 The maximum bulk and height of a new building for a newly established use in the underlying CR Zone District shall be 5.0 FAR and eighty feet (80 ft.) in height, inclusive of a penthouse, which shall be limited to one (1) story maximum.

Section 1572, HEIGHT AND FLOOR AREA RATIO RESTRICTIONS (CHC), is amended by adding a new § 1572.5 to read as follows:

1572.5 A penthouse within the CHC Overlay District shall conform to the height and use provisions in the underlying Commercial District.

Chapter 16, CAPITOL GATEWAY OVERLAY DISTRICT, is amended as follows:

Section 1601, BONUS DENSITY AND HEIGHT (CG), is amended by adding a new § 1601.7 to read as follows:

1601.7 The provisions of § 411 shall apply to penthouses in the CG Overlay.

Chapter 18, SOUTHEAST FEDERAL CENTER OVERLAY DISTRICT, is amended as follows:

Section 1806, PLANNED UNIT DEVELOPMENT, is amended as follows:

By amending § 1806.1 to add the words "penthouse height" to read as follows:

1806.1 The matter-of-right height, penthouse height, and floor area ratio limits shall serve as the maximums of permitted building height, penthouse height, and floor area ratio for a planned unit development (PUD) in the SEFC Overlay District.

By adding a new § 1811, PENTHOUSES, to read as follows:

1811 PENTHOUSES

1811.1 The provisions of § 411 shall apply to penthouses in the SEFC Overlay, except that the provisions of § 411.16, governing the application of Chapter 26 of this title, shall not apply to residential rental buildings.

Chapter 19, UPTOWN ARTS-MIXED USE (ARTS) OVERLAY DISTRICT, § 1902, HEIGHT AND BULK, § 1902.1(a) is amended to add the phrase "or exceed one (1) story" to reads as follows:

1902.1 …

(a) No penthouse permitted by this title shall exceed a height of eighty-three and one-half feet (83.5 ft.) above the measuring point used for the building, or exceed one (1) story; and

Chapter 24, PLANNED UNIT DEVELOPMENT PROCEDURES, is amended as follows:

Section 2405, PUD STANDARDS, is amended as follows:

Subsection 2405.1 is amended to read as follows:

2405.1 Except as limited by an overlay, no building or structure shall exceed the maximum height permitted in the least restrictive zone district within the project area as indicated in the following table; and no penthouse shall exceed the maximum height permitted; provided, that the Zoning Commission may authorize minor deviations for good cause pursuant to § 2405.3:

ZONE DISTRICT	MAXIMUM HEIGHT	MAXIMUM PENTHOUSE HEIGHT
R-1-A, R-1-B, R-2, R-3, C-1, W-0	40 ft.	12 ft. /1 story
R-4, R-5-A, R-5-B,	60 ft.	15 ft./1 story; second story permitted for penthouse mechanical space
W-1, W-2, C-M-1	60 ft.	18 ft. 6 in./1 story; second story permitted for penthouse mechanical space
C-2-A	65 ft.	18 ft. 6 in./1 story; second story permitted for penthouse mechanical space
R-5-C, SP-1	75 ft.	20 ft./1 story; second story permitted for penthouse mechanical space
R-5-D, R-5-E, SP-2, C-2-B, C-2-B-1, C-2-C, C-3-A, C-3-B, W-3, C-M-2,	90 ft.	20 ft. /1 story plus mezzanine; second story permitted for penthouse mechanical space

ZONE DISTRICT	MAXIMUM HEIGHT	MAXIMUM PENTHOUSE HEIGHT
C-M-3, M		
CR	110 ft.	20 ft./1 story plus mezzanine; second story permitted for penthouse mechanical space
C-3-C, C4, C-5 (PAD)	130 ft.	20 ft. /1 story plus mezzanine; second story permitted for penthouse mechanical space
C-5 (PAD) (Where permitted by the Building Height Act of 1910, D.C. Official Code § 6-601.05(b) (formerly codified at D.C. Code §5-405(b) (1994 Repl.)), along the north side of Pennsylvania Avenue)	160 ft.	20 ft./1 story plus mezzanine; second story permitted for penthouse mechanical space

By amending § 2405.3 (a) to add the word "building" and the phrase "but not the maximum penthouse height" so that the entire subsection reads as follows:

2405.3 The Zoning Commission may authorize the following increases; provided, that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of this chapter, or with respect to FAR, is for the purpose of a convention headquarters hotel on Square 370:

(a) Not more than five percent (5%) in the maximum building height but not the maximum penthouse height; or

(b) Not more than five percent (5%) in the maximum FAR.

Chapter 26, INCLUSIONARY ZONING, is amended as follows:

Section 2602, APPLICABILITY, is amended as follows:

By amending § 2602.1 to add a new subsection (d) so that the entire subsection reads as follows:

2602.1 Except as provided in § 2602.3, the requirements and incentives of this chapter shall apply to developments that:

(a) Are mapped within the R-2 through R-5-D, C-1 through C-3-C, USN, CR, SP, StE, and W-1 through W-3 Zone Districts, unless exempted pursuant to § 2602.3;

(b) Have ten (10) or more dwelling units (including off-site inclusionary units);

(c) Are either:

(1) New multiple-dwellings;

(2) New one (1)-family dwellings, row dwellings, or flats constructed concurrently or in phases on contiguous lots or lots divided by an alley, if such lots were under common ownership at the time of construction;

(3) An existing development described in subparagraph (i) or (ii) for which a new addition will increase the gross floor area of the entire development by fifty percent (50%) or more; or

(d) Consist of a residential building, other than a one (1)-family dwelling or flat, that has penthouse habitable space pursuant to § 411.16.

By amending § 2602.3(a) and (e) to add the phrase "except for new penthouse habitable space described in § 2602.1(d)" so that the entire subsection reads as follows:

2602.3 This chapter shall not apply to:

(a) Hotels, motels, or inns, except for new penthouse habitable space as described in § 2602.1(d);

(b) Dormitories or housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff;

(c) Housing that is owned or leased by foreign missions exclusively for diplomatic staff;

(d) Rooming houses, boarding houses, community-based residential facilities, single room occupancy developments; or

(e) Except for new penthouse habitable space as described in § 2602.1(d), properties located in any of the following areas:

(1) The Downtown Development or Southeast Federal Center Overlay Districts;

(2) The Downtown East, New Downtown, North Capitol, Southwest, or Capitol South Receiving Zones on February 12, 2007;

(3) The W-2 zoned portions of the Georgetown Historic District;

(4) The R-3 zoned portions of the Anacostia Historic District;

(5) The C-2-A zoned portion of the Naval Observatory Precinct District; and

(6) The Eighth Street Overlay.

Section 2603, SET-ASIDE REQUIREMENTS, is amended as follows:

By amending § 2603.1 to add the phrase "including penthouse habitable space as described in § 2602.1(d)," so that the entire subsection reads as follows:

2603.1 Except as provided in § 2603.8, an inclusionary development for which the primary method of construction does not employ steel and concrete frame structure located in an R-2 through an R-5-B Zone District or in a C-1, C-2-A, W-0, or W-1 Zone District shall devote the greater of ten percent (10%) of the gross floor area being devoted to residential use including penthouse habitable space as described in § 2602.1(d), or seventy-five percent (75%) of the bonus density being utilized for inclusionary units.

By amending § 2603.2 to add the phrase "including floor area devoted to penthouse habitable space as described in § 2602.1(d)," so that the entire subsection reads as follows:

2603.2 An inclusionary development of steel and concrete frame construction located in the zone districts stated in § 2603.1 or any development located in a C-2-B, C-2-B-1, C-2-C, C-3, CR, R-5-C, R-5-D, R-5-E, SP, USN, W-2, or W-3 Zone District shall devote the greater of eight percent (8%) of the gross floor area being devoted to residential use including floor area devoted to penthouse habitable space as described in § 2602.1(d), or fifty percent (50%) of the bonus density being utilized for inclusionary units.

By amending §§ 2603.3 and 2603.4 to add references to new § 2603.10 so that both subsections will read as follows:

2603.3 Except as provided in §§ 2603.9 and 2603.11, inclusionary developments located in R-3 through R-5-E, C-1, C-2-A, StE, W-0, and W-1 Zone Districts shall set aside fifty percent (50%) of inclusionary units for eligible low-income households and fifty percent (50%) of inclusionary units for eligible moderate-income households. The first inclusionary unit and each additional odd number unit shall be set aside for low-income households.

2603.4 Except as provided in § 2603.10, developments located in CR, C-2-B through C-3-C, USN**,** W-2 through W-3, and SP Zone Districts shall set aside one hundred percent (100%) of inclusionary units for eligible moderate-income households.

By adding a new § 2603.10 to read as follows:

2603.10 Notwithstanding §§ 2603.3 and 2603.4, one hundred percent (100%) of inclusionary units resulting from the set-aside required for penthouse habitable space shall be set aside for eligible low-income households.

Section 2607, OFF-SITE COMPLIANCE, is amended by adding a new § 2607.9 to read as follows:

2607.9 Inclusionary Units resulting from the set-aside required for penthouse habitable space as described in § 2602.1(d) shall be provided within the building, except that the affordable housing requirement may be achieved by providing a contribution to a housing trust fund, consistent with the provisions of §§ 414.13 through 414.16 when:

(a) The new penthouse habitable space is being provided as an addition to an existing building which is not otherwise undergoing renovations or additions that would result in a new or expanded Inclusionary Zoning requirement within the building;

(b) The penthouse habitable space is being provided on an existing or new building not otherwise subject to Inclusionary Zoning requirements; or

(c) The building is not otherwise required to provide inclusionary units for low-income households and the amount of penthouse habitable space would result in a gross floor area set-aside less than the gross floor area of the smallest dwelling unit within the building.

Section 2608, APPLICABILITY DATE, is amended as follows:

By amending § 2608.2 to add the phrase "With the exception of penthouse habitable space approved by the Zoning Commission pursuant to § 411.24", so that the entire subsection reads as follows:

2608.2 With the exception of penthouse habitable space approved by the Zoning Commission pursuant to § 411.24, the provisions of this chapter shall not apply to any building approved by the Zoning Commission pursuant to Chapter 24 if the approved application was set down for hearing prior to March 14, 2008.

Chapter 27, REGULATIONS OF ANTENNAS, ANTENNA TOWERS, AND MONOPOLES, Section 2707, EXEMPTED ANTENNAS, § 2707.1(b) is amended to remove all references to roof structures so that the entire subsection reads as follows:

2707.1 The requirements of §§ 2703 through 2706 shall not apply to any antenna that is:

(a) Entirely enclosed within a building but is not the primary use within the building;

(b) Entirely enclosed on all sides by a penthouse, or an extension of penthouse walls; this subsection shall not be interpreted to permit a penthouse in excess of the permitted height above the roof upon which it is located;

(c) Located entirely behind and no taller than the parapet walls; or

(d) No taller than eighteen inches (18 in.) in height and necessary for the implementation of expanded 911 or emergency communications.

Chapter 28, HILL EAST (HE) ZONE DISTRICT, is amended as follows:

Section 2809 is renamed "PENTHOUSES (HE)" and is amended as follows:

By amending § 2809.1 to delete the phrase "and 400.7" so that the subsection reads as follows:

2809.1 The provisions of § 411 shall apply to penthouses in the HE Zone District.

The existing text of § 2809.2 is repealed and replaced with the following new text:

2809.2 The height of a rooftop penthouse as measured from the surface of the roof upon which the penthouse is located shall not exceed that given in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
HE-1	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
HE-2	20 ft.	1; second story permitted for penthouse mechanical space
HE-3, HE-4	20 ft.	1 plus mezzanine; second story permitted penthouse mechanical space

Chapter 29, UNION STATION NORTH (USN) ZONE DISTRICT, is amended as follows:

Section 2906 is renamed "PENTHOUSES" and is amended as follows:

Subsections 2906.1 and 2906.2 are amended to read as follows:

2906.1 The provisions of § 411 shall apply to penthouses in the USN Zone District.

2906.2 A penthouse may be erected to a height in excess of that permitted in § 2905 but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
USN	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

Subsections 2906.3 and 2906.4 are repealed.

Chapter 30, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, is amended as follows

Section 3030, CONSENT CALENDAR, § 3030.1, is amended by adding a third sentence, so that the subsection reads as follows:

3030.1 The purpose of this section is to create an expedited procedure to be known as the "Consent Calendar." The procedure shall allow the Zoning Commission, in the interest of efficiency, to make, without public hearing, minor modifications and technical corrections to previously approved final orders, rulemaking, or other actions of the Zoning Commission, including corrections of inadvertent mistakes. The procedure also permits the Zoning Commission to consider a request to add penthouse space pursuant to § 411.24.

Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, is amended as follows:

Section 3104 SPECIAL EXCEPTIONS, is amended as follows:

By amending the table in § 3104.1 to add special exception provisions for "Nightclub, bar, cocktail lounge, or restaurant within a penthouse" and "Penthouses above a detached dwelling, semi-detached dwelling, rowhouse, or flat" and by amending the special exception provisions for "Roof structures - location, design, number, and all other regulated aspects" by replacing the phrase "Roof structures" with "Penthouses" so that the new and amended to read as follows:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Nightclub, bar, cocktail lounge or restaurant within a penthouse	Any District where use permitted within a building.	411.4
…		
Penthouses - above a detached dwelling, semi-detached dwelling, rowhouse, or flat	Any District	411.5
Penthouses - location, design, number, and all other regulated aspects	Any District	411.11

Chapter 33, SAINT ELIZABETHS EAST CAMPUS (StE) DISTRICT, is amended as follows:

Section 3306 FLOOR-AREA-RATIO (FAR), HEIGHT, LOT OCCUPANCY, REAR YARD SETBACK, MINIMUM LOT AREA, AND SETBACKS, § 3306.2 is amended to add the phrase ", **not including a penthouse" so that the subsection reads as follows:**

3306.2 Except as provided in this section, the FAR, height of a building or structure, not including a penthouse, lot occupancy, and rear yard in a StE Zone District shall not exceed or be less than that set forth in the following table:

Section 3312, ROOF STRUCTURES is renamed "PENTHOUSES" and is amended as follows:

By replacing § 3312.1 to read as follows:

3312.1 The provisions of § 411 shall apply to penthouses in the StE Zone Districts.

By adding a new § 3312.2 to read as follows:

3312.2 A penthouse may be erected to a height in excess of that permitted in § 3301 but shall not exceed the height, as measured from the surface of the roof upon which the penthouse sits, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
StE-1, StE-4, StE-8, StE-10, StE-11, StE-14, StE-7 pursuant to § 3301.4(b)	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
StE-2, StE-5, StE-9	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
StE-3, StE-12, StE-15, StE-17 StE-7 pursuant to § 3301.4(a)	20 ft.	1; second story permitted for penthouse mechanical space
StE-6, StE-13, StE-18	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

Chapter 35, WALTER REED ZONE DISTRICT, is amended as follows:

Section 3510, HEIGHT AND ROOFTOP STRUCTURES (WR) is renamed "HEIGHT AND PENTHOUSES (WR)" and a new § 3510.3 is added to read as follows:

3510.3 A penthouse constructed in accordance with the provisions of § 411 may be erected to a height in excess of that permitted, but shall not exceed the height, as measured from the surface of the roof upon which the penthouse sits, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
WR-1, WR-6	Pursuant to §411.5	Pursuant to §411.5
WR-4, WR-5, WR-	12 ft. except 15 ft. for penthouse	1; second story permitted for

7	mechanical space	penthouse mechanical space
WR-8	12 ft., except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
WR-3	20 ft.	1; second story permitted for penthouse mechanical space
WR-2	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

On June 8, 2015, upon a motion by Commissioner May, as seconded by Vice Chairperson Cohen, the Zoning Commission **APPROVED** the Petition at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Michael G. Turnbull, and Peter G. May to approve).

On November 9, 2015, upon a motion by Commissioner Turnbull, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the Petition and **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie E. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve and adopt).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on January 8, 2016.

DEPARTMENT OF HUMAN RESOURCES

NOTICE OF EXTENSION OF PUBLIC COMMENT PERIOD

Notice is herby given that the comment period concerning the Notice of Proposed Rulemaking to adopt provisions on the Government Family Leave Program and situational telework, and to make other amendments to Chapter 12 of the D.C. personnel regulations, Hours of Work, Legal Holidays and Leave, will be extended such that all public comments will now be due by Friday, January 22, 2016, by 5 p.m.

The Notice of Proposed Rulemaking to amend Chapter 12 (Hours of Work, Legal Holidays and Leave) of Subtitle B (Government Personnel) of Title 6 (Personnel) of the District of Columbia Municipal Regulations was originally published in the *D.C. Register* on November 27, 2015, at 62 DCR 15359, with a thirty (30)-day comment period. The comment period is being extended beyond the holidays to allow the public sufficient time to submit comments.

All comments must be submitted in writing to: Mr. Justin Zimmerman Associate Director, Policy and Compliance Administration, D.C. Department of Human Resources, 441 4th Street, N.W., Suite 340 North, Washington, D.C. 20001, or via email at justin.zimmerman@dc.gov. Copies of these proposed rules are available from the above address.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act), effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.0l(a); 38-1202.06)(3),(13) (2012 Repl. & 2015 Supp.)), hereby gives notice of the intent to amend Chapter 2 (Administration and Management) of Title 8 (Higher Education), Subtitle B (University of the District of Columbia) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed rule is to update the administrative structure of University Personnel. The Board of Trustees intends to take final action to adopt these amendments to the University Rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 2, ADMINISTRATION AND MANAGEMENT, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

200 THE PRESIDENT OF THE UNIVERSITY

200.1 The Chief Executive Officer of the University, appointed by the Board of Trustees (the "Board") pursuant to D.C. Official Code § 38-1202.06(10), shall be the President of the University of the District of Columbia (the "President"). The President shall report directly to the Board.

200.2 Whenever a vacancy exists in the position of the President, or whenever the Board has notice that a vacancy will exist, the Board shall appoint a committee to be Chaired by a voting member of the Board to conduct an orderly search for candidates for appointment to the position of President. When the position of the President is vacant, the Board shall appoint an individual to serve as Interim President or Acting President within thirty (30) days of the vacancy.

200.3 Appointment of the President, including the renewal of an existing appointment, shall be by affirmative vote of a majority of the Board.

200.4 The terms and conditions of the appointment of the President, including compensation and benefits, shall be set forth in a contract of employment which shall be negotiated with the appointee in a manner directed by the Board and shall be subject to ratification by an affirmative vote of the majority of the Board.

200.5 A housing allowance or a University residence in the District of Columbia may be provided for the President.

201 [REPEALED].

202 GENERAL AUTHORITY AND DUTIES OF THE PRESIDENT

202.1 The President shall have authority and responsibility for the academic and administrative affairs and operations of the University and the components thereof established under Subsection 100.3, subject to the provisions of this title and applicable law.

202.2 The President may delegate to his or her subordinates any of the duties and authority of the office of President, except the following:

(a) Service as a nonvoting ex officio member of the Board; and

(b) Responsibilities reserved solely to the President under the provisions of this subtitle or other applicable law or regulation.

202.3 The President shall fix the calendar of the University.

202.4 Upon the recommendation of the faculty, the President shall, in the name of the Board, award degrees to candidates who meet all of the requirements and prerequisites for the respective degree or concentration.

202.5 The President shall provide for awarding fellowships, scholarships, and academic prizes from appropriations, gifts, or endowments approved for these purposes.

202.6 Subject to the provisions of this title and applicable law, the President may appoint, promote, demote, and dismiss University employees. The President may also determine compensation for all administrators and non-administrators at pay grade level 2A and below. The President shall recommend for approval by the Board through the Executive Committee, or committee determined by the Board Chair the compensation of all administrators and non-administrators at pay grade level 1A and above.

203 FUND-RAISING AND GIFTS

203.1 The President shall develop, initiate, implement, and approve fund-raising campaigns for the benefit of the University.

203.2 The President may determine, consistent with any expressed intent of the donor, if applicable:

(a) The purpose(s) for which the gift shall be used; and

(b) Whether income or principal amount, or both, shall be used.

203.3 The President may utilize gifts to support established University programs or to fund new or special programs, in accordance with the provisions of this subtitle.

203.4 The President shall determine whether any condition on the receipt of a gift, or the purpose(s) for which the gift will be used, will require expenditure of additional or supplementary funds by the University and shall provide for inclusion of required expenditures in the University financial plan subject to Board approval. In no event shall the acceptance of any gift by the University constitute a commitment requiring expenditures in excess of budgeted items.

203.5 The President may return to the donor all or any unused portion of a gift of personal property when the purposes of the gift have been fulfilled or fulfillment has become impossible or impractical and alternative uses are precluded.

204 BUDGET AND FINANCIAL ADMINISTRATION

204.1 The President shall annually prepare a budget for the University, including a plan for operating and capital expenditures and shall provide the Board copies of the proposal and all necessary back up documentation not less than five (5) business days prior to any Board or Committee on Budget and Finance for review and consideration of approval. As part of the budget process, the President shall prepare a request to the Mayor and Council for District appropriations for the support of the University subject to approval by the Board prior to submission to the Mayor or the Council of the District of Columbia of a final budget.

204.2 Prior to the beginning of each fiscal year, the President shall prepare a financial plan for control of expenditures by the University. Upon approval of the financial plan by the Board, the President shall manage the expenditures of the University in accordance with the financial plan. All modifications of the financial plan including shifting or reallocations of funds within programs or other areas over two hundred fifty thousand dollars ($250,000) must be approved by the Budget and Finance Committee and reported to the Board. Cumulative modifications during the fiscal year of the financial plan that are one million dollars ($1,000,000) and over must be approved by the Board.

204.3 During the fiscal year, the President shall recommend to the Board for its approval modifications of the financial plan based on changes in the District appropriation, actual or projected revenues, cost of programs and operations, academic program needs, or other factors. Reprogramming of appropriated budget authority shall be in accordance with applicable District law.

204.4 The President shall make timely recommendations to the Board for the establishment or modification of tuition, fees, and other assessments to be paid by students of the University.

204.5 The President shall make recommendations to the Board for a capital improvement program, including recommendations for the addition of a new project or a deletion, substantial modification, or change in the priority of an approved project for Board approval and shall provide all necessary back up documentation necessary not less than five (5) business days prior to any Board or Committee on Budget and Finance for review and consideration of approval.

204.6 The President may negotiate and approve indirect cost rates to be applied to contracts and grants. The use of indirect cost funds shall be included in the annual financial plan.

204.7 The President may approve the write-off of debts owed to the University deemed uncollectible, subject to ratification by the Board as part of the financial plan. The President shall ensure that adequate reserves are maintained to allow for uncollectible debts.

204.8 The President may write off routine disallowed claims under grants and contracts against funds received from the federal government in reimbursement of indirect costs.

205 EXECUTION OF CONTRACTS AND OTHER DOCUMENTS

205.1 Except as otherwise specifically provided in this section or in this title, the President may execute on behalf of the University all contracts and other documents, including documents to solicit and accept pledges, gifts, and grants.

205.2 Notwithstanding any provision of this section to the contrary, the President may execute all documents necessary in the exercise of the President's duties when an emergency precludes prior submission to the Board; Provided, that in all cases the President shall submit to the Board within forty-eight (48) hours a written justification for actions taken, the impact, including fiscal, of the actions and a request for ratification of the action(s) by majority vote of the Board.

205.3 The President may provide for execution claims against debtors in bankruptcy, in receivership, or in liquidation, and against estates of deceased persons.

205.4 Specific authorization by the Board shall be required for the following documents or any transaction that would establish an exception to the University Rules as set forth in this subtitle:

(a) Any commitment for more than seven (7) years; or

(b) All Capital Procurements as presented in the Capital Budget on annual basis;

(c) Each transaction that would require any of the following:

(1) Modification of the financial plan in excess of the reprogramming authority delegated to the President;

(2) Modification of the Capital Budget; or

(3) Obligating the University to expenditures or costs for which there is no established funding source.

(d) Any contracts and change orders/modifications, other than those already approved in the Capital Budget, resulting in a commitment of greater than four million dollars ($4,000,000) in a single fiscal year for any Capital Procurement; and

(e) Any commitment greater than one million dollars ($1,000,000) in a single fiscal year for all other University Procurements.

205.5 Specific authorization by the Board shall be required for any of the following:

(a) Acceptance of any pledge or gift in excess of one million dollars ($ 1,000,000) in cash or estimated value;

(b) Agreements for the provision of employee group insurance benefits;

(c) Affiliation agreements involving direct financial obligations or commitments by the University to programs or projects not included in the financial plan;

(d) Applications for licenses to operate radio or television broadcast equipment; and

(e) Agreements under which the University assumes liability for the conduct of persons other than University officers, employees, agents, students, invitees, and guests. This restriction shall not apply to agreements under which the University assumes responsibility for the condition of property in its custody.

206 [REPEALED].

207 [RESERVED]

208 COMPENSATION OF ADMINISTRATORS

208.1 The Board shall determine compensation for administrators and non-administrators at Grade level 1A and above, including initial compensation upon appointment and subsequent changes in compensation, upon recommendation of

the President through the Executive Committee or appropriate committee determined by the Board Chair.

208.2 The President shall determine compensation for each executive appointment at grade level 2A and below, including initial compensation upon appointment and subsequent changes in compensation, in accordance with the level of responsibility of the position, the experience and qualifications of the appointee, and other factors, in accordance with the administrative pay scale approved by the Board.

209 [RESERVED]

210 EXECUTIVE APPOINTMENTS: GENERAL PROVISIONS

210.1 In order to allow the President to appoint highly qualified and experienced executive talent to senior administrative positions, as well as to provide flexibility in making top administrative appointments, the President is authorized to make executive appointments to designated positions in the Educational Service, in accordance with the provisions of §§ 210 through 212 subject to the provisions of this title and applicable law.

210.2 Except as required under § 212, an executive appointment may be made on a noncompetitive basis. Each executive appointee shall be qualified based on job description submitted by the President and approved by the Executive Committee for the position to which he or she is appointed. The Executive Committee shall also review the qualifications of the appointee being considered prior to the appointment being made.

210.3 Executive appointments are "at will" appointments and executive appointees shall serve at the pleasure of the President. A person serving under an executive appointment shall not have any job tenure or protection in that position. An executive appointment may be terminated at any time without appeal or right to compensation.

210.4 A University employee who is a permanent incumbent and who is serving in a position designated to be filled by executive appointment shall retain all the rights and benefits of his or her permanent employment status and shall not be converted to an executive appointment. However, once the incumbent vacates the position (due to reassignment, resignation, or other reason), the person subsequently appointed to fill the position shall be subject to the executive appointment provisions of this section.

210.5 The President shall not enter into any agreements with interim/acting executive appointees that grant tenure or right of employment in any faculty, administrative or other University position unless such person holds permanent or tenured faculty rank at the University or approved by the Executive Committee.

211 EXECUTIVE APPOINTMENTS: NON-ACADEMIC ADMINISTRATORS

211.1 The following administrative positions shall be filled by executive appointment and shall be ratified by the majority vote of the Board:

(a) Chief Operating Officer (COO): The COO has university wide authority over business operations. The COO reports to the President.

(b) Chief Student Development and Student Success Officer (CSDSSO): The CSDSSO has university wide authority over student support and student success. The CSDSO reports to the President.

(c) Provost of the Community College: The University of the District of Columbia Community College is a Branch campus of the University. It offers courses in educational programs leading to an associate's degree or certificate. The administrative head of the Community College is titled the Provost of the Community College, and reports to the President.

(e) Chief of Staff: The Chief of Staff has authority over external affairs, coordinates the activities of the Offices of the Board and President, as well as the work of the Cabinet. The Chief of Staff reports to the President.

(f) General Counsel: The General Counsel provides advice and counsel to the University stakeholders on all legal matters, and directs the activities of outside counsel working on behalf of the University. The General Counsel reports to the President with a dotted line to the Board.

(g) Internal Auditor: The Internal Auditor is responsible for conducting internal audits of the University's operations. The Internal Auditor reports to the President with a dotted line to the Board.

211.2 The President may designate any position which reports directly to the President or any senior management or legal position of Administrative Salary Grade Level of 2B or higher which reports directly to a vice president to be filled by executive appointment.

211.3 The President, in his or her discretion, may conduct a formal or informal search or provide for a recruitment process to fill a position by executive appointment under this section, except that the President shall provide for a formal search and selection process, including active faculty and Board participation, to fill the position of Provost of the Community College.

211.4 An employee of the University with permanent status who accepts an executive appointment under this section shall not have reversionary rights to return to the same position upon termination of the executive appointment. However, upon

termination of the executive appointment, the former executive appointee shall retain his or her employment status at the University and shall be assigned to a position at the same level that he or she held at the time of the executive appointment.

211.5 A person newly hired under this section may, upon termination of the executive appointment, apply for competitive appointment to a position in the Educational Service for which he or she is qualified.

212 EXECUTIVE APPOINTMENTS: ACADEMIC ADMINISTRATORS

212.1 The following positions shall be filled by executive appointment:

(a) Chief Academic Officer (CAO): The Chief Academic Officer has university wide authority over academic program coordination and quality. The CAO reports to the President.

(b) Deans of academic colleges.

212.2 The appointment of faculty members to serve in administrative positions which report directly to the CAO or a Dean shall be an executive appointment.

212.3 The President shall provide for a formal search and selection process, including active faculty and Board participation, to fill the positions of CAO and Academic Dean. If the CAO or an Academic Dean position is vacated, the President shall name an acting for a period not to exceed one (1) year from the date of the vacancy, and administrative leave shall not be considered time in the position.

212.4 A person newly hired for the position of CAO or Academic Dean may be granted academic title and rank with tenure in the department in which he or she is qualified at the recommendation of the President and approval by the Board through the Executive Committee or Committee designated by the Chair.

212.5 A person who holds permanent or tenured faculty rank at the University and who accepts an appointment to an academic administrative position under this section shall not be required to resign from his or her faculty position and shall have the right to return to his or her faculty position upon termination of the executive appointment.

212.6 During a simultaneous appointment to an academic administrative position under this section, a faculty member shall be subject to the terms and conditions of employment set forth in the executive appointment. The faculty member shall be deemed to be on leave of absence from his or her faculty position, but shall retain simultaneous faculty title and rank.

212.7 When a person holding faculty rank accepts an executive appointment to an academic administrative position, he or she shall be a full-time, twelve (12) month employee and shall receive compensation and benefits as set forth in the executive appointment, in accordance with the provisions of § 208.2, until termination of the executive appointment.

213 ACTING APPOINTMENTS

213.1 The President may appoint a current employee to serve in an "acting" status in a position designated to be filled by executive appointment without requiring that employee to resign from his or her current position.

213.2 Compensation of appointees with "acting" status shall be determined in accordance with the provisions of §§ 208, 210, 211, 212 and other applicable subsections of this chapter.

213.3 Service in an "acting" status in a position designated to be filled by executive appointment shall be limited to one (1) year. The President shall seek Board approval for an extension forty five (45) days prior to the year ending if he/she determines and can demonstrate that additional time is needed. Should an extension be approved by the Board, the President shall provide the Board immediately with a plan and time line for making the permanent appointment within ninety (90) days of the end of the one (1) year period should the appointment be necessary. The Board may approve an extension or renewal of an acting appointment for no more than one (1) additional year due to extenuating circumstances as determined by the Board.

214 APPOINTMENT AND REMOVAL OF DEPARTMENT CHAIRS

214.1 Subject to the approval of the CAO, the Dean shall appoint the chair of each department. Each appointee shall serve at the pleasure of the Dean, and shall be subject to annual review and evaluation by the Dean.

214.2 The Dean shall consult with the members of the faculty of a department on the appointment of the department chair, pursuant to a uniform process approved by the CAO.

214.3 To be eligible to serve as a chair, a person shall be a member of the department faculty who holds the rank of Associate Professor or Professor. A Dean may appoint a faculty member who does not meet the requirements of this subsection to be "acting" chairperson for a term of not more than one (1) year.

214.4 Each department chair shall be paid his or her regular faculty salary for services performed during the academic year. If the services of the department chair are required for all or part of a summer term, compensation for those services shall be determined by the President in consultation with the CAO and the Deans.

214.5 A department chair shall not be required to provide services as chair beyond the academic year. If a chair is not available to provide services needed beyond the academic year, the Dean may appoint an "acting" chair to serve during the interim period.

214.6 The faculty of a department may petition the Dean for the removal of the department chair by two-thirds (2/3) majority vote of the regular, full-time faculty of the department. The decision to remove or retain the chair shall be at the discretion of the Dean after consultation with the CAO.

214.7 Reduced teaching loads requirements for each department chair shall be determined by the Dean and approved by the CAO.

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Office of General Counsel, Building 39-Room 301-Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008. Comments may also be submitted by email to smills@udc.edu. Individuals wishing to comment by email must include the phrase "Comment to Proposed Rulemaking: Executive Appointments" in the subject line.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act), effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.0l(a); 38-1202.06)(3),(13) (2012 Repl. & 2015 Supp.)), hereby gives notice of the intent to amend Chapter 7 (Admissions and Academic Standards) of Title 8 (Higher Education), Subtitle B (University of the District of Columbia) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register.*

The purpose of the proposed rule is to adopt a single fee structure for all University components and to adjust the fees to charges by college beginning in the fall semester of 2016. The Board of Trustees intends to take final action to adopt these amendments to the University Rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 7, ADMISSIONS AND ACADEMIC STANDARDS, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Section 728, TUITION AND FEES: DEGREE-GRANTING PROGRAMS, Subsection 728.8 is amended as follows:

728.8

(a) Each semester and summer of enrollment, each full-time and part time undergraduate and graduate student, and full-time and part time community college student, shall pay the following mandatory fees:

(1)	Activity Fee:	$35.00 per semester
(2)	Athletic/Recreation Fee:	$105.00 per semester
(3)	Health Services Fee:	$25.00 per semester
(4)	Technology Fee:	$75.00 per semester
(5)	Student Center Fee:	$140.00 per semester
(6)	Career and Professional Fee	$40.00 per semester
(7)	Sustainability Fee	$10.00 per semester

(b) Full-time and part time law school students shall pay the following mandatory fees:

(1)	Activity Fee:	$210.00 per year (paid in the Fall Semester)
(2)	Athletic/Recreation Fee:	$105.00 per semester
(3)	Health Services Fee:	$25.00 per semester
(4)	Technology Fee:	$75.00 per semester
(5)	Student Center Fee:	$140.00 per semester
(6)	Career and Professional Fee	$40.00 per semester
(7)	Sustainability Fee	$10.00 per semester

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Office of General Counsel, Building 39- Room 301-Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008. Comments may also be submitted by email to smills@udc.edu. Individuals wishing to comment by email must include the phrase "Comment to Proposed Rulemaking: Fees " in the subject line.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2014 Repl. & 2015 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Section 1933 (Supported Employment Services - Individual And Small Group Services) of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

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

The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for a five-year period beginning November 20, 2012. The corresponding amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Emergency Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; 61 DCR 9990 (October 3, 2014)). CMS approved the amendment to the ID/DD Waiver effective September 24, 2015.

The Notice of Final Rulemaking for 29 DCMR § 1933 (Supported Employment Services – Individual and Small Group Services) was published in the *D.C. Register* on April 4, 2014, at 61 DCR 003563. These rules amend the previously published final rules by: (1) modifying rates based on the approved methodology; (2) barring the payment of stipends to attendees of Supported Employment services by the provider; (3) barring the Supported Employment provider from concurrently being the person's employer and provider of Supported Employment services; (4) requiring that the purpose of small group supported employment is for the person to attain integrated employment; (5) clarifying which Medicaid reimbursable services occur in individual supported employment and which occur in small group supported employment; (6) requiring the use of Person-Centered Thinking and Discovery tools; (7) adding community mapping for the purposes of networking and job development, placement and mentoring to the list of Medicaid reimbursable intake and assessment activities; (8) including employment counseling on a person's employment rights as an employees with a disability to the list of Medicaid reimbursable intake and assessment activities; (9) clarifying the time that the assessment is due; (10) requiring that the assessment include information on natural supports; (11) adding to the list of Medicaid reimbursable job placement and development activities, including the addition of benefits counseling; (12) using people first respectful language; (13)

adding to the list of Medicaid reimbursable job training and support activities including training on the use of assistive technology; (14) clarifying when benefits counseling should occur; (15) requiring the provider to participate in a person's support team at the person's preference; (16) requiring that providers of Medicaid reimbursable supported employment services must also be enrolled as a provider for the Rehabilitation Services Administration by September 23, 2016, for current providers, or within one year of becoming a supported employment provider; and (17) adding sanctions for delays in providing required documents.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of waiver participants who are in need of supported employment services. The new requirements will enhance the quality of services. Therefore, in order to ensure that the residents' health, safety, and welfare are not threatened by lack of access to supported employment provided pursuant to the updated delivery guidelines, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on December 29, 2015 and became effective on that date. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until April 27, 2016, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, Public Welfare, is amended as follows:

Section 1933, SUPPORTED EMPLOYMENT, is deleted in its entirety and amended to read as follows:

1933 SUPPORTED EMPLOYMENT SERVICES - INDIVIDUAL AND SMALL GROUP SERVICES

1933.1 This section shall establish standards governing Medicaid eligibility for supported employment services for persons enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver) and shall establish conditions of participation for providers of supported employment services.

1933.2 Medicaid reimbursable supported employment services are designed to provide opportunities for persons with disabilities to obtain competitive work in integrated work settings, at minimum wage or higher and at a rate comparable to workers without disabilities performing the same tasks.

1933.3 Medicaid reimbursable supported employment services may be delivered individually or in a small group.

1933.4 Medicaid reimbursable small group supported employment services are services and training activities that are provided in regular business, industry, or community setting for groups of two (2) to eight (8) workers.

1933.5 Small group supported employment services is intended to enable the person to become part of a competitive, integrated work setting.

1933.6 In order to receive Medicaid reimbursement for supported employment services, the person receiving services shall:

(a) Be interested in obtaining full-time or part-time employment in an integrated work setting; and

(b) Demonstrate that a previous application for the District of Columbia Rehabilitation Services Administration (RSA) funded supported employment services was made, by the submission of a letter documenting either ineligibility for RSA services or the completion of RSA services with the recommendation for long-term employment support.

1933.7 Medicaid reimbursable supported employment services shall:

(a) Provide opportunities for persons with disabilities to achieve successful integrated employment consistent with the person's goals;

(b) Be recommended by the person's Support Team; and

(c) Be identified in the person's Individual Support Plan (ISP), Plan of Care, and Summary of Supports.

1933.8 The three (3) models of supported employment services eligible for Medicaid reimbursement are as follows:

(a) An Individual Job Support Model, which evaluates the needs of the person and places the person into an integrated competitive or customized work environment through a job discovery process;

(b) A Small Group Supported Employment Model, which utilizes training activities for groups of two (2) to eight (8) workers with disabilities to place persons in an integrated community based work setting; and

(c) An Entrepreneurial Model, which utilizes training techniques to develop on-going support for a small business that is owned and operated by the person.

1933.9 Medicaid reimbursable supported employment services for the entrepreneurial model shall include the following activities:

(a) Assisting the person to identify potential business opportunities;

(b) Assisting the person in the development of a business and launching a business;

(c) Identification of the supports that are necessary in order for the person to operate the business; and

(d) Ongoing assistance, counseling and guidance once the business has been launched.

1933.10 Medicaid reimbursable supported employment individual services shall consist of the following activities:

(a) Intake and assessment;

(b) Job placement and development;

(c) Job training and support; and

(d) Long-term follow-along services.

1933.11 Medicaid reimbursable supported employment small group services shall consist of the following activities:

(a) Intake and assessment;

(b) Job placement and development

(b) Job training and support; and

(c) Long-term follow-along services.

1933.12 Intake and assessment services determine the interests, strengths, preferences, and skills of the person in order to ultimately obtain competitive employment and to further identify the necessary conditions for the person's successful participation in employment. The purpose of the intake and assessment is to facilitate and ensure a person's success in integrated competitive employment.

1933.13 Medicaid reimbursable intake and assessment activities include, but are not limited to, the following:

(a) Conducting a person-centered vocational and situational assessment based upon what is important to and for the person as reflected in his or her Person-Centered Thinking and Discovery tools and related ISP goals;

(b) Developing a person-centered employment plan that includes the person's job preferences and desires, through a discovery process and the development of a Positive Personal Profile and Job Search and Community Participation Plan;

(c) Assessing person-centered employment information, including the person's interest in doing different jobs, transportation to and from work, family support, and financial issues;

(d) Engaging in community mapping to identify available community supports and assisting the person to establish a network for job development, placement and mentoring;

(e) Counseling an interested person on the tasks necessary to start a business, including referral to resources and nonprofit associations that provide information specific to owning and operating a business; and

(f) Providing employment counseling, which includes, but is not limited to, the person's rights as an employee with a disability.

1933.14 After intake and completion of the assessments, each provider of Medicaid reimbursable supported employment services shall complete and deliver a comprehensive vocational assessment report prior to the end of the intake and assessment service authorization period, to the Department on Disability Services (DDS) Service Coordinator that includes the following information:

(a) Employment-related strengths and weaknesses of the person;

(b) Availability of family and community supports for the person;

(c) The assessor's concerns about the health, safety, and wellbeing of the person;

(d) Accommodations and supports that may be required for the person on the job; and

(e) If a specific job or entrepreneurial effort has been targeted:

(1) Individualized training needed by the person to acquire and maintain skills that are commensurate with the skills of other employees;

(2) Anticipated level of interventions that will be required for the person by the job coach;

(3) Type of integrated work environment in which the person can potentially succeed; and

(4) Activities and supports that are needed to improve the person's potential for employment, including whether the person has natural supports that may help him or her to be successful in the specific job or entrepreneurial effort.

1933.15 Medicaid reimbursable job placement and development includes activities to facilitate the person's ability to work in a setting that is consistent with their strengths, abilities, priorities, and interests, as well as the identification of potential employment options, as determined through the supported employment intake and assessment process.

1933.16 Job placement and development activities eligible for Medicaid reimbursement include, but are not limited to, the following:

(a) Conducting workshops or other activities designed to assist the person in completing employment applications or preparing for interviews;

(b) Conducting workshops or other activities to instruct the person on appropriate work attire, work ethic, attitude, and expectations;

(c) Assisting the person with the completion of job applications;

(d) Assisting the person with job exploration and placement, including assessing opportunities for the person's advancement and growth, with a consideration for customized employment, as needed;

(e) Visiting employment sites, participating in informational interviews, attending employment networking events, and job shadowing;

(f) Making telephone calls and conducting face-to-face informational interviews with prospective employers, individuals in the person's network, utilizing the internet, social media, magazines, newspapers, and other publications as prospective employment leads;

(g) Collecting descriptive data regarding various types of employment opportunities, for purposes of job matching and customized employment;

(h) Negotiating employment terms with or on behalf of the person;

(i) Working with the person to develop and implement a plan to start a business, including developing a business plan, developing investors or start-up capital, and other tasks necessary to starting a small business;

(j) Benefits counseling; and

(k) Working with the person and employer to develop group placements.

1933.17 Job training and support activities are those activities designed to assist and support the person after he or she has obtained employment. The expectation is that the person's reliance upon job training and support activities will decline as a result of job skills training and support from supervisors and co-workers in the existing work setting to maintain employment.

1933.18 Medicaid reimbursable job training and support activities include, but are not limited to, the following:

(a) On-the-job training in work and work-related skills required to perform the job;

(b) Work site support that is intervention-oriented and designed to enhance work performance and support the development of appropriate workplace etiquette

(c) Supervision and monitoring of the person in the workplace;

(d) Training in related skills essential to obtaining and maintaining employment, such as the effective use of community resources, break or lunch rooms, attendance and punctuality, mobility training, re-training as job responsibilities change, and attaining new jobs; including, where appropriate, the use of assistive technology, *i.e.* calendar alerts, timers, alarm clocks and other devices that assist a person with meeting employment requirements;

(e) Monitoring and providing information and assistance regarding wage and hour requirements, appropriateness of job placement, integration into the work environment, and need for functional adaptation modifications at the job site;

(f) Ongoing benefits counseling, including but not limited to prior to the person reaching the end of his or her Trial Work period and/or attaining Substantive Gainful Activity (SGA);

(g) Consulting with other professionals and the person's family, as necessary;

(h) Providing support and training to the person's employer, co-workers, or supervisors so that they can provide workplace support, as necessary; and

(i) Working with the person and his or her support network to identify a plan to develop his or her skills that facilitate workplace independence and

confidence so that the person is less reliant upon job training and support activities.

1933.19 Medicaid reimbursable long-term follow-along activities are stabilization services needed to support and maintain a person in an integrated competitive employment site or in their own business.

1933.20 Medicaid reimbursable long-term follow-along activities include, but are not limited to, the following:

(a) Periodic monitoring of job stability with a minimum of two (2) visits per month;

(b) Intervening to address issues that threaten job stability;

(c) Providing re-training, cross-training, and additional supports as needed, when job duties change;

(d) Facilitating integration and natural supports at the job site;

(e) Benefits counseling prior to and after the person reaching the end of his or her Trial Work period and/or attaining SGA, and to ensure a person maintains eligibility for benefits and that earnings are being properly reported;

(f) Working with the person and his or her support network to identify a plan to develop his or her skills that facilitate workplace independence and confidence so that the person is less reliant upon job training and support activities; and

(g) Facilitating job advancement, professional growth, and job mobility.

1933.21 Each provider of Medicaid reimbursable supported employment services shall be responsible for delivering ongoing supports to the person to promote job stability after they become employed. Once the person exhibits confidence to perform the job without a job coach present, the provider shall make a minimum of two (2) visits to the job site per month for the purpose of monitoring job stability.

1933.22 When applicable, each provider of Medicaid reimbursable supported employment services shall coordinate with DDS and the employer to provide functional adaptive modifications for each person to accomplish basic work related tasks at the work site.

1933.23 When applicable, each provider of Medicaid reimbursable supported employment services shall coordinate with the employer to ensure that each person has an emergency back-up plan for job training and support.

1933.24 Each provider of Medicaid reimbursable supported employment services shall be a Waiver provider agency and shall comply with the following requirements:

(a) Participate in the person's support team meetings, at the person's preference

(b) Be certified by the U.S. Department of Labor, if applicable;

(c) Comply with the requirements described under Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR; and

(d) Enroll as a supported employment provider for the District of Columbia Rehabilitation Services Administration by September 23, 2016, for current providers, or, for new Medicaid waiver supported employment provider agencies, within one year after enrollment as a waiver provider.

1933.25 Each professional or paraprofessional providing Medicaid reimbursable supported employment services for a Waiver provider shall meet the requirements in Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 DCMR.

1933.26 Professionals authorized to provide Medicaid reimbursable supported employment activities without supervision shall include the following:

(a) A Vocational Rehabilitation Counselor;

(b) An individual with a Master's degree and a minimum of one (1) year of experience working with persons with intellectual and developmental disabilities in supported employment;

(c) An individual with a bachelor's degree and two years of experience working with persons with intellectual and developmental disabilities in supported employment; or

(d) A Rehabilitation Specialist.

1933.27 Paraprofessionals shall be authorized to perform Medicaid reimbursable supported employment activities under the supervision of a professional. Supervision is not intended to mean that the paraprofessional performs supported employment activities in the presence of the professional, but rather that the paraprofessional has a supervisor who meets the qualifications of a professional as set forth in § 1933.26.

1933.28 Paraprofessionals authorized to perform Medicaid reimbursable supported employment activities are as follows:

(a) A Job Coach; or

(b) An Employment Specialist.

1933.29 Services shall be authorized for Medicaid reimbursement in accordance with the following Waiver provider requirements:

(a) DDS provides a written service authorization before the commencement of services;

(b) The provider conducts a comprehensive vocational assessment, at minimum consisting of a Positive Personal Profile and Job Search and Community Participation Plan, if the person does not already have a comprehensive assessment. If the person does have a comprehensive vocational assessment, this must be reviewed to ensure that it is current and reflects what is important to and for the person, and updated as needed.

(c) The provider develops an individualized employment plan with training goals and techniques within the first two (2) hours of service delivery;

(d) The service name and provider delivering services are identified in the ISP and Plan of Care;

(e) The ISP, Plan of Care, and Summary of Supports and Services document the amount and frequency of services to be received; and

(f) Services shall not conflict with the service limitations described under Subsections 1933.31-1933.42; and

1933.30 If extended services are required, the provider shall submit a supported employment extension request. The request is a written justification that must be submitted to the Service Coordinator at least fifteen (15) calendar days before the exhaustion of Supported Employment hours. Failure to submit all required documents may result in a delay of the approval of services. Any failure on the part of the provider to submit required documents to approve service authorizations will result in sanctions by DDS up to and including a ban on authorizations for new service recipients. Service interruptions to the waiver participant due to the service provider's failure to submit required documentation will initiate referrals to a choice of a new service provider to ensure a continuation of services for the waiver participant.

1933.31 Supported employment services shall not qualify for Medicaid reimbursement if the services are available to the person through programs funded under Title I of the Rehabilitation Act of 1973, Section 110, enacted September 26, 1973 (Pub. L. 93-112; 29 U.S.C. §§ 720 *et seq.*), or Section 602(16) and (17) of the Individuals

with Disabilities Education Act, 20 U.S.C. §§ 1401 (16) and (71), enacted October 30, 1990 (Pub. L. 91-230; 20 U.S.C. §§ 1400 *et seq*.), hereinafter referred to as the "Acts".

1933.32 Court-ordered vocational assessments authorizing intake and assessment services qualify for Medicaid reimbursement under the Waiver if services provided through programs funded under the Acts referenced in Subsection 1933.31 cannot be provided in the timeframe set forth in the Court's Order.

1933.33 Medicaid reimbursement is available for supported employment services that are provided either exclusively as a vocational service or in combination with individualized day supports, employment readiness, or day habilitation services if provided during different periods of time, including during the same day.

1933.34 Medicaid reimbursement is not available if supported employment services are provided in specialized facilities that are not part of the general workforce. Medicaid reimbursement is not available for volunteer work.

1933.35 Medicaid reimbursable supported employment services shall not include payment for supervision, training, support, adaptations, or equipment typically available to other workers without disabilities in similar positions.

1933.36 Medicaid reimbursable supported employment services shall be provided for a maximum of eight (8) hours per day, five (5) days per week.

1933.37 Medicaid reimbursement is not available for incentive payments, subsidies, or unrelated vocational training expenses such as the following:

(a) Incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment services program;

(b) Payments that are processed and paid to users of supported employment service programs; and

(c) Payment for vocational training that is not directly related to the person's success in the supported employment services program.

1933.38 Supported employment providers may not pay a stipend to a person for attendance or participation in activities at the day habilitation program.

1933.39 A supported employment provider may not concurrently employ a person and be his or her provider of Medicaid supported employment services.

1933.40 Medicaid reimbursement is not available for time spent in transportation to and from the employment program and shall not be included in the total amount of services provided per day. Time spent in transportation to and from the program for the purpose of training the person on the use of transportation services is

Medicaid reimbursable and may be included in the number of hours of services provided per day for a period of time specified in the person's ISP and Plan of Care.

1933.41 Medicaid reimbursement shall only be available for adaptations, supervision and training for supported employment services provided at the work site in which persons without disabilities are employed. Medicaid reimbursement shall not be available for supervisory activities, which are rendered as a normal part of the business setting.

1933.42 Medicaid reimbursable intake and assessment activities shall be billed at the unit rate. This service shall not exceed three-hundred and twenty (320) units or eighty (80) hours annually. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill one (1) unit of service. The Medicaid reimbursement rate shall be eleven dollars and eighty-six cents ($11.86) per unit or forty-seven dollars and forty-four cents ($47.44) per hour if performed by a professional listed in Subsection 1933.26 of this rule. The Medicaid reimbursement rate shall be seven dollars and fourteen cents ($7.14) per unit or twenty-nine dollars and sixty cents ($29.60) per hour if performed by a paraprofessional listed in Section 1933.28 under the supervision of a professional. For small group supported employment intake and assessment activities, the Medicaid reimbursement rate for professionals shall be four dollars and ninety-five cents ($4.95) per unit or nineteen dollars and eighty cents ($19.80) per hour, for a group of two (2) to eight (8) people enrolled in the Waiver.

1933.43 Medicaid reimbursable job preparation, developmental and placement activities shall be billed at the unit rate. This service shall not exceed nine hundred and sixty (960) units or two-hundred and forty (240) hours annually for both individual and group services, combined. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill for one (1) unit of service. The Medicaid reimbursement rate shall be eleven dollars and eighty-six cents ($11.86) per unit, or forty-seven dollars and forty-four cents ($47.44) per hour if performed by a professional listed in Section 1933.26 of this rule. The Medicaid reimbursement rate shall be seven dollars and fourteen cents ($7.14) per unit or twenty-nine dollars and sixty cents ($29.60) per hour if performed by a paraprofessional listed in Subsection 1933.28 under the supervision of a professional. For small group supported employment preparation, developmental and placement activities, the Medicaid reimbursement rate for professionals shall be four dollars and ninety-five cents ($4.95) per unit or nineteen dollars and eighty cents ($19.80) per hour, for a group of two (2) to eight (8) people enrolled in the Waiver.

1933.44 Medicaid reimbursable on the job training and support activities shall not exceed three hundred and sixty hours (360) or one thousand, four hundred and forty (1,440) units per ISP year, unless additional hours are prior authorized by DDS. A standard unit of service is fifteen (15) minutes and the provider shall provide at

least eight (8) continuous minutes of service to bill one (1) unit of service. The Medicaid reimbursement rate shall be eleven dollars and eighty-six cents ($11.86) per unit, or forty-seven dollars and forty-four cents ($47.44) per hour if performed by a professional listed in Subsection 1933.26 of this rule. The Medicaid reimbursement rate shall be seven dollars and fourteen cents per unit or twenty-nine dollars and sixty cents ($29.60) per hour if performed by a paraprofessional listed in Subsection 1933.28 under the supervision of a professional. For small group supported employment on the job training and support activities, the Medicaid reimbursement rate for professionals shall be four dollars and ninety-five cents ($4.95) per unit or nineteen dollars and eighty cents ($19.80) per hour, for a group of two (2) to eight (8) people enrolled in the Waiver.

1933.45 Medicaid reimbursable long-term follow-along activities shall not exceed one thousand four hundred and eight (1,408) units per ISP year. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill one (1) unit of service. The Medicaid reimbursement rate for both professionals and paraprofessionals shall be five dollars and seventy-six cents ($5.76) per unit and twenty-three dollars and four cents ($23.04) per hour.

Section 1999, DEFINITIONS, is amended by adding the following:

Benefits Counseling – Analysis and advice provided to a person to help him/her understand the potential impact of employment on his/her public benefits, including but not limited to Supplemental Security Income, Medicaid, Social Security Disability Insurance, Medicare, and Food Stamps.

Competitive Integrated Employment - Full or part-time work at minimum wage or higher, with wages and benefits similar to those without disabilities performing the same work, and fully integrated with co-workers without disabilities.

Employment Specialist - An individual with a four-year college degree and a minimum of one (1) year of experience in a supported employment program or equivalent; an individual with a four-year college degree and certification from the Commission on Rehabilitation Counselor Certification or a similar national organization; or a high school graduate with three (3) years of experience in a supported employment program or equivalent.

Group Supported Employment - An integrated setting in competitive employment in which a group of two to four individuals or four to eight individuals are working at a particular work setting. The individuals may be disbursed throughout the company or among workers without disabilities.

Individual Supported Employment - A supported employment strategy in which a job coach places a person into competitive or customized employment through a job discovery process, provides training and support, and then gradually reduces time and assistance at the work site.

Integrated Work Setting - A work setting that provides a person enrolled in the Waiver with daily interactions with other employees without disabilities and/or the general public.

Job Coach – An individual with a four-year college degree and a minimum of one (1) year of experience in a supported employment program or equivalent; an individual with a college degree in a social services discipline and certification from the Commission on Rehabilitation Counselor Certification or a similar national organization; or an individual with a high school degree and three (3) years of experience in a supported employment program, or equivalent.

Long-term follow along activities - Ongoing support services considered necessary to assure job retention.

Person centered – An approach that focuses on what is important to the individual based on his or her needs, goals, and abilities rather than using a general standard applicable to all people.

Rehabilitation Specialist - An individual with a Master's degree in Rehabilitation Counseling or a similar degree from an accredited university; an individual with a Master's degree in a social services discipline and a minimum of one (1) year of experience in a supported employment program or equivalent; or an individual with a Master's degree in a social services discipline and certification from the Commission on Rehabilitation Counselor Certification or a similar national organization.

Situational Assessment - A type of assessment that provides the person an opportunity to explore job tasks in work environments in the community to identify the type of employment that may be beneficial to the person and the support required by each person to succeed in his/her work environment. This assessment shall include observation of the person at the work site, identification of work site characteristics, training procedures, identification of supports needed for the person, and recommendations and plans for future services, including the appropriateness of continuing supported employment.

Stipend – Nominal fee paid to a person for attendance and/ or participation in activities designed to achieve his or her employment goal, as identified in the person's ISP.

Substantial Gainful Activity (SGA) - Activities that the person is engaged in that result in a sum earnings greater than a fixed monthly amount, set by federal standards and determined by the nature of one's disability and the national wage index.

Vocational Assessment - An assessment designed to assist a person, their family and service providers with specific employment related data that will generate positive employment outcomes. The assessment should address the person's life, relationships, challenges, and perceptions as they relate to potential sources of community support and mentorship.

Vocational Rehabilitation Counselor - An individual with a Master's degree in Vocational Counseling, Vocational Rehabilitation Counseling or a similar degree from an accredited university; an individual with a Master's degree in a social services discipline and a minimum of one (1) year of experience in a supported employment program or equivalent; or an individual with a Master's degree in a social services discipline and certification from the Commission on Rehabilitation Counselor Certification or a similar national organization.

Comments on the emergency and proposed rules shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, District of Columbia Department of Health Care Finance, 441 Fourth Street, N.W., Suite 900 South, Washington, D.C. 20001, by telephone on (202) 442-8742, by email at DHCFPublicComments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rules may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (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. & 2015 Supp.) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of a new Chapter 69 (Medicaid Reimbursement for Health Home Services), of Title 29 (Public Welfare), of the District of Columbia Municipal Regulations (DCMR).

The purpose of Chapter 69 is to establish requirements for Medicaid reimbursement for Health Home services. A Health Home is a service delivery model that focuses on providing comprehensive care coordination centered on improving the management of chronic behavioral and physical health conditions. Health Homes develop and organize person-centered care plans that facilitate access to physical health services, behavioral health care, community-based services and supports for persons determined eligible for Health Home services by the Department of Behavioral Health. Care coordination is provided through a team based approach and involves all relevant and necessary health care practitioners, family members, and other social support networks identified by the beneficiary. The Health Home is required to provide all Health Home services needed by its beneficiaries. The goal of the Health Home service delivery model is to reduce avoidable health care costs, specifically preventable hospital admissions, readmissions, and avoidable emergency room visits for the enrolled Health Home population.

Health Home services are Medicaid reimbursable at a per member/per month (PMPM) rate. These rules establish the reimbursement rate and requirements for reimbursement for the provision of Health Home services.

Emergency action is necessary for the immediate preservation of health, safety, and welfare of beneficiaries who are in need of comprehensive care coordination through the Medicaid Health Home State Plan benefit. The Health Home reimbursement rates included in these rules are needed at this time to ensure that Health Home providers receive payment for Health Home services delivered, and to ensure that Health Home providers can continue to deliver the level of Health Home services that beneficiaries require. To preserve beneficiaries' health, safety, and welfare, and to avoid any lapse in access to Health Home services, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on December 29, 2015 and will become effective for dates of services on or after January 1, 2016. The emergency rules shall remain in effect for one hundred and twenty (120) days or until April 27, 2016, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Title 29 DCMR, PUBLIC WELFARE, is amended by adding a new Chapter 69 to read as follows:

CHAPTER 69 MEDICAID REIMBURSEMENT FOR HEALTH HOME SERVICES

6900 GENERAL PROVISIONS

6900.1 The purpose of this chapter is to establish standards governing Medicaid reimbursement for Health Home services provided by Core Services Agencies (CSA) certified as Health Homes by the Department of Behavioral Health (DBH).

6900.2 A Health Home serves as the service coordinating entity for services offered to a beneficiary with a serious mental illness (SMI).

6900.3 Each Health Home shall comply with the certification standards set forth in 22-A DCMR § 2501.

6900.4 Each Health Home shall comply with all applicable provisions of District and federal law and rules pertaining to Title XIX of the Social Security Act, and all District and federal law and rules applicable to the service or activity provided pursuant to these rules.

6900.5 In accordance with Section 1902(a)(23) of the Social Security Act, DBH shall ensure that each beneficiary has free choice of qualified providers.

6901 PROGRAM SERVICES

6901.1 Beneficiaries eligible to receive Health Home services shall be Medicaid beneficiaries who meet the requirements set forth in 22-A DCMR § 2504.

6901.2 Beneficiaries enrolled in both the Medicaid Elderly and Individuals with Physical Disabilities (EPD) Waiver and a Health Home, shall receive Comprehensive Care Management services, as described in 22-A DCMR § 2506, from a Health Home.

6901.3 Health Home services include the following services, as set forth in 22-A DCMR § 2505, and further defined in 22-A DCMR §§ 2506 – 2511:

(a) Comprehensive Care Management;

(b) Care Coordination;

(c) Comprehensive Transitional Care;

(d) Health Promotion;

(e) Individual and Family Support Services; and

(f) Referral to Community and Social Support Services.

6901.4 DBH shall assign each beneficiary eligible to receive Health Home services into either a high- or low-acuity category as set forth in 22-A DCMR § 2514.

6901.5 Each Health Home provider shall provide the following services each month to every Health Home beneficiary:

(a) To a high-acuity beneficiary, defined in 22-A DCMR § 2514.2 :

(1) Two (2) Comprehensive Care Management services which include activities listed in 22-A DCMR § 2506.2;

(2) At least two (2) other Health Home services of any kind, as described in 22-A DCMR § 2507, § 2508, § 2509, § 2510 and § 2511; and

(3) At least one (1) of the services must be provided as a face-to-face service.

(b) To a low-acuity beneficiary, defined in 22-A DCMR § 2514.3:

(1) One (1) Comprehensive Care Management Services per month which include activities listed in 22-A DCMR § 2506.2; and

(2) At least one (1) other Health Home service of any kind, as described in 22-A DCMR § 2507, § 2508, § 2509, § 2510 and § 2511.

6902 REIMBURSEMENT

6902.1 Medicaid reimbursement for Health Home services is on a per member/per month (PMPM) reimbursement schedule. The month time period shall begin on the first ($1^{st)}$ of the month and end on the last day of the month.

6902.2 Health Homes are required to provide services in accordance with § 6901.4, and document the delivery of these services in DBH's electronic record system called iCAMS, in order to receive the PMPM reimbursement rate.

6902.3 In order to qualify for the monthly rate, Health Homes shall document Health Home services provided as set forth in 22-A DCMR § 2515.3 and §§ 2516.3 – 4.

6902.4 Health Homes shall not bill the beneficiary or any member of the beneficiary's family for Health Home services. Health Homes shall bill all known third-party payors prior to billing the Medicaid Program.

6902.5 Medicaid reimbursement for Health Home services shall be determined as follows:

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE EFFECTIVE JAN. 1, 2016
Health Home Services: High-Acuity	S0281U1	Month	$481.00
Health Home Services: Low-Acuity	S0281U2	Month	$349.00

6902.6 DBH shall be responsible for payment of the District's share or the local match for Health Home services. DHCF shall claim the federal share of financial participation for Health Home services.

6902.7 Medicaid reimbursement for Health Homes is not available for:

(a) Room and board costs;

(b) Inpatient services (including hospital, nursing facility services, Intermediate Care Facilities for Individuals with Intellectual Disabilities, and Institutions for Mental Diseases services);

(c) Transportation services;

(d) Vocational services;

(e) School and educational services;

(f) Socialization services;

(g) Services which are not provided and documented in accordance with DBH-established Health Home service-specific standards; and

(h) A person who is receiving Assertive Community Treatment (ACT) services.

6902.8 Only one Health Home will receive payment for delivering Health Home services to a beneficiary in a particular month.

6902.9 A Health Home may not bill Mental Health Rehabilitation Services (MHRS) Community Support for a beneficiary enrolled in a Health Home as set forth in 22-A DCMR § 2515.2.

6903 HEALTH HOME RECORD RETENTION, PROTECTION AND ACCESS

6903.1 Health Home records shall contain sufficient information which readily identifies and supports Medicaid billing. As set forth in 22-A DCMR § 2516.3, Health Homes shall document each Health Home service and activity in the beneficiary's iCAMS record. Any claim for Health Home services shall be supported by written documentation which clearly identifies the following:

(a) The specific service type rendered;

(b) The date, duration, and actual time including the beginning and ending time, during which the services were rendered;

(c) The name, title, and credentials of the person providing the services;

(d) The setting in which the services were rendered;

(a) A confirmation that the services delivered are contained in the beneficiary's comprehensive care plan;

(b) Identification of any further actions required for the beneficiary's well-being raised as a result of the service provided;

(f) A description of each encounter or service by the Health Home team member which is sufficient to document that the service was provided in accordance with this chapter; and

(g) Dated and authenticated entries, with their authors identified, which are legible and concise, including the printed name and the signature of the person rendering the service, diagnosis and clinical impression recorded in the terminology of the ICD-9 CM (or its subsequent revision), and the service provided.

6903.2 Each Health Home shall establish procedures for safeguarding beneficiary information pursuant to 42 C.F.R. § 431.305, and shall ensure, that except as otherwise provided by federal or District law or rules, the use or disclosure of beneficiary information shall be restricted to purposes related to the administration of the Medicaid Program, as set forth in 42 C.F.R. § 431.302.

6903.3 Each Health Home shall allow appropriate DHCF personnel and other authorized agents of the District of Columbia government and the federal government full access to the records.

6903.4 Each Health Home shall maintain all records, including, but not limited to, financial records, medical and treatment records, and other documentation pertaining to costs, billings, payments received and made, and services provided, for six (6) years or until all audits are completed, whichever is longer.

6903.5 In addition to the Health Home service documentation standards listed in §6903.1, a Health Home that is a public entity shall also maintain all documentation pertaining to costs necessary to perform cost reconciliation in accordance with OMB Circular A-87.

6904 AUDITS AND REVIEWS

6904.1 This section sets forth the requirements for audits and reviews of Health Home services. DHCF shall perform regular audits of Health Home providers to ensure that Medicaid payments are consistent with efficiency, economy and quality of care, and made in accordance with federal and District conditions of payment. The audits shall be conducted at least annually and when necessary to investigate and maintain program integrity. DHCF may delegate the authority contained herein to DBH pursuant to a written memorandum of agreement. Any written memorandum of agreement shall require that DBH comply with the provisions of this section as DHCF's designee.

6904.2 DHCF shall perform routine audits of claims, by statistically valid scientific sampling, to determine the appropriateness of Health Home services rendered and billed to Medicaid to ensure that Medicaid payments can be substantiated by documentation that meets the requirements set forth in this rule, and made in accordance with federal and District rules governing Medicaid.

6904.3 If DHCF determines that claims are to be denied, DHCF shall recoup those monies erroneously paid to a Health Home for denied claims, following the period of Administrative Review as set forth in this rule.

6904.4 DHCF shall issue a Proposed Notice of Medicaid Overpayment Recovery (PNR) to the Health Home, which sets forth the reasons for the recoupment, the amount to be recouped, and the procedures for submitting documentary evidence and/or written argument against the proposed action to DHCF and DBH.

6904.5 The Health Home will have thirty (30) calendar days from the date of the PNR to submit documentary evidence and/or written argument against the proposed action to DHCF.

6904.6 DHCF shall review the documentary evidence and/or written argument submitted by the Health Home against the proposed action described in the PNR. After this review, DHCF may choose to accept the Health Home's submitted evidence and/or arguments against the actions described in the PNR and cancel its proposed action to recoup Medicaid funds from the Health Home. Alternatively, after DHCF's review of the Health Home's submitted evidence and/or argument, DHCF may adjust the reasons for the proposed recoupment and/or the amount to be recouped, or deny the Health Home's submitted evidence and/or arguments against the actions described in the PNR.

6904.7 If DHCF adjusts the proposed recoupment and/or the amount to be recouped after reviewing the Health Home's submitted evidence and/or argument, or deny the submitted evidence and/or argument, DHCF shall issue a Final Notice of Medicaid Overpayment Recovery (FNR) to the Health Home, which will include procedures for requesting an Administrative Review.

6904.8 Within fifteen (15) calendar days from date of the FNR, the Health Home may appeal the FNR by filing a written notice of appeal from the determination of recoupment with the Office of Administrative Hearings. The written request for Administrative Review shall include a copy of the FNR, description of the item to be reviewed, the reason for review of the item, the relief requested, and any documentation in support of the relief requested.

6904.9 In lieu of the off-set of future Medicaid payments, the Health Home may choose to send a certified check made payable to the District of Columbia Treasurer in the amount of the funds to be recouped.

6904.10 All services provided as described in Section 6901 of this chapter, and in 22-A DCMR §§ 2500, *et seq.*, shall meet quality standards or guidelines that adhere to applicable National Committee for Quality Assurance (NCQA); Centers for Medicare and Medicaid Services (CMS); and Department of Health Care Finance (DHCF) guidance related to quality improvement activities.

6904.11 Filing an appeal shall not stay any action to recover any overpayment.

6905 DEFINITIONS

When used in this chapter, the following words shall have the meanings ascribed:

Behavioral Health Care – care that promotes the well-being of individuals by intervening and preventing incidents of mental illness, substance abuse, or other health concerns.

Comprehensive Care Plan – an individualized plan to provide health home services to address a beneficiary's behavioral and physical chronic conditions, based on assessment of health risks and the beneficiary's input and goals for improvement.

Beneficiary - a Medicaid recipient who has been determined to be eligible for the Health Home benefit, and/or who is enrolled in a Health Home.

Core Services Agency – a community-based provider that has entered into a Human Care Agreement with the Department of Behavioral Health to provide specific Mental Health Rehabilitation Services in accordance with the requirements of Chapter 34 of Title 22-A DCMR.

Department of Behavioral Health – the District of Columbia agency that regulates the District's mental health and substance abuse treatment system for adults, children, and youth.

Health Home – an entity that is certified by the District of Columbia Department of Behavioral Health as having systems in place to deliver person-centered services that coordinate a beneficiary's behavioral, primary, acute or other specialty medical health care services.

Mental Health Rehabilitation Services palliative services provided by a Department of Behavioral Health-certified community mental health provider to beneficiaries in accordance with the District of Columbia Medicaid State Plan, the Department of Health Care Finance (DHCF)/ Department Interagency Agreement, and Chapter 34 of Title 22-A DCMR.

Serious Mental Illness – a diagnosable mental, behavioral, or emotional disorder (including those of biological etiology) which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria specified within the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (DSM-IV) or its International Statistical Classification of Diseases and Related Health Problems, 9th Revision (ICD-9-CM) equivalent (and subsequent revisions) with the exception of DSM-IV "V" codes, substance abuse disorders, intellectual disabilities and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable mental illness.

Comments on this proposed rulemaking shall be submitted in writing to Claudia Schlosberg, Senior Deputy Director, Department of Health Care Finance, 441 4th Street, N.W., 9th Floor, Washington, D.C. 20001, via email to DHCFPubliccomments@dc.gov, online at www.dcregs.dc.gov, or by telephone to (202) 442-9115, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Additional copies of these rules may be obtained from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-263
December 31, 2015

SUBJECT: Appointment – Chairperson, D.C. Taxicab Commission

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01 (2014 Repl.), and pursuant to the District of Columbia Taxicab Commission Ernest Chrappah Confirmation Resolution of 2015, effective November 3, 2015, Res. 21-0250, it is hereby **ORDERED** that:

1. **ERNEST CHRAPPAH** is appointed Chairperson of the D.C. Taxicab Commission, and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2015-159, dated June 3, 2015.

3. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc to* November 3, 2015.

MURIEL BOWSER
MAYOR

ATTEST: _____
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-264
December 31, 2015

SUBJECT: Appointment — Commissioner, Department of Insurance, Securities, and Banking

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01 (2014 Repl.), and pursuant to the Commissioner of the Department of Insurance, Securities and Banking Stephen Taylor Confirmation Resolution of 2015, effective November 3, 2015, Res. 21-0257, it is hereby **ORDERED** that:

1. **STEPHEN TAYLOR** is appointed Commissioner, Department of Insurance, Securities, and Banking and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2015-177, dated June 30, 2015.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to November 3, 2015.

MURIEL BOWSER
MAYOR

ATTEST:
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-265
December 31, 2015

SUBJECT: Appointment – Director/Chief Risk Officer, Office of Risk Management

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01 (2014 Repl.), and pursuant to the Chief Risk Officer of the Office of Risk Management Jed Ross Confirmation Resolution of 2015, effective November 3, 2015, Res. 21-0258, it is hereby **ORDERED** that:

1. **JED ROSS** is appointed Director/Chief Risk Officer, Office of Risk Management and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2015-164, dated June 12, 2015.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to November 3, 2015.

MURIEL BOWSER
MAYOR

ATTEST:
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-266
December 31, 2015

SUBJECT: Appointment — Director, District of Columbia Department of Human Resources

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01 (2014 Repl.), and pursuant to the Director of the Department of Human Resources Ventris Gibson Confirmation Resolution of 2015, effective November 3, 2015, R21-0254, it is hereby **ORDERED** that:

1. **VENTRIS GIBSON** is appointed Director, District of Columbia Department of Human Resources, and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2015-197, dated August 17, 2015.

3. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to November 3, 2015.

MURIEL BOWSER
MAYOR

ATTEST:
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-267
December 31, 2015

SUBJECT: Appointment — Director, Department of Forensic Sciences

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01 (2014 Repl.), and pursuant to the Director of the Department of Forensic Sciences Jenifer Smith Confirmation Resolution of 2015, effective November 3, 2015, Res. 21-0262, it is hereby **ORDERED** that:

1. **DR. JENIFER SMITH,** is appointed Director, Department of Forensic Sciences and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2015-199, dated August 17, 2015.

3. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to November 3, 2015.

MURIEL BOWSER
MAYOR

ATTEST:
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-268
December 31, 2015

SUBJECT: Appointment — Medical Director, Fire and Emergency Medical Services Department

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01 (2014 Repl.), and pursuant to the Fire and Emergency Medical Services Department Medical Director Jullette Saussy Confirmation Resolution of 2015, effective November 3, 2015, Res. 21-0263, it is hereby **ORDERED** that:

1. **DR. JULLETTE SAUSSY** is appointed Medical Director of the Fire and Emergency Medical Services Department and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2015-198, dated August 17, 2015.

3. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to November 3, 2015.

MURIEL BOWSER
MAYOR

ATTEST:
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-269
December 31, 2015

SUBJECT: Delegation — Authority to the Chairperson of the D.C. Taxicab Commission to License Intellectual Property Associated with the DC Taxicab App License

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22 (6) and (11) (2012 Repl.) (the **"Act"**) and the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986, D.C. Law 6-97, D.C. Official Code § 50-301 *et seq.* (2012 Repl. and 2015 Supp.), it is hereby **ORDERED** that:

1. The Chairperson of the District of Columbia Taxicab Commission is delegated the Mayor's administrative authority under section 422 of the Act to license the District of Columbia Taxicab App.

2. This Order supersedes all prior Mayors' Orders to the extent of any inconsistency.

3. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL E. BOWSER
MAYOR

ATTEST:
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-270
December 31, 2015

SUBJECT: Delegation of Authority — Administration of the Domestic Violence Fatality Review Board

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(6) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) (2014 Repl.), and in accordance with section 16-1052(a) of the District of Columbia Official Code, as added by section 2(c) of the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act of 2002, effective April 11, 2003, D.C. Law 14-296, 50 DCR 320, it is hereby **ORDERED** that:

1. The Office of Victim Services shall provide facilities and other administrative support for the Domestic Violence Fatality Review Board.

2. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL E. BOWSER
MAYOR

ATTEST:
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-271
December 31, 2015

SUBJECT: Designation of Special Event Area – BET Honors 2016

ORIGINATING AGENCY: Office of Cable Television, Film, Music and Entertainment

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), and pursuant to 19 DCMR § 1301.8, it is hereby ORDERED that:

1. The following public space areas as identified below shall be designated as a Special Event Area to accommodate activities associated with the 2016 BET Honors:

   a. Commencing Friday, January 22, 2016 at 7:00 p.m. until Sunday, January 24, 2016, at 6:00 a.m., the north and south curb lanes, both sidewalks, and all travel lanes of E Street, NW between 12th and 13th Streets.

   b. Commencing Saturday, January 23, 2016 at 12:00 p.m. until Sunday January 24, 2016, at 6:00 a.m., the east and west curb lanes, and all travel lanes of 12th Street, NW between Constitution Avenue and F Street.

   c. Commencing Saturday, January 23, 2016 at 12:00 p.m. until Sunday January 24, 2016, at 6:00 a.m., the east sidewalk, east and west curb lanes, and all travel lanes of 13th Street, NW between Pennsylvania Avenue and F Street.

   d. Commencing Saturday, January 23, 2016 at 12:00 p.m. until Sunday January 24, 2016, at 6:00 a.m., all westbound lanes of Pennsylvania Avenue, NW between 12th and 13th Streets.

   e. Commencing Saturday, January 23, 2016 at 12:00 p.m. until Sunday January 24, 2016, at 6:00 a.m., the north and south curb lanes of Pennsylvania Avenue (upper)/E Street, NW between 13th and 14th Streets. (Vehicular access to the National Theater will be maintained via the west curb lane of 13th Street, NW between Pennsylvania Avenue and F Street.)

f. Commencing Saturday, January 23, 2016 at 12:00 p.m. until Sunday January 24, 2016, at 6:00 a.m., the south curb lane of F Street, NW between 12th and 13th Streets. (To be used only in the event of a snow emergency.)

2. The designated areas shall be operated and overseen by Black Entertainment Television dba BET Networks, LLC, and the District of Columbia Office of Cable Television, Film, Music and Entertainment.

3. This Order is authorization for the use of the designated areas only, and the named operator shall secure and maintain all other licenses and permits applicable to the activities associated with the operation of the event. All building, health, life, safety, ADA, and use of public space requirements shall remain applicable to the Special Event Area designated by this Order.

4. **EFFECTIVE DATE**: This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST:
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-272
December 31, 2015

SUBJECT: Delegation of Authority Pursuant to Title II, Subtitle A of D.C. Law 19-262, the Anacostia River Clean Up and Protection Fertilizer Act of 2012.

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2012 Repl.), and pursuant to the Anacostia River Clean Up and Protection Fertilizer Act of 2012, effective April 20, 2013, D.C. Law 19-262, D.C. Official Code § 8-104.01 *et seq.* (2012 Repl.) (the **"Act"**), it is hereby **ORDERED** that:

1. The Director of the Department of Energy and Environment is delegated the Mayor's authority to implement and enforce the Act.

2. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST:
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-273
December 31, 2015

SUBJECT: Appointments — Not-For-Profit Hospital Corporation Board of Directors

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and in accordance with section 5115 of the Not-For-Profit Hospital Corporation Establishment Amendment Act of 2011, effective September 14, 2011, D.C. Law 19-21, D.C. Official Code § 44-951.04 (2012 Repl.), and pursuant to the Not-For-Profit Hospital Corporation Board of Directors Chris G. Gardiner Confirmation Resolution of 2014, effective on December 19, 2015, Res. 21-0403, and pursuant to the Not-For-Profit Hospital Corporation Board of Directors Khadijah Tribble Confirmation Resolution of 2014, effective on November 7, 2015, Res. 21-0281, it is hereby **ORDERED** that:

1. **CHRIS G. GARDINER** is appointed as a member of the Not-For-Profit Hospital Corporation Board of Directors, replacing Bishop Charles Matthew Hudson, Jr., and shall serve in that capacity for a term to end July 9, 2016, and shall serve as Chairperson in that capacity at the pleasure of the Mayor.

2. **KHADIJAH TRIBBLE** is appointed as a member of the Not-For-Profit Hospital Corporation Board of Directors, replacing H. Patrick Swygert, and shall serve in that capacity for a term to end July 9, 2016.

3. **EFFECTIVE DATE:** This Order shall be effective immediately.

MURIEL BOWSER
MAYOR

ATTEST:
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-274
December 31, 2015

SUBJECT: Reappointments and Appointments — District of Columbia State Rehabilitation Council

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and in accordance with Mayor's Order 2001-173, dated November 30, 2001, it is hereby **ORDERED** that:

1. The following person is reappointed as a member of the District of Columbia State Rehabilitation Council (the **"Council"**) and shall serve in that capacity at the pleasure of the Mayor:

   a. **MATTHEW McCOLLOUGH** as the representative of the Office of Disability Rights.

2. The following persons are reappointed to the Council, for a term to end November 17, 2017.

   a. **WAYNE R. CURTIS,** as a representative of business, industry and labor; and,

   b. **PAMELA S. CARREKER,** as a representative of community rehabilitation program service providers.

3. The following persons are appointed to the Council, for a term to end November 17, 2017.

   a. **JEROME H. PARSON,** replacing Shawn M. Callaway as a consumer representative;

   b. **JONAS STEPHEN SINGER,** replacing Merrit P. Drucker, as a representative of business, industry and labor;

   c. **CHARNETIA YOUNG,** replacing Rodney T. Campfield, as a representative of business, industry and labor;

d. **JAZMONE TAYLOR,** replacing Donald Nunley, as a representative of disability advocacy groups;

e. **SHEILA MONROE,** replacing Joseph F. Brinley, Jr. as a consumer representative;

f. **ALICIA JOHNS,** replacing Weade J. Wallace as a representative of a disability advocacy group; and,

g. **CHRISTOPHER EARLEY,** replacing Jerome Parson, as a business industry and labor representative.

4. **MARGARET COWLEY** is appointed to the Council, replacing Joseph R. Cooney, as a representative of the Client Assistance Program, for term to end January 16, 2017.

5. **CHERYL BEIL** is appointed to the Council, as a representative of individuals with disabilities who have difficulty representing themselves, filling a vacant seat, for a term to end November 17, 2018.

6. The following persons are appointed as members of the Council and shall serve in that capacity at the pleasure of the Mayor:

a. **NAT' A. DEARDEN,** replacing Desiree T. Brown, as the representative of the Office of the State Superintendent of Education; and,

b. **ANDREW P. REESE,** replacing Maria R. Barrera, as the Administrator of the Vocational Rehabilitation Agency.

7. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST:
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCES SYSTEM

Mayor's Order 2015-275
December 31, 2015

SUBJECT: Amendment and Appointment — Leadership Council for a Cleaner Anacostia River

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), it is hereby **ORDERED** that:

1. Section IV(A) of Mayor's Order 2015-171, dated June 24, 2015, is amended to read as follows:

   "The Leadership Council shall consist of twenty two (22) members, comprised of officials from federal, state, and local government, representatives from environmental and other nongovernmental organizations, and representatives of communities adjacent to the Anacostia River."

2. **EMILY FRANC**, a representative of an environmental organization, is appointed as a member of the Leadership Council, and shall serve in that capacity for a term to end September 30, 2018.

3. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: _____
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JANUARY 13, 2016
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson
Members:
Nick Alberti, Mike Silverstein, Ruthanne Miller, James Short

Protest Hearing (Status) **9:30 AM**
Case # 15-PRO-00109; Gobind, LLC, t/a Toscana Café, 601 2nd Street NE
License #97558, Retailer DR, ANC 6C
Substantial Change (Request a Class Change from DR to CR License)

Protest Hearing (Status) **9:30 AM**
Case # 15-PRO-00105; Pilar Hospitality Group, LLC, t/a Bar Pilar, 1833 14th Street NW, License #72472, Retailer CT, ANC 1B
Substantial Change (Request to add a Summer Garden)

Show Cause Hearing (Status) **9:30 AM**
Case # 15-CMP-00354; Black 14th Street NW, LLC, t/a Pearl Dive Oyster Palace/Black Jack, 1612 14th Street NW, License #85382, Retailer CR ANC 2F
Substantial Change without the Board's Approval (Increase in Occupancy)

Show Cause Hearing (Status) **9:30 AM**
Case # 15-CMP-00505; Axumawit Incorporation, Inc., t/a Axum Restaurant 1934 9th Street NW, License #89823, Retailer CR, ANC 1B
Operating after Hours, No ABC Manager on Duty, Establishment Sold Alcohol without Appropriate License, Interfered with an Investigation

Show Cause Hearing (Status) **9:30 AM**
Case # 15-AUD-00087; Solloso, Inc., t/a El Rincon, 1826 Columbia Road NW
License #60003, Retailer CR, ANC 1C
Failed to Maintain Books and Records

Board's Calendar
January 13, 2016

Show Cause Hearing (Status) **9:30 AM**
Case # 15-CMP-00287; Restaurant Associates of New York, LLC, t/a Restaurant Associates, 1818 H Street NW, License #81024, Retailer CR, ANC 2A
No ABC Manager on Duty, Failed to Post Pregnancy Sign

Show Cause Hearing (Status) **9:30 AM**
Case # 14-CMP-00209; Red Line DC, LLC, t/a Red Line, 707 G Street NW License #85225., Retailer CR, ANC 2C
Failed to File Quarterly Statements (1st Quarter 2014)

Show Cause Hearing (Status) **9:30 AM**
Case # 15-251-00083; Mad Hatter CT Ave, LLC, t/a Mad Hatter, 1321 Connecticut Ave NW, License #82646, Retailer CT, ANC 2B
Failed to Follow Security Plan

Show Cause Hearing (Status) **9:30 AM**
Case # 15-CMP-00599; Songbyrd, LLC, t/a Songbyrd, 2477 18th Street NW License #96137, Retailer CT, ANC 1C
No ABC Manager on Duty

Show Cause Hearing (Status) **9:30 AM**
Case # 15-251-00224; Debebe Addis, t/a Mesobe Restaurant and Deli Market 1853 7th Street NW, License #81030, Retailer CR, ANC 1B
Chief of Police Closure December 14, 2015
Continued from January 6, 2015 at the request of the Respondent.

Show Cause Hearing* **10:00 AM**
Case # 14-CMP-00606; Jose Andres Catering, LLC, t/a Jose Andres Catering 717 D Street NW, License #88399, Retailer Caterer, ANC 2C
Failed to File a Caterer's Report

Show Cause Hearing* **10:00 AM**
Case # 15-AUD-00055; Café Europa, Inc., t/a Panache, 1725 DeSales Street NW, License #60754, Retailer CR, ANC 2B
Failed to File Quarterly Statements (4th Quarter 2014)

Show Cause Hearing* **11:00 AM**
Case # 15-CMP-00143; Shaw Howard Deli, LLC, t/a Shaw Howard Deli, 1911 7th Street NW, License #95169, Retailer B, ANC 1B
Sold Go-Cups

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

Board's Calendar
January 13, 2016

Show Cause Hearing* **1:30 PM**
Case # 15-CMP-00025; Desperados Pizza, LLC, t/a Desperados Pizza, 1342 U Street NW, License #84731, Retailer CT, ANC 1B
No ABC Manager on Duty (Two Counts)

Show Cause Hearing* **2:30 PM**
Case # 15-CMP-00219; Debebe Addis, t/a Mesobe Restaurant and Deli Market 1853 7th Street NW, License #81030, Retailer CR, ANC 1B
No ABC Manager on Duty, Operating after Hours

Show Cause Hearing* **3:30 PM**
Case # 15-CMP-00592; Black Whiskey, LLC, t/a Black Whiskey, 1410 14th Street NW, License #91434, Retailer CT, ANC 2F
No ABC Manager on Duty

Show Cause Hearing* **4:30 PM**
Case # 15-CMP-00557; Minnesota Store, LLC, t/a Minnesota Store, 3728 Minnesota Ave NE, License #95245, Retailer B, ANC 7F
Failed to Post In a Conspicuous Place the Name of the Licensee

***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 PUBLIC HEARINGS
CALENDAR

THURSDAY, JANUARY 14, 2016
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson
Members:Nick Alberti, Mike Silverstein
Ruthanne Miller, James Short

Fact Finding Hearing* **10:00 AM**
Case # 15-251-00154; Kabin Group, LLC, t/a Kabin, 1337 Connecticut Ave NW, License #91276, Retailer CT, ANC 2B
Assault Inside of the Establishment

Fact Finding Hearing* **10:30 AM**
Case # 15-251-00158; DC Irish, LLC, t/a Sign of the Whale, 1825 M Street NW License #85120, Retailer CT, ANC 2B
Assault Inside the Establishment

Fact Finding Hearing* **11:00 AM**
Case #15-251-00198; 917 U, LLC, t/a Dodge City, 917 U Street NW License #78749, Retailer CT, ANC 1B
Assault with a Deadly Weapon

Fact Finding Hearing* **11:30 AM**
Case #15-251-00180; 915 U, LLC, t/a Velvet Lounge, 915 U Street NW License #78443, Retailer CT, ANC 1B
Simple Assault Inside the Establishment

BOARD RECESS AT 12:00 PM

Fact Finding Hearing* **1:30 PM**
Eagle N Exile, LLC, t/a DC Eagle, 3701 Benning Road NE, License #93984 Retailer CT, ANC 7F
Request to Extend Temporary License

Board's Calendar
January 14, 2016

Fact Finding Hearing* **2:00 PM**
KCC Entertainment, Inc., t/a Club 2020 Bar & Lounge, 2434 18th Street NW
License #101093, Retailer CR, ANC 1C
Transfer Application without Substantial Change

Show Cause Hearing* **2:30 PM**
Case # 15-CMP-00160; Barcelona 14th Street, LLC, t/a Barcelona Wine Bar
1622 14th Street NW, License #89785, Retailer CR, ANC 2F
Substantial Change in Operation (Change of Hours of Operation for Summer Garden)

***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
INVESTIGATIVE AGENDA

WEDNESDAY, JANUARY 13, 2016
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

On January 13, 2016 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#15-CMP-00760 Cobalt/ 30 Degrees/Level One, 1639 - 1641 R ST NW Retailer C Tavern, License#: ABRA-071833

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2. Case#15-251-00223 Johana's Restaurant, 4728 14TH ST NW Retailer C Tavern, License#: ABRA-025996

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3. Case#15-CMP-00724 Recessions II, 1823 L ST NW Retailer C Tavern, License#: ABRA-060567

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4. Case#15-CC-00127 Open City, 2331 CALVERT ST NW Retailer C Restaurant, License#: ABRA-072380

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5. Case#15-AUD-00097 DCJCC, 1529 16TH ST NW Retailer D Restaurant, License#: ABRA-024489

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6. Case#15-CMP-00729 Belga Cafe, 514 8TH ST SE Retailer C Restaurant, License#: ABRA-060779

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7. Case#15-CC-00130 Randall Grocery, 2924 MINNESOTA AVE SE Retailer B Retail - Grocery, License#:ABRA-019046

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8. Case#15-CMP-00803 Sushi Taro, 1503 17TH ST NW Retailer C Restaurant, License#: ABRA-009655

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9. Case#15-CC-00124 Lena Market, 1206 UNDERWOOD ST NW Retailer B Retail - Class B, License#: ABRA-082376

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10. Case#15-CC-00037 Mott's Market, 233 12TH ST SE Retailer B Retail - Grocery, License#: ABRA-080006

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11. Case#15-CMP-00884 The Codmother, 1334 U ST NW A Retailer C Tavern, License#: ABRA-086231

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12. Case#15-CMP-00867 Victor Liquors, 6220 GEORGIA AVE NW Retailer A Retail - Liquor Store, License#:ABRA-088173

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13. Case#15-CMP-00765 Fuel Pizza & Wings, 600 F ST NW Retailer C Restaurant, License#: ABRA-088727

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14. Case#15-CMP-00766 Fuel Pizza & Wings, 600 F ST NW Retailer C Restaurant, License#: ABRA-088727

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15. Case#15-251-00216 Echostage, 2135 QUEENS CHAPEL RD NE Retailer C Nightclub, License#: ABRA-090250

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16. Case#15-CMP-00725 RiRa Irish Pub, 3123 - 3125 M ST NW Retailer C Restaurant, License#: ABRA-092168

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17. Case#15-CMP-00727 Medium Rare Barracks Row, LLC, 515 8TH ST SE Retailer C Restaurant, License#: ABRA-093525

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18. Case#15-CC-00125 Safeway, 1747 COLUMBIA RD NW Retailer B Retail - Grocery, License#: ABRA-072708

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19. Case#15-CMP-00710 St Gregory Luxury Hotel & Suites, 2033 M ST NW Retailer C Hotel, License#: ABRA-098868

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20. Case#15-251-00193 SAX, 734 11th ST NW Retailer C Tavern, License#: ABRA-099955

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21. Case#15-251-00222 SAX, 734 11th ST NW Retailer C Tavern, License#: ABRA-099955

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LEGAL AGENDA

WEDNESDAY, JANUARY 13, 2016 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Settlement Agreement, between Blazin Wings, Inc. t/a Buffalo Wild Wings and ANC 6D, dated September 21, 2015. ***Buffalo Wild Wings***, 1220 Half Street, S.E., Retailer CR, License No.: 99597.

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2. Review of Settlement Agreement between NOBU DC LLC t/a Nobu, ANC 2B and Westgate Residential Owners Association, dated December 23, 2015. ***Nobu***, 2501 M Street, N.W., Retailer CR, License No.: 100894.

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3. Review of Letter from the Georgetown Business Association, dated December 28, 2015, regarding the expiration of the Georgetown Moratorium Zone.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, JANUARY 13, 2016 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Request for Change of Hours. ***Current Hours of Operation:*** Sunday-Thursday 7am to 2am, Friday-Saturday 7am to 3am. ***Current Hours of Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. ***Proposed Hours of Operation:*** Sunday-Thursday 7am to 2am, Friday-Saturday 7am to 4am. ANC 1B. SMD 1B12. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***U & Pizza***, 1250 U Street NW, Retailer CR, License No. 092159.

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2. Review Request for Change of Hours. ***Current Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. ***Proposed Hours of Operation:*** Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 4am. ANC 6A. SMD 6A01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***H & Pizza***, 1118 H Street NE, Retailer CR, License No. 089158.

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3. Review Request for Change of Hours. ***Current Hours of Operation:*** Sunday-Thursday 7am to 2am, Friday-Saturday 7am to 3am. ***Current Hours of Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. ***Proposed Hours of Operation:*** Sunday-Thursday 7am to 2am, Friday-Saturday 7am to 4am. ANC 2B. SMD 2B05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***& Pizza***, 1215 Connecticut Avenue NW, Retailer CR, License No. 096845.

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4. Review Request for Change of Hours. ***Current Hours of Operation:*** Sunday-Thursday 7am to 2am, Friday-Saturday 7am to 3am. ***Current Hours of Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. ***Proposed Hours of Operation:*** Sunday-Thursday 7am to 2am, Friday-Saturday 7am to 4am. ANC 2F. SMD 2F05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***& Pizza***, 1400 K Street NW, Retailer CR, License No. 096224.

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5. Review Application for Manager's License. ***Elias B. Haddad***-ABRA 101439.

***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.**

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY (NOFA)

FISCAL YEAR 2016

Teacher Quality Improvement Grant Program

Announcement Date: January 8, 2016
Request for Applications (RFA) Release Date: January 22, 2016

The Office of the State Superintendent of Education (OSSE) is soliciting applications for the Teacher Quality Improvement (TQI) grant program authorized through provisions of Title II, Part A, Subpart 3 of the No Child Left Behind Act of 2001 (codified at 20 U.S.C. § 6631 *et seq.*). OSSE will solicit applications for the development and provision of professional development programs aimed at enhancing student achievement in eligible local educational agencies (LEAs). The purpose of these professional development programs will be to ensure that teachers, highly qualified paraprofessionals, and, if appropriate, principals have subject matter knowledge in the core academic subjects they teach, and build upon the skills necessary to help students master core academic subjects.

Available Funding for Awards: The amount available for this award period is approximately $250,315.00.

Anticipated Number and Amount of Awards: Historically, OSSE has issued approximately 2 to 3 TQI grant awards, annually. Awards have ranged from $75,000 to approximately $175,000.

Award Period: The grant period will be from the date of award through September 30, 2017.

Eligibility: The TQI Grant Program is a partnership grant. An eligible application must include the following principal partners at a minimum:

(1) a private or State institution of higher education and the division of the institution that prepares teachers and principals;
(2) a school or college of arts and sciences at an institution of higher education; and
(3) a high need LEA.

Other partners may include another LEA, a public elementary or secondary school (including a public charter school), a nonprofit educational organization, another institution of higher education, a school of arts and sciences within such an institution, the division of such an institution that prepares teachers and principals, a nonprofit cultural organization, an entity carrying out a prekindergarten program, a teacher organization, a principal organization or a business.

State Application Priority: The District of Columbia's Office of the State Superintendent of Education has aligned federal priorities of the Teacher Quality Improvement grant program

within four areas of focus, identified as OSSE priorities for this grant funding opportunity. Grant applications that are awarded funding during the FY 2016 cycle will describe proposed programs which substantially address one or more of the following focus areas:

1. **Professional development programs aimed at supporting the creation of high-quality induction systems for novice teachers of core subject areas.** Prospective applicants may consider developing a corps of highly-effective master educators with the intent of helping novice teachers to demonstrate effectiveness in classroom instruction. Funding may also be used to support implementation or revision of already-existing induction systems. Applicants may also consider using funding to supplement existing teacher residency programs. Prospective applicants may consider forming a consortium of LEAs for residency placements and/or new teacher induction, to provide broad supports for novice teachers and to build a pipeline of highly qualified and highly effective teachers.
2. **Professional development programs aimed at improving the overall effectiveness of school leadership and classroom instruction.** This funding shall target a majority of teachers and/or principals rated as effective or minimally effective per the LEA's evaluation system, with ongoing, sustained professional development geared toward moving these educators toward improving their overall effectiveness in instructional and leadership roles.
3. **Professional development programs aimed at supporting LEA use of student learning objectives (SLOs).** Funding may be used to better prepare administrators and teachers to deconstruct learning standards, identify priority content, create high-quality goals and objectives, and measure student progress in tested and non-tested grades and in core subject areas. Prospective applicants may also consider forming a consortium of LEAs, led by an LEA experienced in using SLOs that will help other LEAs with successful implementation through provision of targeted professional development and by modeling best practices.
4. **Professional Development programs aimed at facilitating implementation of the Next Generation Science Standards (NGSS) in DC LEAs and schools.** Applicants will target a cadre of highly effective STEM teachers within the high need LEA, or a consortium of high-need LEAs to participate in NGSS-specific training, who will return to their schools and LEAs to lead NGSS-specific professional development to other STEM teachers. Applications should demonstrate a strong intention to provide opportunities for participants to have direct contact with individuals and organizations that represent STEM fields such as scientists, mathematicians, engineers, etc. Programs designed under this option will demonstrate how they intend to be used as a model to support effective instruction across the District of Columbia.

The Request for Applications (RFA) will be released Friday, January 22, 2016 no later than 5:00 p.m. through OSSE's Enterprise Grants Management System (EGMS). The online system and training videos may be accessed by visiting http://osse.dc.gov/service/enterprise-grants-management-system-egms.

A Pre-Application Webinar will be held on Tuesday, February 9, 2016 from 2:00pm to 4:00pm. You may RSVP by emailing Valida Walker at valida.walker@dc.gov. **It is strongly recommended that applying organizations attend the pre-application webinar.**

For additional information regarding this grant competition, please contact:

Valida Walker
Division of Elementary, Secondary and Specialized Education
Office of the State Superintendent of Education
valida.walker@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, Washington, DC, intends to issue a permit (#6645-R1) Sprint United Management Company (d/b/a Sprint Corporation) to operate the existing emergency generator set listed below. The emission unit is located at 1050 Connecticut Avenue NW, Washington DC 20036. The contact person for the facility is James Lucci, EHS Territory Manager, at (781) 494-0538.

Emission Unit Name	Engine Serial No.	Generator (Engine) Size	Description
Emergency Generator	33146251	1,500 kWe (2,220 hp)	One 2,220 hp Cummins diesel engine associated with a 1,500 kWe generator.

The application to operate the emergency generator set and the draft renewal permit and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to John C. Nwoke at (202) 724-7778.

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

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

John C. Nwoke
Environmental Engineer, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
john.nwoke@dc.gov

No written comments or hearing requests postmarked after February 8, 2016 will be accepted.

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit Nos. 7044 and 7045, respectively, to the Roubin & Janeiro Inc. to operate one crusher powered by a 350 horsepower Caterpillar engine and one conveyor powered by a 49 horsepower Caterpillar engine at the Roubin & Janeiro Hot Mix Asphalt Plant located at 4900 Shepherd Parkway SW, Washington, DC 20032. The contact person for the facility is Joe Roubin, Vice President, at (703) 491-9100.

The proposed emission limits are as follows:

a. Emissions from the engine shall not exceed those found in the following table, as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 89.112(a)]

Emission Limits	**Crusher**	**Conveyor**
Pollutant	g/kW-hr	g/kW-hr
NMHC+NO_x	4.0	7.5
CO	3.5	5.5
PM	0.2	0.3

b. Emissions of dust shall be minimized in accordance with the requirements of 20 DCMR 605 and the "Operational Limitations" of this permit.

c. The emission of fugitive dust from any material handling, screening, crushing, grinding, conveying, mixing, or other industrial-type operation or process is prohibited. [20 DCMR 605.2]

d. Emissions from the engine powering the crusher/conveyor shall not exceed those achieved by proper operation of the equipment in accordance with manufacturer's specifications.

e. Visible emissions shall not be emitted into the outdoor atmosphere from stationary sources; provided, that the discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, soot blowing, adjustment of combustion controls, or malfunction of the equipment. [20 DCMR 606.1]

f. In addition to Condition II(e), exhaust opacity from the engine, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 89.113]:

    1. 20 percent during the acceleration mode;

2. 15 percent during the lugging mode;

3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

g. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the crusher engine are as follows:

Pollutant	**Emission Rate (lb/hr)**	**Maximum Annual Emissions (tons/yr)**
Carbon Monoxide (CO)	1.55	1.17
Oxides of Nitrogen (NO_x)	1.96	1.47
Total Particulate Matter (PM Total)	0.104	0.078
Volatile Organic Compounds (VOCs)	0.880	0.660
Oxides of Sulfur (SO_x)	0.718	0.538

The estimated emissions from the conveyor engine are as follows:

Pollutant	**Emission Rate (lb/hr)**	**Maximum Annual Emissions (tons/yr)**
Carbon Monoxide (CO)	0.081	0.060
Oxides of Nitrogen (NO_x)	0.483	0.363
Total Particulate Matter (PM Total)	0.015	0.011
Volatile Organic Compounds (VOCs)	0.123	0.092
Oxides of Sulfur (SO_x)	0.718	0.075

In addition to the above, total particulate emissions from the material handling aspects of the crusher and conveyor are 0.741 tons per year.

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

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

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

Abraham T. Hagos
Environmental Engineer, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
abraham.hagos@dc.gov

No written comments or hearing requests postmarked after February 8, 2016 will be accepted.

For more information, please contact Abraham T. Hagos at (202) 535-1354.

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue Permit #7056 to Virginia Electric and Power Company dba Dominion Virginia Power to construct and operate one 400 kWe emergency generator set with a 619 hp diesel fired engine to be located at Building 18 of Fort Lesley J. McNair (Joint Base Myer-Henderson Hall), 103 3rd Avenue SW, Washington DC. The contact person for the applicant is Paul Matthews, Manager, T&D Privatization, at (757) 857-2851.

Emergency Generator to be Permitted

Equipment Location	**Address**	**Generator/ Engine Size**	**Permit No.**
Fort Lesley J. McNair (Joint Base Myer-Henderson Hall) – Building 18	103 3rd Avenue SW Washington DC	400 kWe/ 619 hp	7056

The proposed emission limits are as follows:

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

Pollutant Emission Limits (g/kWm-hr)		
NMHC+NOx	CO	PM
4.0	3.5	0.20

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

c. In addition to Condition II(b), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:

   1. 20 percent during the acceleration mode;

   2. 15 percent during the lugging mode;

   3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from the generator engine are as follows:

Pollutant	**Maximum Annual Emissions (tons/yr)**
Carbon Monoxide (CO)	0.45
Oxides of Nitrogen (NO_x)	0.64
Total Particulate Matter (PM Total)	0.02
Volatile Organic Compounds (VOCs)	0.03
Oxides of Sulfur (SO_x)	0.001

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

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

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

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

No written comments or hearing requests postmarked after February 8, 2016 will be accepted.

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

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING

DISTRICT OF COLUMBIA FINANCIAL LITERACY COUNCIL

NOTICE OF PUBLIC MEETING

The Members of the District of Columbia Financial Literacy Council (DCFLC) Advisory Committee will hold a meeting on Thursday, January 21, 2016 at 3:00 PM. The meeting will be held at the DC Department of Insurance, Securities and Banking, 810 First St, NE, 7th Floor Conference Room, Washington, D.C. 20002. Below is the draft agenda for this meeting. A final agenda will be posted to the Department of Insurance, Securities, and Banking's website at http://disb.dc.gov. Please RSVP to Idriys J. Abdullah, idriys.abdullah@dc.gov, for additional information call (202) 442-7832 or e-mail idriys.abdullah@dc.gov

DRAFT AGENDA

I. Call to Order
II. Welcoming Remarks
III. Minutes of the Previous Meeting
IV. Unfinished Business
V. New Business
VI. Executive Session
VII. Adjournment

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING

DISTRICT OF COLUMBIA FINANCIAL LITERACY COUNCIL

NOTICE OF PUBLIC MEETING

The Members of the District of Columbia Financial Literacy Council (DCFLC) will hold a meeting 3:00 PM, Thursday, February 4, 2016. The meeting will be held at the DC Department of Insurance, Securities and Banking, 810 First St, NE, 7th Floor Conference Room, Washington, D.C. 20002. Below is the draft agenda for this meeting. A final agenda will be posted to the Department of Insurance, Securities, and Banking's website at http://disb.dc.gov. Please RSVP to Idriys J. Abdullah, idriys.abdullah@dc.gov, for additional information call (202) 442-7832 or e-mail idriys.abdullah@dc.gov

DRAFT AGENDA

I. Call to Order
II. Welcoming Remarks
III. Minutes of the Previous Meeting
IV. Unfinished Business
V. New Business
VI. Executive Session
VII. Adjournment

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DC TAXICAB COMMISSION

NOTICE OF GENERAL COMMISSION MEETING

The District of Columbia Taxicab Commission will hold its regularly scheduled General Commission Meeting on Wednesday, January 13, 2016 at 10:00 am. The meeting will be held at our new office location: 2235 Shannon Place, SE, Washington, DC 20020, inside the Hearing Room, Suite 2032. Visitors to the building must show identification and pass through the metal detector. Allow ample time to find street parking or to use the pay-to-park lot adjacent to the building.

The final agenda will be posted no later than seven (7) days before the General Commission Meeting on the DCTC website at www.dctaxi.dc.gov.

Members of the public are invited to participate in the Public Comment Period. You may present a statement to the Commission on any issue of concern; the Commission generally does not answer questions. Statements are limited to five (5) minutes for registered speakers. Time and agenda permitting, nonregistered speakers may be allowed 2 minutes to address the Commission. To register, please call 202-645-6002 no later than 3:30 p.m. on January 12, 2016. Registered speakers will be called first, in the order of registration. **Registered speakers must provide ten (10) printed copies of their typewritten statements to the Secretary to the Commission no later than the time they are called to the podium.**

DRAFT AGENDA

I. Call to Order

II. Commission Communication

III. Commission Action Items

IV. Government Communications and Presentations

V. General Counsel's Report

VI. Staff Reports

VII. Public Comment Period

VIII. Adjournment

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DC TAXICAB COMMISSION

NOTICE OF SPECIAL COMMISSION MEETING

The District of Columbia Taxicab Commission will hold a Special Commission Meeting on Wednesday, January 20, 2016 at 10:00 am. The meeting will be held at our new office location: 2235 Shannon Place, SE, Washington, DC 20020, inside the Hearing Room, Suite 2032. Visitors to the building must show identification and pass through the metal detector. Allow ample time to find street parking or to use the pay-to-park lot adjacent to the building.

The final agenda will be posted no later than seven (7) days before the Special Commission Meeting on the DCTC website at www.dctaxi.dc.gov.

Members of the public are invited to participate in the Public Comment Period. You may present a statement to the Commission on any issue of concern; the Commission generally does not answer questions. Statements are limited to five (5) minutes for registered speakers. Time and agenda permitting, nonregistered speakers may be allowed 2 minutes to address the Commission. To register, please call 202-645-6002 no later than 3:30 p.m. on January 19, 2016. Registered speakers will be called first, in the order of registration. **Registered speakers must provide ten (10) printed copies of their typewritten statements to the Secretary to the Commission no later than the time they are called to the podium.**

DRAFT AGENDA

I. Call to Order

II. Commission Communication

III. Commission Action Items

IV. Government Communications and Presentations

V. General Counsel's Report

VI. Staff Reports

VII. Public Comment Period

VIII. Adjournment

GOVERNMENT OF THE DISTRICT OF COLUMBIA
TAXICAB COMMISSION

NOTICE OF FUNDING AVAILABILITY
GRANTS FOR ELECTRIC TAXICABS

The Government of the District of Columbia, Taxicab Commission is soliciting applications from approved taxicab companies and independent taxicab owners with current DCTC operating authority to purchase or lease and place fully electric taxicabs into service within the District of Columbia.

The Request for Applications ("RFA") #ELECTAXI-2016-01-002 release date will be January *7*, 2016. The full text of the RFA will be available online at DCTC's website. It will also be available for pickup. A person may obtain a copy of this RFA by any of the following means:

Download by visiting the DCTC website, www.dctaxi.dc.gov.

Email a request to thedford.collins@dc.gov with "Request copy of RFA ELECTAXI-2016-01-002" in the subject line.

In person by making an appointment to pick up a copy from the DCTC ADA office at 2235 Shannon Place, SE, Suite 2001, Washington, DC 20020 (call Thedford Collins at (202) 645-6018 and mention this RFA by name); or

Write DC Taxicab Commission, Office of Taxicabs at 2235 Shannon Place, SE Washington, DC 20020, Attn: Request copy of RFA # ELECTAXI-2016-01-002" on the outside of the letter.

The deadline for application submissions is February 2, 2016 at 3:00 p.m. Four hard copies must be submitted to the above address and a complete electronic copy in .pdf format must be submitted.

Eligibility: Only taxicab companies and independent taxicab owners licensed by DCTC may participate in the Electric Taxicab Program and may apply for this opportunity.

Period of Awards: The Electric Taxicab Program performance period will begin on February 1, 2016 and end on January 31, 2017.

Available Funding: One or more awards will be made, and award amounts will range from a minimum of $10,000 up to a maximum of $200,000. There may be more than one grant recipient. The amount is contingent on availability of funding and approval by the appropriate agencies.

For additional information regarding this RFA, please contact Thedford Collins at thedford.collins@dc.gov or (202) 645-6018.

GOVERNMENT OF THE DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FUNDING AVAILABILITY
GRANTS FOR NEIGHBORHOOD VAN SERVICE

The Government of the District of Columbia, Taxicab Commission is soliciting applications from approved taxicab companies to provide neighborhood van service to underserved areas within the District of Columbia – specifically, in Wards 4, 7, and 8.

The Request for Applications ("RFA") # NVS2016-01-001 release date will be January 7, 2016. The full text of the RFA will be available online at DCTC's website. It will also be available for pickup. A person may obtain a copy of this RFA by any of the following means:

Download by visiting the DCTC website, www.dctaxi.dc.gov.

Email a request to thedford.collins@dc.gov with "Request copy of RFA NEIGHBORHOOD VAN SERVICE 2016-00-001" in the subject line.

In person by making an appointment to pick up a copy from the DCTC ADA office at 2235 Shannon Place, SE, Suite 2001, Washington, DC 20020 (call Thedford Collins at (202) 645-6018 and mention this RFA by name); or

Write DC Taxicab Commission, Office of Taxicabs at 2235 Shannon Place, SE Washington, DC 20020, Attn: Request copy of RFA# NEIGHBORHOOD VAN SERVICE 2016-00-001" on the outside of the letter.

The deadline for application submissions is January 25, 2016 at 3:00 p.m. After that date and initial grants are awarded, applications will be accepted on a rolling basis until funds are exhausted or until September 30, 2016 at 3:00 p.m., whichever comes first. Four hard copies must be submitted to the above address and a complete electronic copy must be submitted.

Eligibility: Only taxicab companies that are licensed by DCTC may participate in the Neighborhood Van Service Program and may apply for this opportunity.

Period of Awards: The Neighborhood Van Service Program performance period will begin on February 1, 2016 and end on January 30, 2017.

Available Funding: One or more awards will be made, and award amounts will range from a minimum of $10,000 per grant up to a maximum of $200,000 in total awards. There may be more than one grant recipient. The amount is contingent on availability of funding and approval by the appropriate agencies.

For additional information regarding this NOFA, please contact Thedford Collins at Thedford.collins@dc.gov or (202) 645-6018.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

REQUEST FOR APPLICATIONS (RFA) # ELECTAXI-2016-01-002

FY 2016 Electric Taxicabs

Information: The District of Columbia Taxicab Commission ("DCTC") is soliciting applications from taxicab companies and independent, DCTC-licensed taxicab owners under this RFA (#ELECTAXI-2016-01-002), to purchase fully electric taxicabs. Upon approval, participating grantees must purchase at least one new (Model Year 2016 or 2017) fully electric taxicab. DCTC will make available, no later than February 15, 2016, at least $10,000 and as much as $200,000 in grant funds to purchase brand new fully electric vehicles for use as taxicabs in the District of Columbia.

Eligibility: Only DCTC licensed taxicab owners in compliance with all applicable provisions of Title 31 of the District of Columbia Municipal Regulations ("DCMR") and other applicable laws may apply for this opportunity. Specifically, applicants must be in good standing with the Office of Taxicabs, and be in compliance with all Title 31 and DCRA licensing requirements to apply and participate in the Electric Taxicab Program.

Deadline: 3:00 p.m. on **February 2, 2016;** rolling thereafter until funds are exhausted.

Funds: A maximum $200,000 is available to fund one or more awards.

Information: Visit the DC Taxicab Commission's website at http://dctaxi.dc.gov/ for the full text of the RFA.

For more information, please contact: Mr. Thedford Collins
thedford.collins@dc.gov

DISTRICT OF COLUMBIA TAXICAB COMMISSION

REQUEST FOR APPLICATIONS (RFA) # NVS-2016-01-001

FY 2016 Neighborhood Van Service

Information: The District of Columbia Taxicab Commission ("DCTC"), is soliciting applications from taxicab companies and limousine companies to provide Neighborhood Van Service ("NVS") awarded under this RFA (# NVS-2016-01-001), who will be required to provide neighborhood van service in Wards 4, 7, and 8.

Companies will provide Neighborhood Van Service according to customers' needs. Transportation will be provided as jitney-style service, where passengers are picked up and dropped off along fixed or variable or predefined routes within and between Wards 4, 7, and 8. The service will run 24 hours per day, 7 days per week or at timeframes optimized for customers' benefit. As part of the grant application, participants must submit proposed transportation tables and schedules. Upon approval, grantees must also finalize the transportation tables and schedules.

Eligibility: Only DCTC-licensed public vehicle-for-hire companies may participate in the Neighborhood Van Service Program and may apply for this opportunity. Specifically, applicants must be current companies in good standing with the Office of Taxicabs, and be in compliance with all Title 31 and DCRA licensing requirements to apply and participate in the Neighborhood Van Service Program.

Deadline: 3:00 p.m. on **January 25, 2015**; rolling thereafter until funds are exhausted.

Funds: Up to $200,000 is available to fund one or more awards.

Information: Visit the DC Taxicab Commission's website at http://dctaxi.dc.gov/ for the full text of the RFA.

For more information, please contact: Mr. Thedford Collins
thedford.collins@dc.gov

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19066 of Gabriel and Stephanie Klein, as amended,[1] pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403, and the rear yard requirements under § 404, to allow the construction of a one-room addition on top of an existing garage for use as an office in the R-4 District at premises 1100 Euclid Street N.W. (Square 2865, Lot 115).

HEARING DATES: September 22, October 6, October 20, November 24, and December 22, 2015
DECISION DATE: December 22, 2015

SUMMARY ORDER

SELF-CERTIFIED

On June 10, 2015, the Applicant filed a request for relief, accompanied by a memorandum, dated April 14, 2015, from the Zoning Administrator ("ZA"), which stated that Board of Zoning Adjustment ("Board") approval is required for variances pursuant to 11 DCMR §§ 3103.2, 404.1 and 403.1 for the construction of an addition with deck and conversion to a three-unit apartment building in a semi-detached structure. (Exhibit 9.)

Based on revised plans (Exhibit 68), the Applicant amended the application by submitting a self-certification form requesting a special exception under § 223, not meeting the lot occupancy requirements under § 403 and the rear yard requirements under § 404, to allow the construction of a one-room addition on top of an existing garage for use as an office. (Exhibit 52.) The Applicant testified at the public hearing on December 22, 2015 that the plan revisions were a result of discussions with neighbors. Based on these conversations, the Applicant amended the plans to propose an addition for use as an office, instead of a third dwelling unit.

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") 1B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. The ANC submitted a report indicating that at its regularly scheduled and properly noticed public meeting

[1] The Applicant's original application included a request for variance relief from the lot occupancy requirements under § 403 and the rear yard requirements under § 404. (Exhibit 9.) The Applicant submitted revised plans (Exhibit 68) and a revised self-certification form (Exhibit 52) to amend its application and request a special exception under § 223, not meeting the lot occupancy requirements under § 403, and the rear yard requirements under § 404. The caption has been revised accordingly.

of August 6, 2015, at which a quorum was in attendance, ANC 1B voted 9-0-0 to support the application. (Exhibit 35.)

The Office of Planning ("OP") submitted a report on November 17, 2015, recommending approval of the amended application, (Exhibit 73), and testified in support of the application at the hearing. Previously, OP submitted a report indicating that it could not recommend approval, based on the Applicant's initial proposal. (Exhibit 40.) The District Department of Transportation ("DDOT") submitted a report on September 10, 2015 indicating that it had no objection to the application. (Exhibit 37.)

Fifteen letters in support were submitted to the record by nearby residents. (Exhibits 11-18, 28, 29, 38, and 69-72.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exceptions from §§ 223, 403, and 404, to allow the construction of a one-room addition on top of an existing garage for use as an office in the R-4 District. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 223, 403 and 404, 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 § 3125.5, 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 PLANS AT EXHIBIT 68.**

VOTE: 3-0-2 (Marnique Y. Heath, Marcie I. Cohen, and Jeffrey L. Hinkle to APPROVE; Frederick L. Hill not participating and one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: January 4, 2016

BZA APPLICATION NO. 19066
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 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. 19145 of Linden Court Partners LLC, as amended[1], pursuant to 11 DCMR § 3103.2, for variances from the FAR requirements under § 771, the lot occupancy requirements under § 772, the rear yard requirements under § 774, the residential use on an alley lot requirements under § 2507.3, and the height requirements under § 2507.4, to allow the construction of five one-family dwellings and a neighborhood-servicing retail establishment in the C-2-A District at premises 1313-1323 Linden Court N.E. (Square 1027, Lots 57, 58, 59, 60, 61, and 112).

HEARING DATE: December 22, 2015
DECISION DATE: December 22, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.) As for the request for amended relief, the Applicant indicated at the public hearing that it "requested this relief in the alternative" in its Prehearing Statement. (Exhibit 24.)

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") 6A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. The ANC submitted a report of support in this case. The ANC's report, dated December 11, 2015, indicated that at a duly noticed and regularly scheduled public meeting on December 10, 2015, at which a quorum was present, the ANC voted 7-0 to support the application with one condition. (Exhibit 25.) The Board adopted the ANC's condition in this order.

The Office of Planning ("OP") submitted a timely report recommending approval of the requests for variances from FAR (§ 771), Lot Occupancy (§ 772), and Rear Yard (§ 774), but indicated that it recommended denial of the requests for relief from alley lot building (§ 2507.3) and height (§ 2507.4). In its report OP also stated: "While the applicant requested relief from § 2003, OP confirmed with OAG that the appropriate relief

[1] At the Office of Planning's recommendation, the Applicant amended its application to replace an initial request for a variance from the nonconforming structure requirements under § 2003.1 to a variance request from the residential use on an alley lot requirements under § 2507.3. The Applicant indicated at the public hearing on December 22, 2015, that it "requested this relief in the alternative" in its Prehearing Statement (Exhibit 24) and provided testimony during the hearing to support the variance request from the requirements of § 2507.3. The caption has been amended accordingly.

necessary for the proposed studio apartment use is a variance from the second clause of § 2507.3." (Exhibit 27.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 26.).

Eight letters of support from neighbors were submitted to the record. (Exhibit 24E.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for area variances from the FAR requirements under § 771, the lot occupancy requirements under § 772, the rear yard requirements under § 774, the residential use on an alley lot requirements under § 2507.3, and the height requirements under § 2507.4, to allow the construction of five one-family dwellings and a neighborhood-servicing retail establishment in the C-2-A District. The only parties to the case were the ANC and the Applicant. 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 averse 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 in seeking variances from 11 DCMR §§ 771, 772, 774, 2507.3, and 2507.4, the Applicant has met the burden of proof under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the 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 requirement of 11 DCMR § 3125.5, 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 ARCHITECTURAL PLANS AT EXHIBIT 24A AND WITH THE FOLLOWING CONDITION:**

1. The Applicant shall record a covenant in the land records for each of the properties prohibiting the owner or resident of the property from obtaining a residential parking permit.

VOTE: **3-0-2** (Marnique Y. Heath, Marcie I. Cohen, and Jeffrey L. Hinkle to APPROVE; Frederick L. Hill not present or voting; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 23, 2015

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.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR

PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19150 of Sue Ellen Clifford and Paul M. Rodgers, pursuant to 11 DCMR § 3104.1, for a special exception under § 223[1], not meeting the side yard requirements (§ 406.1), and the non-conforming structure requirements (§ 2001.3), to construct a two-story rear addition to an existing one-family dwelling in the NO/R-1-B District at premises 3530 Edmunds Street, N.W. (Square 1937, Lot 29).

HEARING DATE: December 22, 2015
DECISION DATE: December 22, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator ("ZA") certifying the required relief. (Exhibit 5.)

The Board of Zoning Adjustment ("Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 3C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3C, which is automatically a party to this application. ANC 3C submitted a resolution noting that at a scheduled and noticed public meeting on November 16, 2015, at which a quorum was present, the ANC voted to approve the resolution in support of the application. (Exhibit 25.)

The Office of Planning ("OP") submitted a timely report dated December 15, 2015, recommending approval of the application (Exhibit 29) and testified in support of the application at the hearing.

The D.C. Department of Transportation submitted a timely report indicating that it had no objection to the application. (Exhibit 27.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under §§ 223, 406.1, and 2001.3. The only parties to the application were the Applicant and the ANC, the latter of which expressed support for the application. No parties

[1] The caption was revised to reflect that the relief requested is pursuant to § 223 per the ZA's memorandum at Exhibit 5. Section 223 was not referenced on the public hearing notice.

appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse 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, 406.1, and 2001.3, that the requested relief can be granted, 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 § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 13.**

VOTE: 3-0-2 (Marcie I. Cohen, Marnique Y. Heath, and Jeffrey L. Hinkle to Approve; Frederick L. Hill not present, not voting; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 29, 2015

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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 14-13
Z.C. Case No. 14-13
(Text Amendment to Chapters 1, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 18, 19, 24, 26, 27, 28, 29, 30, 31, 33, and 35 - Penthouse Regulations)
November 9, 2015

The full text of this Zoning Commission Order is published in the "Final Rulemaking" section of this edition of the *D.C. Register*.