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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing Bill 22-410, Parking and Moving Violation Amnesty Act of 2017
- D.C. Council schedules a public oversight roundtable on the "District of Columbia's Real Estate Portfolio Management"
- Office of the Deputy Mayor for Planning and Economic Development and the Department of Housing and Community Development revise the Inclusionary Zoning Program 2017 Maximum Income, Rent and Purchase Price Schedule
- Public Service Commission solicits public comments on Potomac Electric Power Company's application to increase the Company's Rate Schedules for electric service in the District
- Office of the State Superintendent of Education announces funding availability for the Access to Quality Child Care Expansion Grant and the Fiscal Year 2018 DC Career Academy Network Grant
- Office of Tax and Revenue updates application requirements for sales tax exemption certificates

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances publishes the *District of Columbia Register* (ISSN 0419-439X) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979, D.C. Official Code § 611 et *seq*. (2012 Repl.). The policies which govern the publication of the *Register* are set forth in the Rules of the Office of Documents and Administrative· Issuances (1 DCMR §§300, *et seq.*). The Rules of the Office of Documents and Administrative Issuances are available online at dcregs.dc.gov. Rulemaking documents are also subject to the requirements of the *D.C. Administrative Procedure Act*, D.C. Official Code §§2-50l et *seq.* (2012 Repl.).

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Deadlines for Submission of Documents for Publication

The Office of Documents and Administrative Issuances accepts electronic documents for publication using a Web-based portal. To submit documents for publication, agency heads, or their representatives, may obtain a username and password by email at dcdocuments@dc.gov. For guidelines on how to format and submit documents for publication, email dcdocuments@dc.gov.

The deadline for filing documents for publication for District of Columbia Agencies, Boards, Commissions, and Public Charter schools is THUSDAY, NOON of the previous week before publication. The deadline for filing documents for publication for the Council of the District of Columbia is WEDNESDAY, NOON of the week of publication. If an official District of Columbia government holiday falls on Thursday, the deadline for filing documents is Wednesday. Email the Office of Documents and Administrative Issuances at dcdocuments@dc.gov to request the *District of Columbia Register* publication schedule.

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Legal Effect of Publication - Certification

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

DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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ADMINISTRATOR

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ENROLLED ORIGINAL

A RESOLUTION

22-219

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 19, 2017

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the Inclusionary Zoning Implementation Amendment Act of 2006 to reflect the changes to the inclusionary zoning regulations adopted by the Zoning Commission for the District of Columbia on October 17, 2016; and to amend the District of Columbia Administrative Procedure Act, the Housing Production Trust Fund Act of 1988, and section 47-902 of the District of Columbia Official Code to make conforming amendments.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Inclusionary Zoning Consistency Congressional Review Emergency Declaration Resolution of 2017".

Sec. 2. (a) On May 16, 2017, the Council passed the Inclusionary Zoning Consistency Emergency Amendment Act of 2017, effective June 13, 2017 (D.C. Act 22-76; 64 DCR 6082) (the "Emergency Act"), to bring District law into agreement with changes to the inclusionary zoning regulations made by the Zoning Commission for the District of Columbia that took effect on June 5, 2017.

(b) On July 11, 2017, the Council passed a permanent version of the Emergency Act, the Inclusionary Zoning Consistency Amendment Act of 2017, enacted on July 31, 2017 (D.C. Act 22-128; 64 DCR 7647) (the "Permanent Act"), which has been transmitted to Congress for the mandatory 30-day review period..

(c) The Emergency Act expired on September 3, 2017. However, the Permanent Act is not expected to complete congressional review until September 21, 2017. Therefore, a congressional review emergency act is necessary to prevent a gap in legislative authority, retroactive to September 3, 2017.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Inclusionary Zoning Consistency Congressional Review Emergency Amendment Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-222

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 19, 2017

To confirm the appointment of Mr. C. Brian Williams to the Board of Library Trustees.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Library Trustees C. Brian Williams Confirmation Resolution of 2017".

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

Mr. C. Brian Williams
434 Warner Street, N.W.
Washington, D.C. 20001
(Ward 6)

as a member of the Board of Library Trustees, established by section 4 of An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896 (29 Stat. 244; D.C. Official Code § 39-104), replacing Cleve Mesidor, for a term to end January 5, 2021.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-232

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 19, 2017

To declare the existence of an emergency with respect to the need to amend the District of Columbia Public School Nurse Assignment Act of 1987 to require that any public school currently receiving school nurse services above 20 hours per week continue at that existing level of service, or the level recommended by the Department of Health's risk-based assessment, whichever is greater, for school year 2017-2018.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Public School Nurse Assignment Emergency Declaration Resolution of 2017".

Sec. 2. (a) In 1987, the Council passed the District of Columbia Public School Nurse Assignment Act of 1987, effective December 10, 1987 (D.C. Law 7-45; D.C. Official Code § 38-601 *et seq.*), to require a registered nurse be assigned to each District of Columbia elementary and secondary public and public charter school a minimum of 20 hours per week beginning in 1989.

(b) In 2006, the Council's Committee on Health requested that the Department of Health and Children's National, the school nurse program contractor, transition to 40 hours of nurse coverage per week by supplementing registered nurses with licensed practical nurses.

(c) In April 2016, the Deputy Mayor for Education sent a letter to local education agency ("LEA") leaders announcing the Department of Health's new model for the school health services program as part of the broader Whole School, Whole Community, Whole Child ("WSCC") model developed by the Centers for Disease Control and Prevention ("CDC"). Under the new program, registered nurses will continue to provide clinical care for all children with special health care needs who require daily medications or treatment. Additional health professionals and community navigators will work with families, schools, and students' primary care providers to make sure students receive well-child exams and the preventive services they need to be healthy. However, the school nurse service levels will be reset for all schools at a minimum of 20 hours each week. Schools may receive more nursing coverage depending on the medical needs of student population based on a risk-based health needs assessment. This new model was to be implemented at the start of school year 2016-2017.

(d) On May 23, 2016, the Chancellor of District of Columbia Public Schools ("DCPS") and Executive Director of the District of Columbia's Public Charter School Board sent a joint letter to the Director of the Department of Health, the Deputy Mayor for Education, and the

Deputy Mayor for Health and Human Services requesting that the new model be delayed to school year 2017-2018 and to request that the current system and nurse staffing levels be kept in place for the upcoming 2016-2017 school year. While they believed the new model held promise to improve the quality of health care delivery to students, they also believed this promise could only be realized if LEAs and schools had sufficient time to plan, adjust their own budgets and processes, and adequately communicate with families. They had been told to expect sharp reductions in the service hoursof school nurses at many schools.

(e) On June 7, 2016, the Director of the Department of Health responded to the May letter by announcing that the implementation of the new school health services model would be delayed until January 2017.

(f) On August 2, 2016, the Office of the State Superintendent of Education ("OSSE") sent a letter to LEA leaders regarding engagement with communities on the new model. OSSE also invited leaders to LEA engagement sessions on August 23, 2016 and September 19, 2016 to solicit additional feedback to support the planning process.

(g) After weeks of constituents contacting Councilmembers, the Department of Health, and schools expressing concern and confusion about the new school health services and the potential for a reduction in school nurse services, on October 5, 2016 and October 18, 2016, the Department of Health held community engagement sessions. This did not completely assuage concerns raised.

(h) On October 23, 2016, the Executive Director of the Public Charter School Board reiterated concerns about implementing the new school health services model mid-school year. According to his letter, schools still had not received staffing plans from the Department of Health and therefore did not know just how much school staff would need to be absorbed if their service levels changed.

(i) On October 25, 2016, the Committee on Education held a public roundtable to discuss the new model. The hearing began at 2:33 p.m. and last until 8:03 p.m. The Committee on Education heard from many public witnesses, including staff from LEAs, about the concern regarding the new program. Many asked for the Council to introduce and pass legislation to increase the statutory minimum school nursing service level to 40 hours per week. Both the American Academy of Pediatrics and the CDC recommend having at least one full-time nurse in every school.

(j) The 2016 School Health Assessment completed by the DC Action for Kids stated 98% of schools that have current Department of Health nurses are staffed more than 20 hours a week. According to the Department of Health, as of October 25, 2016, 66 DCPS schools had full-time coverage, and 47 had part-time coverage of either 24 or 32 hours a week. For public charter schools, 30 had full-time coverage, and 27 had part-time coverage of 24 or 32 hours a week.

(k) For almost a decade, the District's public schools have been receiving over 20 hours of school nursing services. While the Department of Health's new school health program model may improve student health outcomes, there is nothing to suggest that efforts to add more allied health professionals to schools to help with care coordination and have community navigators to connect families with local assets could not continue without reducing school nurse hours.

During the roundtable, the Director of the Department of Health stated: "If we determine that all schools require 40 hours of coverage, all schools will receive 40 hours."

(l) There have been significant concerns raised about a change to school nursing hours and the ability of the Department of Health to seamlessly transition and implement new staffing plans in January 2017. Further, there has been no true public campaign to inform students, parents, and school-based staff about what to expect under the new model. The National Institute of Health states that the broader WSCC model requires care consideration, planning, and full buy-in of school administrations to have effective implementation and sustainability. This is currently lacking among our public school communities in the District of Columbia.

(m) The Council passed on final reading emergency legislation, the Public School Nurse Assignment Emergency Amendment Act of 2016, effective November 18, 2016 (D.C. Act 21-535; 63 DCR 14347), and temporary legislation, the Public School Nurse Assignment Temporary Amendment Act of 2016, effective February 18, 2017 (D.C. Law 21-207; 63 DCR 15054), to amend existing law to require that any school currently receiving school nurse services above 20 hours per week continue at that existing level of service, or the level recommended by the Department of Health's new risk-based assessment, whichever is greater, for the remainder of school year 2016-2017. Although school year 2016-2017 has ended, the need still exists to continue the requirement for school year 2017-2018.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Public School Nurse Assignment Emergency Amendment Act of 2017 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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

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

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

COUNCIL OF THE DISTRICT OF COLUMBIA **PROPOSED LEGISLATION**

BILLS

B22-467	Revised Uniform Law on Notarial Acts of 2017 Intro. 9-25-17 by Chairman Mendelson and referred to the Committee on Government Operations
B22-468	Teachers', Police, and Firefighters Retirement Benefits Technical Amendment Act of 2017 Intro. 9-25-17 by Chairman Mendelson and referred to the Committee of the Whole with comments from the Committee on Judiciary and Public Safety
B22-472	Protection from Sexual Extortion Amendment Act of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Attorney General and referred to the Committee on Judiciary and Public Safety
B22-480	Vulnerable Population and Employer Protection Amendment Act of 2017 Intro. 9-29-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

B22-481	Medical Assistance Program Modernization Amendment Act of 2017 Intro. 9-29-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
B22-482	Long-Term Care Ombudsman Program Amendment Act of 2017 Intro. 9-29-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
B22-488	Ticket Payment Plan Amendment Act of 2017 Intro. 9-19-17 by Councilmember Cheh and referred to the Committee on Finance and Revenue with comments from the Committee on Government Operations and the Committee on Transportation and the Environment
B22-500	Breast Cancer Awareness License Plate Amendment Act of 2017 Intro. 10-3-17 by Councilmembers Cheh, Evans, Nadeau, Gray, R. White, Grosso, T. White, Allen, McDuffie, Silverman, Todd, Bonds, and Chairman Mendelson and referred to the Committee on Transportation and the Environment
B22-501	Residential Composting Incentives Amendment Act of 2017 Intro. 10-3-17 by Councilmember Cheh and referred to the Committee on Transportation and the Environment
B22-502	Field Access Equity Amendment Act of 2017 Intro. 10-3-17 by Councilmember Cheh and referred to the Committee on Transportation and the Environment
B22-503	Indigenous Peoples' Day Amendment Act of 2017 Intro. 10-3-17 by Councilmembers Bonds, Nadeau, R. White, Cheh, Grosso, Allen, Silverman, and T. White and referred to the Committee of the Whole
B22-504	Student Loan Debt Forgiveness Act of 2017 Intro. 10-3-17 by Councilmembers Grosso, T. White, Nadeau, Silverman, and Gray and referred to the Committee on Education

B22-505	Reverse Mortgage Foreclosure Prevention Act of 2017 Intro. 10-3-17 by Councilmembers Silverman, T. White, Gray, Bonds, Todd, and R. White and referred to the Committee on Housing and Neighborhood Revitalization with comments from the Committee on Business and Economic Development
B22-506	Living Wage Certification Program Amendment Act of 2017 Intro. 10-3-17 by Councilmembers Silverman, Cheh, R. White, Bonds, and Gray and referred to the Committee on Business and Economic Development with comments from the Committee on Labor and Workforce Development
B22-507	Lead Pipe Replacement and Disclosure Amendment Act of 2017 Intro. 10-3-17 by Councilmembers Nadeau, Bonds, R. White, Todd, Gray, Silverman, Cheh, Grosso, and Allen and referred to the Committee on Transportation and the Environment
B22-508	Office and Commission of Nightlife Establishment Act of 2017 Intro. 10-3-17 by Councilmember Todd and referred to the Committee on Government Operations with comments from the Committee on Business and Economic Development
B22-509	Athletic Commission Amendment Act of 2017 Intro. 10-3-17 by Councilmember Todd and referred to the Committee on Business and Economic Development
B22-510	Dining with Dogs Act of 2017 Intro. 10-3-17 by Councilmembers Gray, Allen, Nadeau, and Todd and referred to the Committee on Health
B22-511	Pools without Penalties Act of 2017 Intro. 10-3-17 by Councilmembers Gray and Evans and referred to the Committee on Health

B22-512	Commission on Literacy Establishment Act of 2017 Intro. 10-3-17 by Councilmembers T. White, Bonds, Cheh, McDuffie, Silverman, R. White, Gray, and Chairman Mendelson and referred to the Committee on Education
B22-513	University of the District of Columbia Leased Property Tax Abatement Amendment Act of 2017 Intro. 10-3-17 by Chairman Mendelson and referred to the Committee on Finance and Revenue

PROPOSED RESOLUTIONS

PR22-455	MLK Gateway Surplus Declaration and Approval Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment
PR22-456	MLK Gateway Disposition Approval Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
PR22-457	Commission on Out of School Time Grants and Youth Outcomes Tacharna Crump Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-458	Commission on Out of School Time Grants and Youth Outcomes Mark Hecker Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-459	Commission on Out of School Time Grants and Youth Outcomes Margaret Siegel Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education

PR22-460	Commission on Out of School Time Grants and Youth Outcomes Margaret Riden Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-461	Commission on Out of School Time Grants and Youth Outcomes Dr. Jeanette Kowalik Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-462	Commission on Out of School Time Grants and Youth Outcomes Heather Peeler Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-463	Commission on Out of School Time Grants and Youth Outcomes Christine Brooks Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-464	Commission on Out of School Time Grants and Youth Outcomes Burnell Holland Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-465	District of Columbia Commemorative Works Committee Joe Coleman Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
PR22-466	District of Columbia Commemorative Works Committee Jarvis DuBois Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR22-467	Homeland Security Commission Brad Belzak Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR22-468	Homeland Security Commission Meloyde Batten-Mickens Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR22-469	Sentencing Commission Marvin Turner Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR22-470	Corrections Information Council Calvin Woodland, Jr. Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR22-471	Board of Elections Michael Gill Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
PR22-472	Commission on Fashion Arts and Events Diedre Jeffries Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
PR22-473	Board of Zoning Adjustment Fred Hill Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
PR22-474	Commission on Fathers, Men, and Boys Elsie L. Scott Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

PR22-475	Commission on Fathers, Men, and Boys George L. Garrow, Jr. Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations
PR22-476	Commission on Fathers, Men, and Boys Ivory A. Toldson Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations
PR22-477	Board of Chiropractic Keita Vanterpool Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
PR22-478	Board of Chiropractic Miya Corliss Bazley-Bathea Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
PR22-479	Apprenticeship Council William H. Dean Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Labor and Workforce Development
PR22-480	Apprenticeship Council Stephen Lanning Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Labor and Workforce Development
PR22-481	Rental Housing Commission Lisa M. Gregory Confirmation Resolution of 2017 Intro. 9-18-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization

PR22-486	Board of Architecture, Interior Design, and Landscape Architecture Melissa Cohen Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
PR22-487	Board of Architecture, Interior Design, and Landscape Architecture Ronnie McGhee Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
PR22-488	Board of Architecture, Interior Design, and Landscape Architecture Sharon K. Borton Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
PR22-489	Board of Accountancy Robert Todero Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
PR22-490	Board of Accountancy Angela Avant Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
PR22-491	Board of Dentistry Judith Henry Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
PR22-492	Board of Dentistry Renee A. McCoy Collins Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR22-493	Water and Sewer Authority Board of Directors Jed Ross Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment
PR22-494	Alcoholic Beverage Control Board Rema Wahabzadah Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
PR22-495	Real Estate Commission Edward K. Downs Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization
PR22-496	Commission on African-American Affairs Rachelle M. Johnson Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations
PR22-497	Commission on African-American Affairs Akela D. Crawford Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations
PR22-498	Commission on African-American Affairs Dr. Antwan Jones Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations
PR22-499	Commission on African-American Affairs Dr. Kimberly Jeffries Leonard Confirmation Resolution of 2017 Intro. 9-26-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

PR22-503	District of Columbia State Athletics Commission Ms. Diana Parente Confirmation Resolution of 2017 Intro. 9-27-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-504	District of Columbia State Athletics Commission Mr. Michael Hunter Confirmation Resolution of 2017 Intro. 9-27-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-505	District of Columbia State Athletics Commission Mr. Terrence Lynch Confirmation Resolution of 2017 Intro. 9-27-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-506	District of Columbia State Athletics Commission Mr. Kevin Wills Confirmation Resolution of 2017 Intro. 9-27-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-507	District of Columbia State Athletics Commission Rev. Karen Curry Confirmation Resolution of 2017 Intro. 9-27-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-508	District of Columbia State Athletics Commission Mr. John Koczela Confirmation Resolution of 2017 Intro. 9-27-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-509	District of Columbia State Athletics Commission Mr. Don Calloway Confirmation Resolution of 2017 Intro. 9-27-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education

PR22-510	District of Columbia State Athletics Commission Mr. Dwight Franklin Confirmation Resolution of 2017 Intro. 9-27-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
PR22-523	Sense of the Council Arts Humanities in Education Resolution of 2017 Intro. 10-3-17 by Councilmembers Grosso, Allen, Nadeau, Bonds, Gray, Evans, Cheh, R. White, Todd, and Silverman and referred to the Committee on Education with comments from the Committee on Finance and Revenue
PR22-524	Sense of the Council on Establishing Race, Equity, and Social Justice Resolution of 2017 Intro. 10-3-17 by Councilmembers McDuffie, Evans, Grosso, R. White, Nadeau, Allen, T. White, Cheh, Silverman, Gray, Bonds, Todd, and Chairman Mendelson and referred to the Committee of the Whole
PR22-525	Sense of the Council in Support of Legislative Action to Protect Temporary Protected Status Resolution of 2017 Intro. 10-3-17 by Councilmembers McDuffie, Evans, Grosso, R. White, Nadeau, Allen, T. White, Cheh, Silverman, Gray, Bonds, Todd, and Chairman Mendelson and referred to the Committee of the Whole

COUNCIL OF THE DISTRICT OF COLUMBIA

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

MARY M. CHEH, CHAIR

COMMITTEE ON FINANCE & REVENUE

JACK EVANS, CHAIR

NOTICE OF JOINT PUBLIC HEARING ON

B22-204, the Traffic and Parking Ticket Penalty Amendment Act of 2017;
B22-237, the Parking Ticket Waiver Act of 2017;
B22-410, the Parking and Moving Violation Amnesty Act of 2017; and
B22-488, the Ticket Payment Plan Amendment Act of 2017

Friday, October 27, 2017 at 11:00 a.m.
in Room 412 of the John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, DC 20004

On Friday, October 27, 2017, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, and Councilmember Jack Evans, Chairperson of the Committee on Finance and Revenue, will hold a joint public hearing on B22-204, the Traffic and Parking Ticket Penalty Amendment Act of 2017; B22-237, the Parking Ticket Waiver Act of 2017; B22-410, the Parking and Moving Violation Amnesty Act of 2017; and B22-488, the Ticket Payment Plan Amendment Act of 2017. The hearing will begin at 11:00 a.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

B22-204, the Traffic and Parking Ticket Penalty Amendment Act of 2017, would eliminate the penalty for the failure to answer a notice of infraction for automated traffic enforcement, parking, standing, stopping, and pedestrian offenses, within 30 days. B22-237, the Parking Ticket Waiver Act of 2017, would provide a waiver of the penalty for parking infractions in instances when the registered owner of a vehicle does nto recvieve proper notice of the infraction within two years of its issuance. B22-237 would also institute an eight-year statute of limimtations for collecting parking and moving infraction fines. B22-410, the Parking and Moving Violation Amnesty Act of 2017, would require the Director of the Department of Motor Vehicles to implement an amnesty program for District residents who owe more than $1,000 for certain motor vehicle violations. Finally, B22-488, the Ticket Payment Plan Amendment Act of 2017, would allow all persons seeking to discharge $100 or more in delinquent debt incurred through the commission of moving, parking, or non-moving infraction the opportunity to participate in a payment plan agreement.

The Committees invite 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 eight 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. Benjamin at the following address: Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. Statements may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on November 10, 2017.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004 **REVISED**

COUNCILMEMBER ANITA BONDS, CHAIRPERSON
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION

ANNOUNCES A PUBLIC HEARING OF THE COMMITTEE

on

Bill 22-0273, "Common Interest Communities' Remedial Funding Act of 2017"

Bill 22-0099, "Affordable Cooperative Task Force Act of 2017"

and

Bill 22-0289, "Office to Affordable Housing Task Force Establishment Act of 2017"

on

Thursday, November 16, 2017, at 10:00 AM
John A. Wilson Building, Room 500
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Thursday, November 16, 2017, Councilmember Anita Bonds, Chairperson of the Committee on Housing & Neighborhood Revitalization, will hold a public hearing on Bill 22-0273, "Common Interest Communities' Remedial Funding Act of 2017", Bill 22-0099, "Affordable Cooperative Task Force Act of 2017", and Bill 22-0289, "Office to Affordable Housing Task Force Establishment Act of 2017". The hearing will take place in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 10:00 a.m. **This notice is being revised to reschedule the date and location of the hearing that was previously scheduled for November 15, 2017 in room 412.**

The purpose of Bill 22-0273 is to establish a program, the Common Interest Community Remedial Grant program, to provide nontaxable grants to income-eligible boards to remedy building and housing code violations in common areas. The Mayor shall administer the program and is authorized to issue rules to implement the bill. The bill includes provisions pertaining to eligibility requirements for participating contractors and common interest communities.

The purpose of Bill 22-0099 is to establish the Affordable Cooperative Task Force to provide policy recommendations on improving existing limited equity cooperatives (a type of shared home ownership in which individuals purchase a share in a cooperative at an affordable cost); ensure the appropriate training and provision of technical assistance and management support to cooperatives; and issue recommendations on how the District can assist in the formation of new affordable cooperatives.

The purpose of Bill 22-0289 is to establish a task force, the Office to Affordable Housing Task Force, to determine the impact of transitioning existing vacant commercial space to affordable units on the District's affordable housing crisis. The bill specifies the membership, duties, and reporting obligation of the Task Force. This bill sunsets upon the Task Force submitting its report.

Those who wish to testify are requested to telephone the Committee on Housing and Neighborhood Revitalization, at (202) 724-8198, or email omontiel@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any), by close of business on November 15, 2017. Persons wishing to testify are encouraged to **submit 15 copies of written testimony**. Oral testimony should be limited to three minutes for individuals and five minutes for organizations.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Housing and Neighborhood Revitalization, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 112, Washington, D.C. 20004. The record will close at 5:00 p.m. on November 30, 2017.

COUNCIL OF THE DISTRICT OF COLUMBIA

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

MARY M. CHEH, CHAIR

NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE ON

The District of Columbia's Real Estate Portfolio Management

October 30, 2017 at 11:00 a.m.
in Room 412 of the John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, DC 20004

On October 30, 2017, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public oversight roundtable on the District of Columbia's real estate portfolio management. The roundtable will begin at 11:00 in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of this roundtable is to discuss a report issued by the Inspector General in August 2017 finding that the Department of General Services' real estate database had a substantially inaccurate inventory of District buildings, with the agency portfolio missing over 1,500 real property assets. The roundtable will be an opportunity to address the Committee's questions and concerns about the substantial and costly inaccuracies uncovered in the report, and to learn more about the status of the District's real property assets and management. At the roundtable, the Committee will seek information from DGS about the agency's real estate portfolio, policies for maintaining District assets under its purview, and the cause and planned remedy for the current mismanagement of these records.

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 eight 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. Benjamin at the following address: Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. Statements may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on November 13, 2017.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT
NOTICE OF PUBLIC ROUNDTABLE
1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRPERSON ELISSA SILVERMAN
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT

ANNOUNCES A PUBLIC ROUNDTABLE

on

PR 22-0429, "Compensation Agreement between the District of Columbia Government Department of Behavioral Health and Committee of Interns and Residents/Service Employees International Union, CTW, CLC (CIR/SEIU) Resolution of 2017"

Friday, October 13, 2017, 1:00 p.m.
Hearing Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Councilmember Elissa Silverman, Chairperson of the Committee on Labor and Workforce Development, announces a public roundtable before the Committee on **PR 22-0429, Compensation Agreement between the District of Columbia Government Department of Behavioral Health and Committee of Interns and Residents/Service Employees International Union, CTW, CLC (CIR/SEIU) Resolution of 2017.** The roundtable will be held at 1:00 p.m. on Friday, October 13, 2017, in Room 123 of the John A. Wilson Building.

Those who wish to testify before the Committee are asked to contact Ms. Charnisa Royster at labor@dccouncil.us or (202) 724-7772 by close of business Wednesday, October 11, 2017, to provide their name, address, telephone number, organizational affiliation and title (if any), as well as the language of oral interpretation, if any, they require. Those wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Those representing organizations will have five minutes to present their testimony, and other individuals will have three minutes to present their testimony; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted by email to Ms. Royster at labor@dccouncil.us or mailed to the Committee on Labor and Workforce Development, Council of the District of Columbia, Suite 115 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 October 17, 2017.

COUNCIL OF THE DISTRICT OF COLUMBIA

CONSIDERATION OF TEMPORARY LEGISLATION

B22-471, Dining with Dogs Temporary Amendment Act of 2017, **B22-474**, Credit Protection Fee Waiver Temporary Amendment Act of 2017, **B22-485**, Ethics Board Quorum Temporary Amendment Act of 2017, **B22-487**, Campaign Finance Reform and Transparency Second Temporary Amendment Act of 2017, **B22-492**, Fiscal Year 2018 Budget Support Clarification Temporary Act of 2017, **B22-495**, Washington Metrorail Safety Commission Board of Directors Appointment Temporary Amendment Act of 2017, **B22-497**, At-Risk Tenant Protection Clarifying Temporary Amendment Act of 2017, and **B22-499**, Southwest Waterfront Parking Enforcement Temporary Act of 2017 were adopted on first reading on October 3, 2017. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on November 7, 2017.

COUNCIL OF THE DISTRICT OF COLUMBIA
EXCEPTED SERVICE APPOINTMENTS AS OF AUGUST 31, 2017

NOTICE OF EXCEPTED SERVICE EMPLOYEES

D.C. Code § 1-609.03(c) requires that a list of all new appointees to Excepted Service positions established under the provisions of § 1-609.03(a) be published in the D.C. Register. In accordance with the foregoing, the following information is hereby published for the following positions.

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	**POSITION TITLE**	**GRADE**	**TYPE OF APPOINTMENT**
Cislo, Kelley	Constituent Services Director	6	Excepted Service - Reg Appt
Mansoor, Aamir	Legislative Counsel	6	Excepted Service - Reg Appt
McKnight, Brittani	Legislative Assistant	4	Excepted Service - Reg Appt
Caruthers, Rebekah	Communications Specialist	6	Excepted Service - Reg Appt

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. 22-80 Request to reprogram $675,439 of Fiscal Year 2017 Special Purpose Revenue Funds budget authority from the District Department of Transportation (DDOT) to the Pay-As-You-Go (Paygo) Capital Fund was filed in the Office of the Secretary on September 27, 2017. This reprogramming ensures that DDOT completes the project requirements of the awarded capital project MRR16C, Virginia Avenue Tunnel (VAT), and allows the District to fulfill the terms of the December 15,2014 Memorandum of Agreement between CSX and the District of Columbia.

RECEIVED: 14 day review begins September 28, 2017

Reprog. 22-81 Request to reprogram $98,959 of Fiscal Year 2017 Capital funds budget authority and allotment within the District Department of Transportation (DDOT) was filed in the Office of the Secretary on September 27, 2017. This reprogramming is needed to support the DC Powerline Undergrounding initiative.

RECEIVED: 14 day review begins September 28, 2017

Reprog. 22-82 Request to reprogram $500,000 of Pay-As-You-Go (Paygo) Capital funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of the Department of Parks and Recreation (DPR) was filed in the Office of Secretary on September 27, 2017. This reprogramming is necessary to enable the agency to grant operating budget to the Capital Riverfront BID, the organization that manages the programming and maintenance of Yards Park and Canal Park.

RECEIVED: 14 day review begins September 28, 2017

Reprog. 22-83 Request to reprogram $1,700,000 of Fiscal Year 2017 Local funds budget authority within the Department of Public Works (DPW) was filed in the Office of the Secretary on September 27, 2017. This reprogramming ensures that DPW will be able to support fleet maintenance repairs and trash disposal obligations.

RECEIVED: 14 day review begins September 28, 2017

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	October 6, 2017
Protest Petition Deadline:	November 20, 2017
Roll Call Hearing Date:	December 4, 2017
License No.:	ABRA-091333
Licensee:	Por Jai, LLC
Trade Name:	Bangkok Thai Dining
License Class:	Retailer's Class "C" Restaurant
Address:	2016 P Street, N.W.
Contact:	Por Jai, LLC: (202) 872-1144

WARD 2 ANC 2B SMD 2B02

Notice is hereby given that this licensee has requested Substantial Changes to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on December 4, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGES
The licensee has requested an Entertainment Endorsement and to change their hours of operation.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday 12:00 pm – 10:30 pm
Monday - Friday 11:30 am – 11:00 pm
Saturday 12:00 pm – 11:00 pm

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday 12:00 pm – 2:00 am
Monday – Wednesday 11:30 am – 11:00 pm
Thursday – 11:30 am – 2:00 am
Friday – Saturday 11:00 am – 2:00 am

PROPOSED HOURS OF LIVE ENTERTAINMENT
Sunday 6:00 pm – 2:00 am
Monday – Wednesday 6:00 pm – 11:00 pm
Thursday – Saturday 6:00 pm – 2:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date:	September 1, 2017
Protest Petition Deadline:	October 16, 2017
Roll Call Hearing Date:	October 30, 2017
Protest Hearing Date:	December 13, 2017

License No.:	ABRA-107488
Licensee:	Buredo Tenleytown LLC
Trade Name:	Buredo
License Class:	Retailer's Class "C" Restaurant
Address:	4235 Wisconsin Avenue, N.W.
Contact:	Andrew Kline: (202) 686-7600

WARD 3 ANC 3E SMD 3E05

Notice is hereby given that this licensee 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 on October 30, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **December 13, 2017at 4:30 p.m.**

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NATURE OF OPERATION

New Restaurant serving burrito-sized sushi rolls. Total Occupancy Load of 29 with seating for 18 patrons.

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

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date:	September 1, 2017
Protest Petition Deadline:	October 16, 2017
Roll Call Hearing Date:	October 30, 2017
Protest Hearing Date:	December 13, 2017

License No.:	ABRA-107488
Licensee:	Buredo Tenleytown LLC
Trade Name:	Buredo
License Class:	Retailer's Class "C" Restaurant
Address:	4235 Wisconsin Avenue, N.W.
Contact:	Andrew Kline: (202) 686-7600

WARD 3 ANC 3E SMD 3E05

Notice is hereby given that this licensee 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 on October 30, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **December 13, 2017at 4:30 p.m.**

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NATURE OF OPERATION

New Restaurant serving burrito-sized sushi rolls. Total Occupancy Load of 29 with seating for 18 patrons.

****HOURS OF OPERATION**

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

****HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION**

Sunday through Saturday 8 am – 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Kusa Market **B Retail - Grocery**

Licensee: Sook C. Kim

License Number: ABRA-002109

ANC: 1A10

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

3108 GEORGIA AVE NW, WASHINGTON, DC 20010

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation	
Sun	9 am - 10 pm
Mon	9 am - 10 pm
Tue	9 am - 10 pm
Wed	9 am - 10 pm
Thu	9 am - 10 pm
Fri	9 am - 10 pm
Sat	9 am - 10 pm

Hours of Sales/Service/Consumption	
Sun	9 am - 10 pm
Mon	9 am - 10 pm
Tue	9 am - 10 pm
Wed	9 am - 10 pm
Thu	9 am - 10 pm
Fri	9 am - 10 pm
Sat	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Freedom Market **B Retail - Grocery**

Licensee: Freedom Market Inc

License Number: ABRA-003815

ANC: 2B09

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

1901 NEW HAMPSHIRE AVE NW, WASHINGTON, DC 20009

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation	
Sun	8 am - 12 am
Mon	8 am - 12 am
Tue	8 am - 12 am
Wed	8 am - 12 am
Thu	8 am - 12 am
Fri	8 am - 12 am
Sat	8 am - 12 am

Hours of Sales/Service/Consumption	
Sun	9 am - 12 am
Mon	9 am - 12 am
Tue	9 am - 12 am
Wed	9 am - 12 am
Thu	9 am - 12 am
Fri	9 am - 12 am
Sat	9 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Dean & Deluca **B Retail - Grocery**

Licensee: Dean & Deluca of Georgetown, Inc

License Number: ABRA-018083

ANC: 2E05

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

3276 M ST NW, WASHINGTON, DC 20007

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	8 am - 9 pm	Sun	8 am - 9 pm
Mon	8 am - 9 pm	Mon	8 am - 9 pm
Tue	8 am - 9 pm	Tue	8 am - 9 pm
Wed	8 am - 9 pm	Wed	8 am - 9 pm
Thu	8 am - 9 pm	Thu	8 am - 9 pm
Fri	8 am - 9 pm	Fri	8 am - 9 pm
Sat	8 am - 9 pm	Sat	8 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Randall Grocery **B Retail - Grocery**

Licensee: B & S Business Enterprises, Inc.

License Number: ABRA-019046

ANC: 7B01

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

2924 MINNESOTA AVE SE, Washington, DC 20019

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation	
Sun	7 am - 11pm
Mon	7 am - 11pm
Tue	7 am - 11pm
Wed	7 am - 11pm
Thu	7 am - 11pm
Fri	7 am - 11pm
Sat	7 am - 11pm

Hours of Sales/Service/Consumption	
Sun	7 am - 11 pm
Mon	7 am - 11 pm
Tue	7 am - 11 pm
Wed	7 am - 11 pm
Thu	7 am - 11 pm
Fri	7 am - 11 pm
Sat	7 am - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION

ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Chinatown Market **B Retail - Grocery**

Licensee: Ng Shu Kwan

License Number: ABRA-019616

ANC: 2C01

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

521 H ST NW, Washington, DC 20001

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	9 am - 9 pm	Sun	11 am - 9 pm
Mon	9 am - 9 pm	Mon	11 am - 9 pm
Tue	9 am - 9 pm	Tue	11 am - 9 pm
Wed	9 am - 9 pm	Wed	11 am - 9 pm
Thu	9 am - 9 pm	Thu	11 am - 9 pm
Fri	9 am - 9 pm	Fri	11 am - 9 pm
Sat	9 am - 9 pm	Sat	11 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: A-1 Grocery **B Retail - Grocery**

Licensee: Han & Sook Inc

License Number: ABRA-023329

ANC: 7C06

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

615 DIVISION AVE NE, WASHINGTON, DC 20019

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	9 am - 9 pm	Sun	9 am - 9 pm
Mon	9 am - 9 pm	Mon	9 am - 9 pm
Tue	9 am - 9 pm	Tue	9 am - 9 pm
Wed	9 am - 9 pm	Wed	9 am - 9 pm
Thu	9 am - 9 pm	Thu	9 am - 9 pm
Fri	9 am - 9 pm	Fri	9 am - 9 pm
Sat	9 am - 9 pm	Sat	9 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Samber Food Store **B Retail - Grocery**

Licensee: David & Cindy Incorporated

License Number: ABRA-024753

ANC: 1D04

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

3243 MOUNT PLEASANT ST NW, WASHINGTON, DC 20010

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	8 am - 10 pm	Sun	9 am - 10 pm
Mon	8 am - 10 pm	Mon	9 am - 10 pm
Tue	8 am - 10 pm	Tue	9 am - 10 pm
Wed	8 am - 10 pm	Wed	9 am - 10 pm
Thu	8 am - 10 pm	Thu	9 am - 10 pm
Fri	8 am - 10 pm	Fri	9 am - 10 pm
Sat	8 am - 10 pm	Sat	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Davis Market **B Retail - Grocery**

Licensee: 7 Round, Inc

License Number: ABRA-060094

ANC: 4C08

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

3819 GEORGIA AVE NW, WASHINGTON, DC 20011

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	24 hours	Sun	8 am - 12 am
Mon	24 hours	Mon	8 am - 12 am
Tue	24 hours	Tue	8 am - 12 am
Wed	24 hours	Wed	8 am - 12 am
Thu	24 hours	Thu	8 am - 12 am
Fri	24 hours	Fri	8 am - 12 am
Sat	24 hours	Sat	8 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Sun's Gallery **B Retail - Grocery**

Licensee: J. J. Sun Corporation

License Number: ABRA-060306

ANC: 6D01

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

600 MARYLAND AVE SW, #A, Washington, DC 20024

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	closed	Sun	closed
Mon	6 am - 6 pm	Mon	9 am - 6 pm
Tue	6 am - 6 pm	Tue	9 am - 6 pm
Wed	6 am - 6 pm	Wed	9 am - 6 pm
Thu	6 am - 6 pm	Thu	9 am - 6 pm
Fri	6 am - 6 pm	Fri	9 am - 6 pm
Sat	closed	Sat	closed

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Rafael Grocery Deli **B Retail - Grocery**

Licensee: Habtmical Letckidan T.

License Number: ABRA-060359

ANC: 5E06

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

233 FLORIDA AVE NW, WASHINGTON, DC 20001

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	7 am - 12 am	Sun	7 am - 12 am
Mon	7 am - 12 am	Mon	7 am - 12 am
Tue	7 am - 12 am	Tue	7 am - 12 am
Wed	7 am - 12 am	Wed	7 am - 12 am
Thu	7 am - 12 am	Thu	7 am - 12 am
Fri	7 am - 12 am	Fri	7 am - 12 am
Sat	7 am - 12 am	Sat	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION

ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Town & Country Market **B Retail - Grocery**

Licensee: Teshome Chekole

License Number: ABRA-060453

ANC: 4C07

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

823 UPSHUR ST NW, WASHINGTON, DC 20011

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	9 am - 12 am	Sun	9 am - 12 am
Mon	9 am - 12 am	Mon	9 am - 12 am
Tue	9 am - 12 am	Tue	9 am - 12 am
Wed	9 am - 12 am	Wed	9 am - 12 am
Thu	9 am - 12 am	Thu	9 am - 12 am
Fri	9 am - 12 am	Fri	9 am - 12 am
Sat	9 am - 12 am	Sat	9 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Trinity Deli & Food Market **B Retail - Grocery**

Licensee: Sangwon, Inc.

License Number: ABRA-060661

ANC: 5A05

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

200 MICHIGAN AVE NE, Washington, DC 20017

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation	
Sun	9 am - 10 pm
Mon	7:30 am - 10 pm
Tue	7:30 am - 10 pm
Wed	7:30 am - 10 pm
Thu	7:30 am - 10 pm
Fri	7:30 am - 10 pm
Sat	7:30 am - 10 pm

Hours of Sales/Service/Consumption	
Sun	9 am - 10 pm
Mon	9 am - 10 pm
Tue	9 am - 10 pm
Wed	9 am - 10 pm
Thu	9 am - 10 pm
Fri	9 am - 10 pm
Sat	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: 1500 Market **B Retail - Grocery**

Licensee: Moon Run Inc

License Number: ABRA-060717

ANC: 2B05

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

1500 MASSACHUSETTS AVE NW, WASHINGTON, DC 20005

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	8:30 am - 10 pm	Sun	9 am - 10 pm
Mon	8:30 am - 10 pm	Mon	9 am - 10 pm
Tue	8:30 am - 10 pm	Tue	9 am - 10 pm
Wed	8:30 am - 10 pm	Wed	9 am - 10 pm
Thu	8:30 am - 10 pm	Thu	9 am - 10 pm
Fri	8:30 am - 10 pm	Fri	9 am - 10 pm
Sat	8:30 am - 10 pm	Sat	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Adams Market **B Retail - Grocery**

Licensee: DSAY Corporation

License Number: ABRA-077168

ANC: 6C05

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

700 F ST NE, #A, Washington, DC 20002

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	7:30 am - 9 pm	Sun	10 am - 9 pm
Mon	7:30 am - 9 pm	Mon	9 am - 9 pm
Tue	7:30 am - 9 pm	Tue	9 am - 9 pm
Wed	7:30 am - 9 pm	Wed	9 am - 9 pm
Thu	7:30 am - 9 pm	Thu	9 am - 9 pm
Fri	7:30 am - 9 pm	Fri	9 am - 9 pm
Sat	7:30 am - 9 pm	Sat	9 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Giant #384 **B Retail - Grocery**

Licensee: Giant of Maryland, LLC

License Number: ABRA-077233

ANC: 8E04

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

1525 ALABAMA AVE SE, Washington, DC 20032

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	6 am - 12 am	Sun	9 am - 12 am
Mon	6 am - 12 am	Mon	9 am - 12 am
Tue	6 am - 12 am	Tue	9 am - 12 am
Wed	6 am - 12 am	Wed	9 am - 12 am
Thu	6 am - 12 am	Thu	9 am - 12 am
Fri	6 am - 12 am -	Fri	9 am - 12 am
Sat	6 am - 12 am	Sat	9 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Capitol Hill Market **B Retail - Grocery**

Licensee: SMJ & Capitol Hill, Inc.

License Number: ABRA-078727

ANC: 6C02

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

241 MASSACHUSETTS AVE NE, Washington, DC 20002

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	7 am - 10 pm	Sun	7 am - 10 pm
Mon	7 am - 10 pm	Mon	7 am - 10 pm
Tue	7 am - 10 pm	Tue	7 am - 10 pm
Wed	7 am - 10 pm	Wed	7 am - 10 pm
Thu	7 am - 10 pm	Thu	7 am - 10 pm
Fri	7 am - 10 pm	Fri	7 am - 10 pm
Sat	7 am - 10 pm	Sat	7 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Mott's Market **B Retail - Grocery**

Licensee: CHO'S FAMILY MARKET, INC.

License Number: ABRA-080006

ANC: 6B05

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

233 12TH ST SE, WASHINGTON, DC 20003

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	8 am - 9 pm	Sun	9 am - 9 pm
Mon	8 am - 9 pm	Mon	9 am - 9 pm
Tue	8 am - 9 pm	Tue	9 am - 9 pm
Wed	8 am - 9 pm	Wed	9 am - 9 pm
Thu	8 am - 9 pm	Thu	9 am - 9 pm
Fri	8 am - 9 pm	Fri	9 am - 9 pm
Sat	8 am - 9 pm	Sat	9 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: New Neighborhood Market **B Retail - Class B**

Licensee: Kyeong & Company, Inc.

License Number: ABRA-082173

ANC: 5C06

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

1611 RHODE ISLAND AVE NE, WASHINGTON, DC 20018

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	7 am - 10 pm	Sun	7 am - 10 pm
Mon	7 am - 10 pm	Mon	7 am - 10 pm
Tue	7 am - 10 pm	Tue	7 am - 10 pm
Wed	7 am - 10 pm	Wed	7 am - 10 pm
Thu	7 am - 10 pm	Thu	7 am - 10 pm
Fri	7 am - 10 pm	Fri	7 am - 10 pm
Sat	7 am - 10 pm	Sat	7 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Cornercopia **B Retail - Grocery**

Licensee: 3rd & K Street Market, Inc.

License Number: ABRA-082665

ANC: 6D07

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

1000 3RD ST SE, WASHINGTON, DC 20003

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	9 am - 6 pm	Sun	9 am - 6 pm
Mon	7 am - 10 pm	Mon	9 am - 10 pm
Tue	7 am - 10 pm	Tue	9 am - 10 pm
Wed	7 am - 10 pm	Wed	9 am - 10 pm
Thu	7 am - 10 pm	Thu	9 am - 10 pm
Fri	7 am - 10 pm	Fri	9 am - 10 pm
Sat	7 am - 10 pm	Sat	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Mark's Market **B Retail - Grocery**

Licensee: J & K Mark's Market Inc.

License Number: ABRA-082766

ANC: 4C05

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

3933 14TH ST NW, WASHINGTON, DC 20011

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

	Hours of Operation		Hours of Sales
Sun	9 am - 10 pm	Sun	9:30 am - 10 pm
Mon	9 am - 10 pm	Mon	9:30 am - 10 pm
Tue	9 am - 10 pm	Tue	9:30 am - 10 pm
Wed	9 am - 10 pm	Wed	9:30 am - 10 pm
Thu	9 am - 10 pm	Thu	9:30 am - 10 pm
Fri	9 am - 10 pm	Fri	9:30 am - 10 pm
Sat	9 am - 10 pm	Sat	9:30 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Walgreens #10311 **B Retail - Grocery**

Licensee: Walgreens Co.

License Number: ABRA-084354

ANC: 3C05

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

3524 CONNECTICUT AVE NW, WASHINGTON, DC 20008

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

	Hours of Operation		Hours of Sales
Sun	7 am - 10 pm	Sun	7 am - 10 pm
Mon	7 am - 10 pm	Mon	7 am - 10 pm
Tue	7 am - 10 pm	Tue	7 am - 10 pm
Wed	7 am - 10 pm	Wed	7 am - 10 pm
Thu	7 am - 10 pm	Thu	7 am - 10 pm
Fri	7 am - 10 pm	Fri	7 am - 10 pm
Sat	7 am - 10 pm	Sat	7 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Family Food and Delicatessen Store **B Retail - Grocery**

Licensee: ME & JJJS, INC.

License Number: ABRA-086078

ANC: 4C08

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

3713 NEW HAMPSHIRE AVE NW, WASHINGTON, DC 20010

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	8 am - 12 am	Sun	8 am - 12 am
Mon	8 am - 12 am	Mon	8 am - 12 am
Tue	8 am - 12 am	Tue	8 am - 12 am
Wed	8 am - 12 am	Wed	8 am - 12 am
Thu	8 am - 12 am	Thu	8 am - 12 am
Fri	8 am - 12 am	Fri	8 am - 12 am
Sat	8 am - 12 am	Sat	8 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: 1101 Convenience Mart **B Retail - Grocery**

Licensee: Y & H Trading, Inc.

License Number: ABRA-086305

ANC: 6A02

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

1101 H ST NE, WASHINGTON, DC 20002

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	8am - 10:30pm	Sun	9 am - 9 pm
Mon	8 am - 10:30 pm	Mon	9 am - 10 pm
Tue	8 am - 10:30 pm	Tue	9 am - 10 pm
Wed	8 am - 10:30 pm	Wed	9 am - 10 pm
Thu	8 am - 10:30 pm	Thu	9 am - 10 pm
Fri	8 am - 10:30 pm	Fri	9 am - 10 pm
Sat	8 am - 10:30 pm	Sat	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION

ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: U Street Wine and Beer **B Retail - Class B**

Licensee: STT Management, LLC

License Number: ABRA-087729

ANC: 1B12

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

1351 U ST NW, WASHINGTON, DC 20009

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	10 am - 12 am	Sun	10 am - 12 am
Mon	10 am - 12 am	Mon	10 am - 12 am
Tue	10 am - 12 am	Tue	10 am - 12 am
Wed	10 am - 12 am	Wed	10 am - 12 am
Thu	10 am - 12 am	Thu	10 am - 12 am
Fri	10 am - 12 am	Fri	10 am - 12 am
Sat	10 am - 12 am	Sat	10 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Scheele's Market **B Retail - Class B**

Licensee: NF 21, Inc.

License Number: ABRA-089800

ANC: 2E06

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

1331 29TH ST NW, WASHINGTON, DC 20007

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

	Hours of Operation		Hours of Sales
Sun	8 am - 8 pm	Sun	9 am - 8 pm
Mon	8 am - 8:30 pm	Mon	8 am - 8:30 pm
Tue	8 am - 8:30 pm	Tue	9 am - 8:30 pm
Wed	8 am - 8:30 pm	Wed	9 am - 8:30 pm
Thu	8 am - 8:30 pm	Thu	9 am - 8:30 pm
Fri	8 am - 8:30 pm	Fri	9 am - 8:30 pm
Sat	8 am - 8:30 pm	Sat	9 am - 8:30 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Bless 7 to 10 Market **B Retail - Grocery**

Licensee: Anseba GE, Inc

License Number: ABRA-090618

ANC: 4C10

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

434 SHEPHERD ST NW, WASHINGTON, DC 20011

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	7 am - 9 pm	Sun	9 am - 9 pm
Mon	7 am - 9 pm	Mon	9 am - 9 pm
Tue	7 am - 9 pm	Tue	9 am - 9 pm
Wed	7 am - 9 pm	Wed	9 am - 9 pm
Thu	7 am - 9 pm	Thu	9 am - 9 pm
Fri	7 am - 9 pm	Fri	9 am - 9 pm
Sat	7 am - 9 pm	Sat	9 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: J & K Market **B Retail - Grocery**

Licensee: IVZ, LLC

License Number: ABRA-090684

ANC: 6A04

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

234 15TH ST NE, WASHINGTON, DC 20002

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	7am - 12am	Sun	7 am - 12am
Mon	7am - 12am	Mon	7am - 12am
Tue	7am - 12am	Tue	7am - 12am
Wed	7am - 12am	Wed	7 am - 12am
Thu	7am - 12am	Thu	7am - 12am
Fri	7am - 12am	Fri	7am - 12am
Sat	7am - 12am	Sat	7am - 12am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION

ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Walgreens #15360 **B Retail - Class B**

Licensee: Walgreen Co.

License Number: ABRA-091391

ANC: 2C01

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

801 7th ST NW, WASHINGTON, DC 20001

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	24 hours	Sun	9 am - 12 am
Mon	24 hours	Mon	9 am - 12 am
Tue	24 hours	Tue	9 am - 12 am
Wed	24 hours	Wed	9 am - 12 am
Thu	24 hours	Thu	9 am - 12 am
Fri	24 hours	Fri	9 am - 12 am
Sat	24 hours	Sat	9 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION

ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Hampton Inn-White House Suite Shop Retail - Class B

Licensee: Lodging Concessions, LLC

License Number: ABRA-091668

ANC: 2B06

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

1729 H ST NW, WASHINGTON, DC 20006

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

	Hours of Operation		Hours of Sales
Sun	7 am - 12 am	Sun	7 am - 12 am
Mon	7 am - 12 am	Mon	7 am - 12 am
Tue	7 am - 12 am	Tue	7 am - 12 am
Wed	7 am - 12 am	Wed	7 am - 12 am
Thu	7 am - 12 am	Thu	7 am - 12 am
Fri	7 am - 12 am -	Fri	7 am - 12 am
Sat	7 am - 12 am	Sat	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Giant #2381 **B Retail - Grocery**

Licensee: Giant of Maryland, LLC

License Number: ABRA-091952

ANC: 6C05

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

300 H ST NE, WASHINGTON, DC 20002

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	24 Hours	Sun	7 am - 12 am
Mon	24 Hours	Mon	7 am - 12 am
Tue	24 Hours	Tue	7 am - 12 am
Wed	24 Hours	Wed	7 am - 12 am
Thu	24 Hours	Thu	7 am - 12 am
Fri	24 Hours	Fri	7 am - 12 am
Sat	24 Hours :	Sat	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Wal-Mart **B Retail - Grocery**

Licensee: Wal-Mart Stores East, LP

License Number: ABRA-092202

ANC: 6E07

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

99 H ST NW, WASHINGTON, DC 20001

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

	Hours of Operation		Hours of Sales
Sun	6 am - 12 am	Sun	7 am - 12 am
Mon	6 am - 12 am	Mon	7 am - 12 am
Tue	6 am - 12 am	Tue	7 am - 12 am
Wed	6 am - 12 am	Wed	7 am - 12 am
Thu	6 am - 12 am	Thu	7 am - 12 am
Fri	6 am - 12 am	Fri	7 am - 12 am
Sat	6 am - 12 am	Sat	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Marbi's Newstand **B Retail - Grocery**

Licensee: YHKims, Inc.

License Number: ABRA-092424

ANC: 2B05

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

1730 RHODE ISLAND AVE NW, WASHINGTON, DC 20036

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

	Hours of Operation		Hours of Sales
Sun	CLOSED	Sun	CLOSED
Mon	6:30 am - 6:30 pm	Mon	9:00 am - 6:30 pm
Tue	6:30 am - 6:30 pm	Tue	9:00 am - 6:30 pm
Wed	6:30 am - 6"30 pm	Wed	9:00 am - 6:30 pm
Thu	6:30 am - 6:30 pm	Thu	9:00 am - 6:30 pm
Fri	6:30 am - 6:30 pm	Fri	9:00 am - 6:30 pm
Sat	closed	Sat	closed

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Wagshal's **B Retail - Grocery**

Licensee: Wagshal's 3201 LLC

License Number: ABRA-092730

ANC: 3D08

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

3201 NEW MEXICO AVE NW, WASHINGTON, DC 20016

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	8 am - 9 pm	Sun	8 am - 9 pm
Mon	8 am - 9 pm	Mon	8 am - 9 pm
Tue	8 am - 9 pm	Tue	8 am - 9 pm
Wed	8 am - 9 pm	Wed	8 am - 9 pm
Thu	8 am - 9 pm	Thu	8 am - 9 pm
Fri	8 am - 9 pm	Fri	8 am - 9 pm
Sat	8 am - 9 pm	Sat	8 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Lucky Corner Store **B Retail - Class B**

Licensee: YD Progress, LLC

License Number: ABRA-093115

ANC: 4D01

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

5433 GEORGIA AVE NW, WASHINGTON, DC 20011

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	7 am - 12 am	Sun	7 am - 12 am
Mon	7 am - 12 am	Mon	7 am - 12 am
Tue	7 am - 12 am	Tue	7 am - 12 am
Wed	7 am - 12 am	Wed	7 am - 12 am
Thu	7 am - 12 am	Thu	7 am - 12 am
Fri	7 am - 12 am	Fri	7 am - 12 am
Sat	7 am - 12 am	Sat	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Trader Joe's #662 **B Retail - Grocery**

Licensee: Trader Joe's East, Inc.

License Number: ABRA-093455

ANC: 2B09

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

1914 14TH ST NW, WASHINGTON, DC 20009

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	8 am - 10 pm	Sun	8 am - 10 pm
Mon	8 am - 10 pm	Mon	8 am - 10 pm
Tue	8 am - 10 pm	Tue	8 am - 10 pm
Wed	8 am - 10 pm	Wed	8 am - 10 pm
Thu	8 am - 10 pm	Thu	8 am - 10 pm
Fri	8 am - 10 pm	Fri	8 am - 10 pm
Sat	8 am - 10 pm	Sat	8 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Chesapeake Big Market **B Retail - Grocery**

Licensee: G & H, Inc.

License Number: ABRA-093871

ANC: 8D01

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

601 CHESAPEAKE ST SE, Washington, DC 20032

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

	Hours of Operation	Hours of Sales/Service/Consumption
Sun	7 am - 12 am	7 am - 12 am
Mon	7 am - 12 am	7 am - 12 am
Tue	7 am - 12 am	7 am - 12 am
Wed	7 am - 12 am	7 am - 12 am
Thu	7 am - 12 am	7 am - 12 am
Fri	7 am - 12 am	7 am - 12 am
Sat	7 am - 12 am	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Good Hope Deli & Market **B Retail - Grocery**

Licensee: S & A Deli, Inc.

License Number: ABRA-093974

ANC: 8A02

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

1736 Good Hope RD SE, Washington, DC 20020

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	10 am - 6 pm	Sun	10am - 6pm
Mon	7 am - 8 pm	Mon	7am - 8pm
Tue	7 am - 8 pm	Tue	7 am - 8pm
Wed	7 am - 8 pm	Wed	7am - 8 pm
Thu	7 am - 8 pm	Thu	7am - 8 pm
Fri	7 am - 9pm	Fri	7 am - 9 pm
Sat	9 am - 9 pm	Sat	9 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Simply Smiles **B Retail - Grocery**

Licensee: Simply Smiles, LLC

License Number: ABRA-094207

ANC: 6D03

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

333 E ST SW, Washington, DC 20024

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	8 am - 11 pm	Sun	9 am - 10 pm
Mon	8 am - 11 pm	Mon	9 am - 10 pm
Tue	8 am - 11 pm	Tue	9 am - 10 pm
Wed	8 am - 11 pm	Wed	9 am - 10 pm
Thu	8 am - 11 pm	Thu	9 am - 10 pm
Fri	8 am - 11 pm	Fri	9 am - 10 pm
Sat	8 am - 11 pm	Sat	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: DC Mini Supermarket **B Retail - Grocery**

Licensee: Abush, LLC

License Number: ABRA-094430

ANC: 5E07

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

1828 1ST ST NW, Washington, DC 20001

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	8 am - 11 pm	Sun	8 am - 11 pm
Mon	8 am - 11 pm	Mon	8 am - 11 pm
Tue	8 am - 11 pm	Tue	8 am - 11 pm
Wed	8 am - 11 pm	Wed	8 am - 11 pm
Thu	8 am - 11 pm	Thu	8 am - 11 pm
Fri	8 am - 11 pm	Fri	8 am - 11 pm
Sat	8 am - 11 pm	Sat	8 am - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Safeway **B Retail - Grocery**

Licensee: NAI SATURN EASTERN LLC

License Number: ABRA-097695

ANC: 4C06

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

3830 GEORGIA AVE NW, WASHINGTON, DC 20011

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	5 am - 12 am	Sun	7 am - 12 am
Mon	5 am - 12 am	Mon	7 am - 12 am
Tue	5 am - 12 am	Tue	7 am - 12 am
Wed	5 am - 12 am	Wed	7 am - 12 am
Thu	5 am - 12 am	Thu	7 am - 12 am
Fri	5 am - 12 am -	Fri	7am - 12 am
Sat	5 am - 12 am	Sat	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Safeway **B Retail - Grocery**

Licensee: NAI SATURN EASTERN LLC

License Number: ABRA-097696

ANC: 3D05

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

4865 MACARTHUR BLVD NW, WASHINGTON, DC 20007

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	5 am - 12 am	Sun	9 am - 12 am
Mon	5 am - 12 am	Mon	9 am - 12 am
Tue	5 am - 12 am	Tue	9 am - 12 am
Wed	5 am - 12 am	Wed	9 am - 12 am
Thu	5 am - 12 am	Thu	9 am - 12 am
Fri	5 am - 12 am -	Fri	9 am - 12 am
Sat	5 am - 12 am	Sat	9 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION

ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Safeway **B Retail - Grocery**

Licensee: NAI SATURN EASTERN LLC

License Number: ABRA-097697

ANC: 6D05

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

1100 4TH ST SW, Washington, DC 20024

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	5 am - 12 am	Sun	9 am - 10 pm
Mon	5 am - 12 am	Mon	9 am - 12 am
Tue	5 am - 12 am	Tue	9 am - 12 am
Wed	5 am - 12 am	Wed	9 am - 12 am
Thu	5 am - 12 am	Thu	9 am - 12 am
Fri	5 am - 12 am -	Fri	9 am - 12 am
Sat	5 am - 12 am	Sat	9 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Safeway **B Retail - Grocery**

Licensee: NAI SATURN EASTERN LLC

License Number: ABRA-097700

ANC: 7F01

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

322 40TH ST NE, Washington, DC 20019

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	6 am - 10 pm	Sun	9 am - 10 pm
Mon	6 am - 11 pm	Mon	9 am - 10 pm
Tue	6 am - 11 pm	Tue	9 am - 10 pm
Wed	6 am - 11 pm	Wed	9 am - 10 pm
Thu	6 am - 11 pm	Thu	9 am - 10 pm
Fri	6 am - 11 pm	Fri	9 am - 10 pm
Sat	6 am - 11 pm	Sat	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Safeway **B Retail - Grocery**

Licensee: NAI SATURN EASTERN LLC

License Number: ABRA-097701

ANC: 1C07

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

1747 COLUMBIA RD NW, WASHINGTON, DC 20009

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	5 am - midnight	Sun	10 am - 10 pm
Mon	5 am - midnight	Mon	9 am - 10 pm
Tue	5 am - midnight	Tue	9 am - 10 pm
Wed	5 am - midnight	Wed	9 am - 10 pm
Thu	5 am - midnight	Thu	9 am - 10 pm
Fri	5 am - midnight	Fri	9 am - 10 pm
Sat	5 am - midnight	Sat	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Safeway **B Retail - Grocery**

Licensee: NAI SATURN EASTERN LLC

License Number: ABRA-097702

ANC: 4B03

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

6500 PINEY BRANCH RD NW, WASHINGTON, DC 20012

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	5 am - 12 am	Sun	7 am - 12 am
Mon	5 am - 12 am	Mon	7am - 12 am
Tue	5 am - 12 am	Tue	7 am - 12 am
Wed	5 am - 12 am	Wed	7 am - 12 am
Thu	5 am - 12 am	Thu	7 am - 12 am
Fri	5 am - 12 am	Fri	7 am - 12 am
Sat	5 am - 12 am	Sat	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Safeway **B Retail - Grocery**

Licensee: NAI SATURN EASTERN LLC

License Number: ABRA-097703

ANC: 5D05

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

1601 MARYLAND AVE NE, WASHINGTON, DC 20002

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	6 am - 12 am	Sun	9 am - 9 pm
Mon	6 am - 12 am	Mon	9 am - 9 pm
Tue	6 am - 12 am	Tue	9 am - 9 pm
Wed	6 am - 12 am	Wed	9 am - 9 pm
Thu	6 am - 12 am	Thu	9 am - 9 pm
Fri	6 am - 12 am -	Fri	9 am - 9 pm
Sat	6 am - 12 am	Sat	9 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Safeway **B Retail - Grocery**

Licensee: NAI SATURN ESTERN LLC

License Number: ABRA-097704

ANC: 7B05

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

2845 ALABAMA AVE SE, Washington, DC 20020

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	5 am - 12 am	Sun	10 am - 10 pm
Mon	5 am - 12 am	Mon	9 am - 10 pm
Tue	5 am - 12 am	Tue	9 am - 10 pm
Wed	5 am - 12 am	Wed	9 am - 10 pm
Thu	5 am - 12 am	Thu	9 am - 10 pm
Fri	5 am - 12 am -	Fri	9 am - 10 pm
Sat	5 am - 12 am	Sat	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Safeway **B Retail - Grocery**

Licensee: NAI SATURN EASTERN LLC

License Number: ABRA-097705

ANC: 2E07

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

1855 WISCONSIN AVE NW, WASHINGTON, DC 20007

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	24 Hours	Sun	7 am - 10 pm
Mon	24 Hours	Mon	7 am - 10 pm
Tue	24 Hours	Tue	7 am - 10 pm
Wed	24 Hours	Wed	7 am - 10 pm
Thu	24 Hours	Thu	7 am - 10 pm
Fri	24 Hours	Fri	7 am - 10 pm
Sat	24 Hours	Sat	7 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION

ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Safeway **B Retail - Grocery**

Licensee: NAI SATURN EASTERN LLC

License Number: ABRA-097706

ANC: 6E05

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

490 L ST NW, #MCU, WASHINGTON, DC 20001

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	24 hrs	Sun	7 am - 12 am
Mon	24 hrs	Mon	7 am - 12 am
Tue	24 hrs	Tue	7 am - 12 am
Wed	24 hrs	Wed	7 am - 12 am
Thu	24 hrs	Thu	7 am - 12 am
Fri	24 hrs	Fri	7 am - 12 am
Sat	24 hrs	Sat	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Sonya's Market **B Retail - Grocery**

Licensee: SKYK, Inc.

License Number: ABRA-097880

ANC: 1B09

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

2833 11TH ST NW, WASHINGTON, DC 20001

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	8 am - 10 pm	Sun	9 am - 10 pm
Mon	8 am - 10 pm	Mon	9 am - 10 pm
Tue	8 am - 10 pm	Tue	9 am - 10 pm
Wed	8 am - 10 pm	Wed	9 am - 10 pm
Thu	8 am - 10 pm	Thu	9 am - 10 pm
Fri	8 am - 10 pm	Fri	9 am - 10 pm
Sat	8 am - 10 pm	Sat	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Casa Lebrato **B Retail - Grocery**

Licensee: Lee Casa Lebrato, Inc.

License Number: ABRA-098074

ANC: 1C06

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

1733 COLUMBIA RD NW, WASHINGTON, DC 20009

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	7 am - 12 am	Sun	7 am - 12 am
Mon	7 am - 12 am	Mon	7 am - 12 am
Tue	7 am - 12 am	Tue	7am - 12 am
Wed	7 am - 12 am	Wed	7 am - 12 am
Thu	7 am - 12 am	Thu	7 am - 12 am
Fri	7 am - 12 am -	Fri	7 am - 12 am
Sat	7 am - 12 am	Sat	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Union Kitchen **B Retail - Grocery**

Licensee: Union Kitchen LLC

License Number: ABRA-098204

ANC: 6C04

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

538 3RD ST NE, WASHINGTON, DC 20002

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	7 am - 10pm	Sun	7 am - 10pm
Mon	7 am - 10pm	Mon	7am - 10pm
Tue	7 am - 10pm	Tue	7am - 10pm
Wed	7am - 10pm	Wed	7am - 10pm
Thu	7am - 10pm	Thu	7am - 10pm
Fri	7am - 10pm	Fri	7am - 10pm
Sat	7am - 10pm	Sat	7am - 10pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION

ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: New Dodge Market **B Retail - Grocery**

Licensee: HSR INC.

License Number: ABRA-099565

ANC: 1A01

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

3620 14TH ST NW, WASHINGTON, DC 20010

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	9 am - 12 am	Sun	9 am - 12 am
Mon	9 am - 12 am	Mon	9 am - 12 am
Tue	9 am - 12 am	Tue	9 am - 12 am
Wed	9 am - 12 am	Wed	9 am - 12 am
Thu	9 am - 12 am	Thu	9 am - 12 am
Fri	9 am - 12 am	Fri	9 am - 12 am
Sat	9 am - 12 am	Sat	9 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: A & S Grocery **B Retail - Grocery**

Licensee: TGW Convenience Store, LLC

License Number: ABRA-101367

ANC: 7C07

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

4748 SHERIFF RD NE, Washington, DC 20019

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	7 am - 9 pm	Sun	7 am - 9 pm
Mon	7 am - 9 pm	Mon	7 am - 9 pm
Tue	7 am - 9 pm	Tue	7 am - 9 pm
Wed	7 am - 9 pm	Wed	7 am - 9 pm
Thu	7 am - 9 pm	Thu	7 am - 9 pm
Fri	7 am - 9 pm	Fri	7 am - 9 pm
Sat	7 am - 9 pm	Sat	7 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Wagshal's **B Retail - Grocery**

Licensee: Wagshal's PCI, LLC

License Number: ABRA-101706

ANC: 3E02

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

4857 MASSACHUSETTS AVE NW, WASHINGTON, DC 20016

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

	Hours of Operation		Hours of Sales
Sun	8:30am - 8 pm	Sun	8:30 am - 8 pm
Mon	7:30am - 9pm	Mon	7:30 am - 9pm
Tue	7:30am - 9pm	Tue	7:30am - 9pm
Wed	7:30am - 9pm	Wed	7:30am - 9pm
Thu	7:30am - 9pm	Thu	7:30am - 9 pm
Fri	7:30am - 9pm	Fri	7:30am - 9pm
Sat	8:30am - 9pm	Sat	8:30pm 9pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Old City Market and Oven **B Retail - Grocery**

Licensee: Old City MAO, LLC

License Number: ABRA-104838

ANC: 6C06

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

522 K ST NE, WASHINGTON, DC 20002

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	7 am - 11 pm	Sun	7 am - 11 pm
Mon	7 am - 11 pm	Mon	7 am - 11 pm
Tue	7 am - 11 pm	Tue	7 am - 11 pm
Wed	7 am - 11 pm	Wed	7 am - 11 pm
Thu	7 am - 11 pm	Thu	7 am - 11 pm
Fri	7 am - 11 pm	Fri	7 am - 11 pm
Sat	7 am - 11 pm	Sat	7 am - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Sal's Cafe **B Retail - Class B**

Licensee: Sal & Moi, Inc.

License Number: ABRA-105882

ANC: 6D01

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

400 C ST SW, WASHINGTON, DC 20024

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	8 am - 11 pm	Sun	11 am - 11 pm
Mon	8 am - 11 pm	Mon	11 am - 11 pm
Tue	8 am - 11 pm	Tue	11 am - 11 pm
Wed	8 am - 11 pm	Wed	11 am - 11 pm
Thu	8 am - 11 pm	Thu	11 am - 11 pm
Fri	8 am - 11 pm	Fri	11 am - 11 pm
Sat	8 am - 11 pm	Sat	11 am - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: Salumeria 2703 **B Retail - Class B**

Licensee: Salumeria 2703, LLC

License Number: ABRA-106366

ANC: 5B04

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

2703 12TH ST NE, WASHINGTON, DC 20018

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

	Hours of Operation		Hours of Sales
Sun	10 am - 9 pm	Sun	10 am - 9 pm
Mon	10 am - 9 pm	Mon	10 am - 9 pm
Tue	10 am - 9 pm	Tue	10 am - 9 pm
Wed	10 am - 9 pm	Wed	10 am - 9 pm
Thu	10 am - 9 pm	Thu	10 am - 9 pm
Fri	10 am - 9 pm	Fri	10 am - 9 pm
Sat	10 am - 9 pm	Sat	10 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: DC Food Market **B Retail - Grocery**

Licensee: DC Market, Inc.

License Number: ABRA-106962

ANC: 8A04

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

2200 16TH ST SE, WASHINGTON, DC 20020

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales/Service/Consumption	
Sun	8 am - 10 pm	Sun	9 am - 10 pm
Mon	8 am - 10 pm	Mon	9 am - 10 pm
Tue	8 am - 10 pm	Tue	9 am - 10 pm
Wed	8 am - 10 pm	Wed	9 am - 10 pm
Thu	8 am - 10 pm	Thu	9 am - 10 pm
Fri	8 am - 10 pm	Fri	9 am - 10 pm
Sat	8 am - 10 pm	Sat	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

10/6/2017

Notice is hereby given that

Applicant: MZ Market **B Retail - Grocery**

Licensee: MZ Market, Inc.

License Number: ABRA-107806

ANC: 7D06

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

547 42ND ST NE, WASHINGTON, DC 20019

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

11/20/2017

A HEARING WILL BE HELD ON:

12/4/2017

at 10.a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Hours of Operation		Hours of Sales	
Sun	24 hrs	Sun	8 am - 12 am
Mon	24 hrs	Mon	8 am - 12 am
Tue	24 hrs	Tue	8 am - 12 am
Wed	24 hrs	Wed	8 am - 12 am
Thu	24 hrs	Thu	8 am - 12 am
Fri	24 hrs	Fri	8 am - 12 am
Sat	24 hrs	Sat	8 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-060569 **License Class/Type: B Retail - Grocery**
Applicant: Giant of Maryland LLC
Trade Name: Giant
ANC: 5C05

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

1050 BRENTWOOD RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	6 am - 11 pm	9 am - midnight
Monday:	24 hours -	9 am - midnight
Tuesday:	24 hours -	9 am - midnight
Wednesday:	24 hours -	9 am - midnight
Thursday:	24 hours -	9 am - midnight
Friday:	24 hours -	9 am - midnight
Saturday:	24 hours -	9 am - midnight

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-075065 **License Class/Type: B Retail - Grocery**
Applicant: Giant of Maryland LLC
Trade Name: Giant Food Store #382
ANC: 3F02

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

4303 CONNECTICUT AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	6 am - 10 pm	10 am - 10 pm
Monday:	6 am - 10 pm	9 am - 10 pm
Tuesday:	6 am - 10 pm	9 am - 10 pm
Wednesday:	6 am - 10 pm	9 am - 10 pm
Thursday:	6 am - 10 pm	9 am - 10 pm
Friday:	6 am - 10 pm	9 am - 10 pm
Saturday:	6 am - 10 pm	9 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-092842 **License Class/Type: B Retail - Grocery**
Applicant: Giant of Maryland LLC
Trade Name: Giant #2376
ANC: 6E01

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

1400 7TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	24 Hours -	7 am - 12 am
Monday:	24 Hours -	7 am - 12 am
Tuesday:	24 Hours -	7 am - 12 am
Wednesday:	24 Hours -	7 am - 12 am
Thursday:	24 Hours -	7 am - 12 am
Friday:	24 Hours -	7 am - 12 am
Saturday:	24 Hours -	7 am - 12 am

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-095375 **License Class/Type: B Retail - Grocery**
Applicant: Giant of Maryland LLC
Trade Name: Giant #2379
ANC: 3C07

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

3336 Wisconsin AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	24 Hrs -	8am - 10pm
Monday:	24 Hrs -	8am - 10pm
Tuesday:	24 Hrs -	8am - 10pm
Wednesday:	24 Hrs -	8am - 10pm
Thursday:	24 Hrs -	8am - 10pm
Friday:	24 Hrs -	8am - 10pm
Saturday:	24 Hrs -	8am - 10pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-072580 **License Class/Type: B Retail - Grocery**
Applicant: Giant of Maryland, LLC
Trade Name: Giant Food Store #378
ANC: 1A05

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

1345 PARK RD NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	6 am - midnight	10 am - midnight
Monday:	6 am - midnight	9 am - midnight
Tuesday:	6 am - midnight	9 am - midnight
Wednesday:	6 am - midnight	9 am - midnight
Thursday:	6 am - midnight	9 am - midnight
Friday:	6 am - midnight	9 am - midnight
Saturday:	6 am - midnight	9 am - midnight

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-074845 **License Class/Type: B Retail - Grocery**
Applicant: Johy Corporation
Trade Name: The Corner Market
ANC: 6C01

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

400 EAST CAPITOL ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7 am - 11 pm	9 am - 10 pm
Monday:	7 am - 11 pm	9 am - 10 pm
Tuesday:	7 am - 11 pm	9 am - 10 pm
Wednesday:	7 am - 11 pm	9 am - 10 pm
Thursday:	7 am - 11 pm	9 am - 10 pm
Friday:	7 am - 11 pm	9 am - 10 pm
Saturday:	7 am - 11 pm	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-010677 **License Class/Type: B Retail - Grocery**
Applicant: Parker Enterprises Inc
Trade Name: Suburban Market
ANC: 7C07

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

4600 SHERIFF RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7 am - 6 pm	9 am - 6 pm
Monday:	7 am - 6 pm	9 am - 6 pm
Tuesday:	7 am - 6 pm	9 am - 6 pm
Wednesday:	7 am - 6 pm	9 am - 6 pm
Thursday:	7 am - 6 pm	9 am - 6 pm
Friday:	7 am - 6 pm	9 am - 6 pm
Saturday:	7 am - 6 pm	9 am - 6 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-084981 **License Class/Type: B Retail - Grocery**
Applicant: Lamont Market Associates, Inc.
Trade Name: Lamont Market
ANC: 1A10

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

450 LAMONT ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-088966 **License Class/Type: B Retail - Grocery**
Applicant: Hanmi Corp
Trade Name: Best World Supermarket
ANC: 1D04

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

3178 MOUNT PLEASANT ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	8 am - 10 pm	9:30 am - 10 pm
Monday:	8 am - 9:30 pm	9 am - 9:30 pm
Tuesday:	8 am - 9:30 pm	9 am - 9:30 pm
Wednesday:	8 am - 9:30 pm	9 am - 9:30 pm
Thursday:	8 am - 9:30 pm	9 am - 9:30 pm
Friday:	8 am - 9:30 pm	9 am - 9:30 pm
Saturday:	8 am - 9:30 pm	9 am - 9:30 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-101344 **License Class/Type: B Retail - Grocery**
Applicant: Eujin, Inc.
Trade Name: Gallery Market DC
ANC: 2C02

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

450 MASSACHUSETTS AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	10 am - 9 pm	10 am - 9 pm
Monday:	7 am - 9 pm	9 am - 9 pm
Tuesday:	7 am - 9 pm	9 am - 9 pm
Wednesday:	7 am - 9 pm	9 am - 9 pm
Thursday:	7 am - 9 pm	9 am - 9 pm
Friday:	7 am - 9 pm	9 am - 9 pm
Saturday:	8 am - 9 pm	9 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-071278 **License Class/Type: B Retail - Grocery**
Applicant: Trader Joe's East, Inc.
Trade Name: Trader Joe's # 653
ANC: 2A02

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

2425 L ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-100872 **License Class/Type: B Retail - Grocery**
Applicant: Trader Joe's East Inc
Trade Name: Trader Joe's #622
ANC: 6B02

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

750 Pennsylvania AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-104330 **License Class/Type: B Retail - Class B**
Applicant: Omega Ventures, Inc.
Trade Name: Alabama Convenience
ANC: 8E03

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

2209 Alabama AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-076414 **License Class/Type: B Retail - Grocery**
Applicant: Park & Song, Inc.
Trade Name: Congress Market
ANC: 6B01

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

421 EAST CAPITOL ST SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7:30 am - 11 pm	10 am - 10 pm
Monday:	7:30 am - 11 pm	9 am - 10 pm
Tuesday:	7:30 am - 11 pm	9 am - 10 pm
Wednesday:	7:30 am - 11 pm	9 am - 10 pm
Thursday:	7:30 am - 11 pm	9 am - 10 pm
Friday:	7:30 am - 11 pm	9 am - 10 pm
Saturday:	7:30 am - 11 pm	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-106969 **License Class/Type: B 25 Percent**
Applicant: Trump Old Post Office, LLC
Trade Name: Trump Gift Shop
ANC: 2C01

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

1100 PENNSYLVANIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7 am - 12 am	7 am - 12 am
Monday:	7 am - 12 am	7 am - 12 am
Tuesday:	7 am - 12 am	7 am - 12 am
Wednesday:	7 am - 12 am	7 am - 12 am
Thursday:	7 am - 12 am	7 am - 12 am
Friday:	7 am - 12 am	7 am - 12 am
Saturday:	7 am - 12 am	7 am - 12 am

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/6/2017

Notice is hereby given that:
License Number: ABRA-103270 **License Class/Type: B Retail - Grocery**
Applicant: Assmira, Inc.
Trade Name: Circle 7 Express Food Store
ANC: 7D02

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

740 KENILWORTH AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/20/2017

A HEARING WILL BE HELD ON:
12/4/2017

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	24 hours -	7 am - 12 am
Monday:	24 hours -	7 am - 12 am
Tuesday:	24 hours -	7 am - 12 am
Wednesday:	24 hours -	7 am - 12 am
Thursday:	24 hours -	7 am - 12 am
Friday:	24 hours -	7 am - 12 am
Saturday:	24 hours -	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date:	September 22, 2017
Protest Petition Deadline:	November 6, 2017
Roll Call Hearing Date:	November 20, 2017

License No.:	ABRA-025007
Licensee:	DC Grill, Inc.
Trade Name:	DC Cafe
License Class:	Retailer's Class "D" Restaurant
Address:	2035 P Street, N.W.
Contact:	Jeff Jackson: (202) 251-1566

WARD 2 ANC 2B SMD 2B02

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on November 20, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE
Class Change from D Restaurant to D Tavern.

CURRENT HOURS OF OPERATION INSIDE PREMISES
Sunday through Saturday 12am - 12am (24 hour operations)

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION INSIDE PREMISES
Sunday 10:00 am - 2:00 am
Monday - Thursday 8:00 am - 2:00 am
Friday - Saturday 8:00 am - 3:00 am

CURRENT HOURS OF OPERATION FOR SIDEWALK CAFE
Sunday - Wednesday 7:00 am - 11 pm
Thursday 7:00 am - 11:30 pm
Friday - Saturday 7:00 am - 12:00 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFÉ
Sunday 10:00 am - 11:00 pm
Monday - Wednesday 8:00 am - 11:00 pm
Thursday 8:00 am - 11:30 pm
Friday - Saturday 8:00 am - 12:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	October 6, 2017
Protest Petition Deadline:	November 20, 2017
Roll Call Hearing Date:	December 4, 2017
Protest Hearing Date:	January 31, 2018

License No.:	ABRA-107768
Licensee:	NRG Management, LLC
Trade Name:	Shop Made in DC
License Class:	Retailer's Class "C" Restaurant
Address:	1333 New Hampshire Avenue, N.W.
Contact:	James M. Babin: (703) 362-6403

WARD 2 ANC 2B SMD 2B06

Notice is hereby given that this licensee 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 on December 4, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **January 31, 2018 at 4:30 p.m.**

NATURE OF OPERATION
A retail shop that features products made by local DC artists with a small café. Seating capacity of 110 inside. Total Occupancy Load of 141. Sidewalk Café with 35 seats. Will include Entertainment Endorsement.

HOURS OF OPERATION ON PREMISE
Sunday through Saturday 8 am – 10 pm

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION ON PREMISE
Sunday 10 am – 10 pm, Monday through Friday 11 am – 10 pm, Saturday 10 am – 10 pm

HOURS OF OPERATION ON THE OUTDOOR SIDEWALK CAFÉ
Sunday through Saturday 10 am – 10 pm

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION ON THE OUTDOOR SIDEWALK CAFÉ
Sunday 10 am – 10 pm, Monday through Friday 11 am – 10 pm, Saturday 10 am – 10 pm

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES
Sunday 2 pm – 10 pm, Monday through Friday 5 pm – 10 pm, Saturday 1 pm – 10 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Posting Date: August 25, 2017
Petition Date: October 10, 2017
Hearing Date: October 23, 2017
Protest Hearing: December 13, 2017

License No.: ABRA-107437
Licensee: Union Trust 740 15th St NW, LLC
Trade Name: Union Trust
License Class: Retailer's Class "C" Tavern
Address: 740 15th Street, N.W.
Contact: Arthur A. Tomelden: 202-258-3095

WARD 2 ANC 2B SMD 2B05

Notice is hereby given that this licensee 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 on October 23, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **December 13, 2017 at 4:30 p.m.**
.

NATURE OF OPERATION
New tavern, specializing in higher end spirits, draft beer, and possibly light pre-prepared snacks. Recorded music. Total Occupancy Load is 79.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION
**Sunday through Thursday 8 am to 2 am, Friday and Saturday 8 am to 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: August 25, 2017
Petition Date: October 10, 2017
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**Monday through Thursday 8 am to 2 am, Friday and Saturday 8 am to 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
9/22/2017

****RESCIND**

Notice is hereby given that:
License Number: ABRA-075678 **License Class/Type: B Retail - Grocery**
Applicant: Yes Organic Four, LLC
Trade Name: Yes Organic Market
ANC: 5B05

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

3809 12TH ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
11/6/2017

A HEARING WILL BE HELD ON:
11/20/2017

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

HISTORIC PRESERVATION REVIEW BOARD

NOTICE OF PUBLIC HEARINGS

The D.C. Historic Preservation Review Board will hold a public hearing to consider an application to designate the following properties as historic landmarks in the D.C. Inventory of Historic Sites. The Board will also consider the nomination of the properties to the National Register of Historic Places:

Case No. 17-14: **St. Paul's College** (rescheduled from October 26)
3015/3025 4th Street NE
Square 3648, Lots 1068 and 1069
Applicant: St. Paul on Fourth Street, Inc. (owner)
Affected Advisory Neighborhood Commission: 5E

Case No. 17-21: **St. Paul's College**
3015/3025 4th Street NE
Square 3648, Lots 1067, 1068 and 1069
Applicant: D.C. Preservation League
Affected Advisory Neighborhood Commission: 5E

Case No. 17-15: **Homestead Apartments**
812 Jefferson Street NW
Square 2999, Lot 54
Applicant: Hampstead Jefferson Partners LP (owner)
Affected Advisory Neighborhood Commission: 4D

Case No. 17-16: **Harrison Street Apartments** (rescheduled from September 28)
4315-4351 Harrison Street NW odd numbers only
Square 1657, Lots 11-20 and condos 2001-2011
Applicant: Tenleytown Historical Society and D.C. Preservation League
Affected Advisory Neighborhood Commission: 3E

Case No. 17-22: **Harewood Lodge**
3600 Harewood Road NE
Square 3663, Lot 6 and adjacent public space
Applicant: D.C. Preservation League
Affected Advisory Neighborhood Commission: 5A

Case No. 17-23: **PEPCO Harrison Street Substation**
5210 Wisconsin Avenue NW
Square 1657, Lot 26
Applicants: Tenleytown Historical Society and Art Deco Society of Washington
Affected Advisory Neighborhood Commission: 3E

The hearing will take place at **9:00 a.m. on Thursday, November 16, 2017**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4th Street, SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

The Board's hearing is open to all interested parties or persons. Public and governmental agencies, Advisory Neighborhood Commissions, property owners, and interested organizations or individuals are invited to testify before the Board. Written testimony may also be submitted prior to the hearing. All submissions should be sent to the address above.

For each property, a copy of the historic designation application is currently on file and available for inspection by the public at the Historic Preservation Office. A copy of the staff report and recommendation will be available at the office five days prior to the hearing. The office also provides information on the D.C. Inventory of Historic Sites, the National Register of Historic Places, and Federal tax provisions affecting historic property.

If the Historic Preservation Review Board designates a property, it will be included in the D.C. Inventory of Historic Sites, and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

Consideration in Planning for Federal, Federally Licensed, and Federally Assisted Projects: Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies allow the Advisory Council on Historic Preservation an opportunity to comment on all projects affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.

Eligibility for Federal Tax Provisions: If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 (which revised the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984) provides, as of January 1, 1987, for a 20% investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and rental residential buildings. The former 15% and 20% Investment Tax Credits (ITCs) for rehabilitation of older commercial buildings are combined into a single 10% ITC for commercial and industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to

a property owner is dependent upon the particular circumstances of the property and the owner. Because the tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service office for assistance in determining the tax consequences of the above provisions. For further information on certification requirements, please refer to 36 CFR 67.

Qualification for Federal Grants for Historic Preservation When Funds Are Available: The National Historic Preservation Act of 1966, as amended, authorizes the Secretary of the Interior to grant matching funds to the States (and the District or Columbia) for, among other things, the preservation and protection of properties listed in the National Register.

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing must submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility for listing in the National Register. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If an owner chooses to object to the listing of the property, the notarized objection must be submitted to the above address by the date of the Review Board meeting.

For further information, contact Tim Dennee, Landmarks Coordinator, at 202-442-8847.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health ("Department"), pursuant to the authority set forth in Section 302(14) of the District of Columbia Health Occupations Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor's Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 2203 (February 26, 2016)), hereby gives notice of the adoption of the following amendments to Chapter 75 (Massage Therapy) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to amend the massage therapy regulation to include the new requirement for continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression ("LGBTQ") in accordance with Section 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

The rulemaking was published in the *D.C. Register* as a proposed rulemaking on April 14, 2017 at 64 DCR 3528. No comments were received and there has been no change to the rule as proposed. This rule will be effective upon publication of the notice in the *D.C. Register*.

Chapter 75, MASSAGE THERAPY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended to read as follows:

Section 7506, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

7506 CONTINUING EDUCATION REQUIREMENTS

7506.1 Subject to § 7506.2, this section shall apply to applicants for the renewal, reactivation, or reinstatement of a license and shall not apply to applicants for an initial licensure or the first renewal of a license

7506.2 A continuing education credit shall be valid only if it is part of a program or activity approved by the Board in accordance with § 7507.

7506.3 To qualify for the renewal of a license, an applicant shall have completed the following continuing education during the two (2)-year period preceding the date the license expires:

(a) An applicant seeking to renew a license expiring on or before January 31, 2019 shall have completed twelve (12) hours of approved continuing education, which shall include three (3) hours of professional ethics and nine (9) hours of massage-related course work, six (6) of which shall be

hands-on, massage technique course(s) completed in a live classroom setting; or:

(b) An applicant seeking to renew a license expiring on or after January 31, 2021 shall have completed fourteen (14) hours of approved continuing education, which shall include three (3) hours of professional ethics, nine (9) hours of massage-related course work, six (6) of which shall be hands-on, massage technique course(s) completed in a live classroom setting, and two (2) hours of LGBTQ continuing education.

7506.4 To qualify for the reactivation of a license, an applicant whose license has been in inactive status in accordance with Section 511 of the Act, D.C. Official Code § 3-1205.11, and who does not possess a current and valid license to practice massage therapy in another jurisdiction in the United States shall have completed, during the two (2) years before the date of the application, fourteen (14) hours of approved continuing education, which shall include three (3) hours of professional ethics, nine (9) hours of massage-related course work, six (6) of which shall be hands-on, massage technique course(s) completed in a live classroom setting, and two (2) hours of LGBTQ continuing education.

7506.5 To qualify for the reactivation of a license, an applicant whose license has been in inactive status in accordance with Section 511 of the Act, D.C. Official Code § 3-1205.11, and who possesses a current and valid license or authorization to practice massage therapy in another jurisdiction of the United States shall be deemed to possess current competency and shall not be required to submit proof of continuing education.

7506.6 A licensee may obtain and remain in inactive status in accordance with D.C. Official Code § 3-1205.11 for no more than ten (10) years. A person whose license has been inactive for more than ten (10) years shall apply for and meet the requirements for licensure in accordance with § 7502.

7506.7 To qualify for reinstatement of a license, an applicant shall have completed the following continuing education:

(a) An applicant whose license has expired two (2) years or less shall have completed fourteen (14) hours of continuing education as enumerated in § 7506.3(b) during the two (2) years' period preceding the date of the application; or

(b) An applicant whose license has expired more than two (2) years but less than five (5) years shall have completed twenty-six (26) hours of the following continuing education during the two (2) years' period preceding the date of the application:

(1) Six (6) hours of professional ethics;

(2) Eighteen (18) hours of massage-related course work provided by a Board approved provider of which twelve (12) hours shall be hands-on, massage-technique course(s) completed in a live classroom setting taught by appropriate instructors; and

(3) Two (2) hours of LGBTQ continuing education.

7506.8 An applicant under this section shall prove completion of required continuing education credits by submitting the following information with respect to each program:

(a) The name and address of the sponsor of the program;

(b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;

(c) The dates on which the applicant attended the program;

(d) The hours of credit claimed; and

(e) Verification by the sponsor of completion, by signature or stamp.

7506.9 The Board may periodically conduct a random audit of its active licensees to determine continuing education compliance. Any licensee selected for the audit shall submit proof of his or her continuing education to the Board within thirty (30) days of receiving notification of the audit. Failure to timely respond to the audit notice may subject the licensee to disciplinary action by the Board.

Section 7599, DEFINITIONS, is amended as follows:

Subsection 7599.1 is amended as follows:

The following definition is added before the definition of "Massage techniques":

LGBTQ continuing education – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression ("LGBTQ") meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5) (2016 Repl.)).

DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING

NOTICE OF FINAL RULEMAKING

The Commissioner of the Department of Insurance, Securities and Banking, pursuant to the authority set forth in Section 14 of the Risk Retention Act of 1993, effective October 21, 1993 (D.C. Law 10-46; 40 DCR 6082 (August 20, 1993)), hereby gives notice of the adoption of the following amendments to Chapter 37 (Captive Insurance Companies), of Title 26 (Insurance, Securities, and Banking), Subtitle A (Insurance), of the District of Columbia Municipal Regulations (DCMR).

The purpose of these rules is to implement corporate governance standards for risk retention groups licensed in the District of Columbia. Specifically, the rules mandate that the boards of directors of risk retention groups shall adopt standards that, among other things, establish the qualifications of directors, including whether directors qualify as independent, a code of business conduct and ethics, and a requirement to establish an audit committee.

The proposed rulemaking was published on June 9, 2017, at 64 DCR 5438. The comments received noted the need for several technical, non-substantive changes to the proposed rulemaking. The comments were addressed by making the following revisions:

(a) Subsection 3775.2 was amended as follows:
  (1) The lead-in language was amended by striking "regarding one or more" and inserting "which should include" in its place;
  (2) Paragraph (b) was amended by striking "under the state of domicile" and inserting "in the District of Columbia" in its place; and
  (3) Paragraph (g) was amended by striking "otherwise".
(b) Paragraph 3775.4(d) was amended by striking "section" and inserting "rule" in its place.
(c) Paragraph 3555.8(a) was amended by adding "established under this rule".
(d) Subsections 3775.10 and 3775.11 were renumbered as 3775.09 and 3775.10.
(e) Subsection 3775.99 was amended as follows:
  (1) "Material relationship" was amended by striking "person" and inserting "director" in its place; and
  (2) "Material service provider contract" was amended by striking "is deemed material if" and inserting "for which" in its place, and by adding "in this rule" at the end.

There were no other changes to the final rulemaking.

These rules were adopted as final on September 24, 2017, and will become effective upon publication of this rulemaking in the *D.C. Register*.

Chapter 37, CAPTIVE INSURANCE COMPANIES, of Title 26-A DCMR, INSURANCE, is amended as follows:

A new Section 3775 is added to read as follows:

3775 GOVERNANCE STANDARDS FOR RISK RETENTION GROUPS

These Governance Standards for Risk Retention Groups are effective January 1, 2018 for risk retention groups licensed prior to January 1, 2017 and are effective at the time of licensure for risk retention groups licensed on or after January 1, 2017.

3775.1 The board of directors shall adopt and make available governance standards, which shall include:

(a) A process by which the directors are elected by the owner/insureds;

(b) Director qualification standards;

(c) Director responsibilities;

(d) Director access to management and, as necessary and appropriate, independent advisors;

(e) Director compensation;

(f) Director orientation and continuing education;

(g) The policies and procedures that are followed for management succession;

(h) The policies and procedures that are followed for annual performance evaluation of the board; and

(i) The policies and practices that must be followed by any audit committee required by this section, including compliance with Subsections 3775.7 and 3775.8 of this section or, if no audit committee is required, the policies and practices to be followed by the board of directors to satisfy the requirements of Subsection 3775.9 of this section.

3775.2 The board of directors shall adopt and make available a code of business conduct and ethics for directors, officers and employees, and promptly disclose to the board of directors any waivers of the code granted to a director or officer, which should include the following topics:

(a) Conflicts of interest;

(b) Matters covered under the corporate opportunities doctrine in the District of Columbia;

(c) Confidentiality;

(d) Fair dealing;

(e) Protection and proper use of risk retention group assets;

(f) Compliance with applicable laws, rules and regulations; and

(g) The mandatory reporting of any illegal or unethical behavior that affects the operation of the risk retention group.

3775.3 The risk retention group shall require in one or more of its organizational documents that the board of directors shall have a majority of independent directors. The board shall determine at least annually whether a director is independent and the risk retention group shall maintain a record of such determinations and report such determinations to the Commissioner promptly upon request. No director qualifies as "independent" unless the board of directors affirmatively determines that the director has no "material relationship" with the risk retention group. If the risk retention group is a reciprocal, then the attorney-in-fact shall adhere to the same standards regarding independence of operation and governance as imposed on the risk retention group's board of directors; and, to the extent permissible under District law, service providers of a reciprocal risk retention group should contract with the risk retention group and not the attorney-in-fact.

3775.4 The board of directors shall adopt a written policy in the plan of operation as approved by the board that requires the board to:

(a) Assure that all owners/insureds/subscribers of the risk retention group receive evidence of ownership interest;

(b) Develop a set of governance standards applicable to the risk retention group;

(c) Oversee the evaluation of the risk retention group's management including but not limited to the performance of the captive manager, managing general underwriter or other party or parties responsible for underwriting, determination of rates, collection of premium, adjusting or settling claims or the preparation of financial statements;

(d) Review and approve the amount to be paid for all material service providers, and ensure that material service provider contracts comply with this rule; and

(e) Review and approve, at least annually:

(i) Risk retention group's goals and objectives relevant to the compensation of officers and service providers;

(ii) The officers' and service providers' performance in light of those goals the and objectives; and

(iii) The continued engagement of the officers and material service providers.

3775.5 The term of any material service provider contract with the risk retention group shall not exceed five (5) years. Any such contract, or its renewal, shall require the approval of the majority of the independent directors. The board of directors shall have the right to terminate any service provider, audit or actuarial contracts at any time for cause after providing notice as defined in the contract.

3775.6 A material service provider contract, which is deemed by this rule to be a material transaction, shall not be entered into until after notice has been provided to the Commissioner in writing by the risk retention group of its intention to enter into such transaction at least thirty (30) days prior to the effective date and the contract has not been disapproved within thirty (30) days after such notice.

3775.7 The risk retention group shall have an audit committee composed of at least three independent board members. If invited by the members of the audit committee, a non-independent board member may participate in the activities of the audit committee but may not serve as a member of the audit committee.

Alternatively, in lieu of the audit committee provisions in this section, the risk retention group shall have an audit committee similar to that required in Section 4D of the NAIC *Annual Financial Reporting Model Regulation* (#205).

3775.8 (a) An audit committee established under this rule shall have a written charter that defines the committee's purpose, which, at a minimum, must include to:

(1) Assist board oversight of the integrity of the financial statements, the compliance with legal and regulatory requirements, and the qualifications, independence and performance of the independent auditor and actuary;

(2) Discuss the annual audited financial statements and quarterly financial statements with management;

(3) Discuss the annual audited financial statements with its independent auditor and, if advisable, discuss its quarterly financial statements with its independent auditor;

(4) Discuss policies with respect to risk assessment and risk management;

(5) Meet separately and periodically, either directly or through a designated representative of the committee, with management and independent auditors;

(6) Review with the independent auditor any audit problems or difficulties and management's response;

(7) Set clear hiring policies of the risk retention group as to the hiring of employees or former employees of the independent auditor;

(8) Require the external auditor to rotate the lead (or coordinating) audit partner having primary responsibility for the risk retention group's audit as well as the audit partner responsible for reviewing that audit so that neither individual performs audit services for more than five (5) consecutive fiscal years or alternatively, require the external auditor to adhere to the partner rotation requirements similar to Section 7D of the NAIC *Annual Financial Reporting Model Regulation* (#205); and

(9) Report regularly to the board of directors.

(b) Alternatively, in lieu of the audit committee requirements in this section, the risk retention group shall adhere to the audit committee requirements similar to those required in Section 14 of the NAIC *Annual Financial Reporting Model Regulation* (#205).

3775.9 The Commissioner may waive the requirement to establish an audit committee composed of independent board members if the risk retention group is able to demonstrate that it is impracticable to do so and the board of directors is otherwise able to accomplish the purposes of the audit committee.

3775.10 The captive manager, president or chief executive officer of the risk retention group shall promptly notify the Commissioner in writing if any becomes aware of any material non-compliance with a governance standard mandated in this section.

3775.99 As used in this section:

Board of directors means the governing body of the risk retention group elected by the shareholders or members to establish policy, elect or appoint officers and committees, and make other governing decisions.

Director means a natural person designated in the articles of the risk retention group, or designated, elected or appointed by any other manner, name or title to act as a director.

Independent director means a director who does not have a material relationship with the risk retention group. Any person that is a direct or indirect owner of or subscriber in a risk retention group (or is an officer, director and/or employee of such an owner and insured, unless such other position of such officer, director and/or employee constitutes a material relationship), that is a risk retention group described in 15 USC § 3901(a)(4)(E)(ii), is considered to be "independent".

Material relationship means a relationship between a director and the risk retention group if the director, a member of his or her immediate family, or any business with which such director is affiliated:

(1) In any twelve (12)-month period, receives compensation or payment of any other item of value from the risk retention group or a consultant or service provider to the risk retention group in an amount greater than or equal to five percent (5%) of the risk retention group's gross written premium for such 12-month period or two percent (2%) of its surplus, whichever is greater, as measured at the end of any fiscal quarter falling in such a 12-month period. Such person or immediate family member of such person is not independent until one (1) year after his/her compensation from the risk retention group falls below the threshold established in this section, as applicable;

(2) Is affiliated with or employed in a professional capacity by a present or former internal or external auditor of the risk retention group. Such material relationship shall continue for one year after the end of the affiliation, employment or auditing relationship ends; or

(3) Is employed as an executive officer of another company where any of the risk retention group's present executives serve on that other company's board of directors. Such material relationship shall continue for one year after such employment or service ends.

Make available means making such information available through electronic (*e.g.*, posting such information on the risk retention group's website) or other means, and providing such information to members/insureds upon request.

Material service provider contract means a service provider contract, for which the amount to be paid for such contract is greater than or equal

to five percent (5%) of the risk retention group's annual gross written premium or two percent (2%) of its surplus, whichever is greater. A service provider may include captive managers, auditors, accountants, actuaries, investment advisors, lawyers, managing general underwriters or other party responsible for underwriting, determination of rates, collection of premium, adjusting and settling claims and/or the preparation of financial statements. Lawyers acting as defense counsel retained by the risk retention group to defend claims shall be excluded from the definition of service provider unless the amount of the fees paid are material, as defined in this rule.

Organizational documents mean documents setting forth the establishment, structure, and standards for governing and operating a risk retention group, including governance standards, a code of business conduct and ethics, and plan of operations for a risk retention group.

OFFICE OF TAX AND REVENUE

NOTICE OF FINAL RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-2023 (2005 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; Pub.L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of the intent to amend Chapter 4 (Sales and Use Taxes), of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR), by amending Section 417 (Certificates of Exemption).

The newly amended regulations provide updated guidance regarding the application for and use of sales tax exemption certificates. The guidance in this regulation is necessary to provide clarity to taxpayers attempting to comply with District sales tax exemption requirements.

The rulemaking was published in the *D.C. Register* as a proposed rulemaking on August 18, 2017 at 64 DCR 8350. No comments were received and there has been no change to the rule as proposed. This rule was adopted as final on September 27, 2017 and will be effective upon publication of the notice in the *D.C. Register*.

Chapter 4, SALES AND USE TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

Section 417, CERTIFICATES OF EXEMPTION, is amended as follows:

417 CERTIFICATES OF EXEMPTION

417.1 All sales of tangible personal property or of taxable services are presumed not to be exempt from sales and use tax. The burden of proving that a sale of tangible personal property or taxable services is not a sale at retail is upon the vendor unless the vendor timely accepts in good faith a certificate from the purchaser that the sale is exempt from tax.

417.2 Vendors shall exercise reasonable judgment in accepting exemption certificates in good faith and shall not be protected from paying sales tax on the items purchased with exemption certificates that are not exempt from tax if they fail to do so. Accepting an expired exemption certificate demonstrates bad faith by a vendor.

417.3 If the purchaser is the United States, the District of Columbia, or any instrumentality of either, the vendor shall show on the record of sale the instrumentality or agency to which the sale was made, the amount of the sale, and date of the sale.

417.4 If a purchaser of tangible personal property is a member of a foreign diplomatic corps and personally presents an identification card issued to that purchaser by the State Department, exempting the person from excise taxes,

the card shall be authority for the vendor not to add reimbursement for the sales tax to the sales price of the property; Provided, that the vendor shall show on the record of each sale the name of the purchaser, the date of sale, the amount of the sale, and the State Department identification card number.

417.5 A certificate of exemption shall be effective on the date of issuance. No person shall be issued a refund, based upon a certificate of exemption, for sales taxes paid prior to the date of issuance of the certificate of exemption.

417.6 Each certificate of exemption shall be maintained by the vendor and shall be authority for the vendor not to add reimbursement for the sales tax to the sales price of the property or service. A vendor shall also maintain a record of the name of the purchaser, the date of each sale, and the amount of the sale for each exempt sale.

417.7 A vendor has ninety (90) days from the date requested in which to deliver the certificates of exemption to the Office of Tax and Revenue. Exemptions claimed by those certificates acquired during this 90-day period shall be subject to independent verification by the Office of Tax and Revenue before the deductions shall be allowed. Certificates delivered after the 90-day period shall not be accepted.

417.8 Exemption certificates are nontransferable and are valid for use only by the person or entity to which the certificate has been issued.

417.9 Exemption Certificate for Semipublic Institutions.

(a) A semipublic institution purchasing property at retail for its own maintenance and operation shall obtain from the Deputy Chief Financial Officer a certificate of exemption stating that the institution is entitled to the exemption. If the semipublic institution does not present the certificate of exemption to the vendor, the vendor shall collect the reimbursement for the tax.

(b) Beginning with exemption certificates issued after November 1, 2017, exemption certificates issued to semipublic institutions shall be valid only for a period of five years from the date issued.

(c) Exemption certificates issued to semipublic institutions prior to November 1, 2017, shall expire upon notice by the Office of Tax and Revenue. Vendors are responsible for ensuring that exemption certificates issued to semipublic institutions prior to November 1, 2017 are still valid and unexpired at the time of acceptance.

(d) If a vendor makes sales to a semipublic institution, the vendor shall keep a copy of the certificate of exemption, the name of the purchaser, the date of each sale, and the amount of the sale.

(e) In order to receive an exemption certificate, a semipublic institution shall follow the Office of Tax and Revenue's electronic application process.

(f) All exemption applications filed by semipublic institutions shall include, but are not limited to, the following information:

(1) Taxpayer ID Number;
(2) Name;
(3) Address;
(4) Sales Tax Account Number;
(5) NAICS Code;
(6) Federal Exemption Status;
(7) Proof of IRS exemption (*e.g.*, IRS Determination Letter or Application for Recognition of Exemption) ;
(8) Organizational details; and
(9) Information regarding activities and locations in the District.

417.10 Exemption Certificate for Qualified High Technology Companies.

(a) A qualified high technology company purchasing computer software or hardware, and visualization and human interface technology equipment, including operating and applications software, computers, terminals, display devices, printers, cable, fiber, storage media networking hardware, peripherals, and modems when purchased for use in connection with the operation of the Qualified High Technology Company shall obtain from the Deputy Chief Financial Officer a certificate of exemption stating that the company is entitled to the sales tax exemption.

(b) Beginning with exemption certificates issued after November 1, 2017, exemption certificates issued to Qualified High Technology companies through an annual certification process shall be valid until the expiration date stated on the certificate.

(c) Exemption certificates issued to Qualified High Technology Companies prior to November 1, 2017 shall not be accepted to prove that a sale is exempt from tax after January 31, 2018.

(d) All exemption applications filed by qualified high technology companies shall include, but are not limited to, the following information:

(1) Taxpayer ID Number;
(2) Name;
(3) Address;
(4) Sales Tax Account Number;
(5) NAICS Code;
(6) Information demonstrating QHTC eligibility;
(7) First year certified as QHTC;
(8) Explanation of principal business activity;
(9) Amount of QHTC Exempt Sales/Purchases from the prior year (broken down by period);

(10) Number of QHTC employees hired;
(11) Number of QHTC employees hired who are District residents;
(12) Number of QHTC jobs created in the past year;
(13) Gross revenue; and
(14) Gross revenue earned from QHTC activities in the District.

417.11 Exemption Certificate for Natural or Artificial Gas, Oil, Electricity, Solid fuel, or Steam.

(a) Except as otherwise provided in this section, each purchaser of natural or artificial gas, oil, electricity, solid fuel, or steam for any purpose exempt from sales tax under D.C. Official Code §§ 47-2005(11) or (11A), in order to qualify for the exemption, shall present evidence satisfactory to the Deputy Chief Financial Officer that the sale is exempt under the Act and this subsection, and shall obtain from the Office of Tax and Revenue a Utility exempt certificate to be presented to the vendor.

(b) Beginning with exemption certificates issued after November 1, 2017, exemption certificates issued to purchasers of natural or artificial gas, oil, electricity, solid fuel, or steam shall be valid only for a period of five years from the date issued or until the purchaser is no longer entitled to the exemption, whichever is earlier.

(c) Exemption certificates issued to purchasers of natural or artificial gas, oil, electricity, solid fuel, or steam exempt from sales tax under D.C. Official Code §§ 47-2005(11) or (11A) prior to November 1, 2017, shall no longer be accepted after November 1, 2018.

(d) All exemption applications filed by each purchaser of natural or artificial gas, oil, electricity, solid fuel, or steam for any purpose exempt from sales tax under D.C. Official Code §§ 47-2005(11) or (11A) shall include, but are not limited to, the following information:

(1) Taxpayer ID Number;
(2) Name;
(3) Address;
(4) Sales Tax Account Number;
(5) NAICS Code;
(6) Proof of utility account; and
(7) Utility details, including but are not limited to utility purpose, utility provider, utility account number, meter number, service address.

417.12 Exemption Certificate for Parking Fees.

(a) Except as otherwise provided in this section, each purchaser of exempt parking, storage, or keeping motor vehicles or trailers, shall present evidence satisfactory to the Deputy Chief Financial Officer that the sale

is exempt under the Act and this section, and shall obtain from the Director a specific exemption to be presented to the vendor.

(b) Beginning with exemption certificates issued after November 1, 2017, exemption certificates issued to purchaser of exempt parking, storage, or keeping motor vehicles or trailers shall be valid only for a maximum period of two years; in the case of residential parkers, the exemption certificate shall be valid for two years, or for the period of a valid lease in the District of Columbia, whichever is shorter.

(c) Exemption certificates issued to purchasers of exempt parking, storage, or keeping motor vehicles or trailers prior to November 1, 2017 shall not be accepted for sales made after November 1, 2018.

(d) All exemption applications filed by a purchaser of exempt parking, storage, or keeping motor vehicles or trailers shall include, but are not limited to, the following information:

(1) Taxpayer ID Number (SSN);
(2) Name;
(3) Address;
(4) District Driver's license number;
(5) District vehicle tag information;
(6) Vehicle make, model, year;
(7) Parking lot details, including address and distance from residence; and
(8) A copy of the taxpayer's District Driver's License, District vehicle registration, and proof of District residence.

417.13 Contractor's Exempt Purchase Certificate.

(a) A contractor purchasing property at retail for a construction contract with a semipublic institution holding a valid exemption certificate or with the United States or District governments or their instrumentalities shall obtain from the Deputy Chief Financial Officer a certificate of exemption stating that the institution is entitled to the exemption. If the contractor does not present the certificate of exemption to the vendor, the vendor shall collect the reimbursement for the tax.

(b) Beginning with exemption certificates issued after November 1, 2017, exemption certificates issued to contractors shall be valid only for the period of the exempt construction project, based on a signed contract with an exempt entity.

(c) Exemption certificates issued to contractors prior to November 1, 2017 shall not be accepted for sales made after November 1, 2018, or the end date of the exempt project, whichever is first.

(d) If a vendor makes sales to an exempt contractor, the vendor shall keep a copy of the certificate of exemption, the name of the purchaser, the date of each sale, and the amount of the sale.

(e) In order to receive an exemption certificate, a contractor shall follow the Office of Tax and Revenue's electronic application process.

(f) All exemption applications filed for the contractor's exempt purchase certificate by a contactor shall include, but are not limited to, the following information:

(1) Taxpayer ID Number;
(2) Name;
(3) Address;
(4) Sales Tax Account Number;
(5) NAICS Code;
(6) Project information, including but are not limited to location, dates, contract information, and contracting organization;
(7) A list of all subcontractors, including taxpayer ID number; and
(8) A copy of the relevant pages of the government or semi-public institution contract (shall include project dates, project ID number, and authorization signatures).

417.14 Government Exemption Certificate.

(a) A government agency of the United States or District governments purchasing property at retail shall obtain from the Deputy Chief Financial Officer a certificate of exemption. If the government agency does not present the certificate of exemption to the vendor, the vendor shall collect the reimbursement for the tax.

(b) If a vendor makes sales to a government agency, the vendor shall keep a copy of the certificate of exemption, the name of the purchaser, the date of each sale, and the amount of the sale.

(c) In order to receive an exemption certificate, a government agency shall follow the Office of Tax and Revenue's electronic application process.

(d) All exemption applications filed by government organizations shall include, but are not limited to, the following information:

(1) Taxpayer ID Number;
(2) Name;
(3) Address;
(4) Description of the government or instrumentality;
(5) Reason for exemption; and
(6) Proof of applicability of exemption.

DEPARTMENT OF FORENSIC SCIENCES

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Forensic Sciences (DFS), pursuant to the authority set forth in the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code §§ 5-1501.01 *et seq.* (2012 Repl. & 2017 Supp.)) ("DFS Establishment Act"); Mayor's Order 2017-132, dated May 25, 2017; and Section 15 of the Department of Forensic Sciences Act of 2011,, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code §§ 5-1501.01 *et seq.* (2012 Repl. & 2017 Supp.)) (DFS Establishment Act), hereby gives notice of the intent to adopt a new Chapter 40 (Department of Forensic Sciences) of Title 28 (Corrections, Courts, and Criminal Justice) 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*.

This proposed rulemaking defines the roles and responsibilities of the Department of Forensic Sciences' Science Advisory Board and establishes the reporting requirements and complaint process for the Department of Forensic Sciences.

Pursuant to Section 15 of the DFS Establishment Act, these proposed rules will be submitted to the Council of the District of Columbia for a forty-five (45) day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess, and final rulemaking action will not be taken until the later of thirty (30) days after the date of publication of this notice in the *D.C. Register* or Council approval of the proposed rules.

A new Chapter 40, DEPARTMENT OF FORENSIC SCIENCES, is added to Title 28 DCMR, CORRECTIONS, COURTS, AND CRIMINAL JUSTICE, to read as follows:

CHAPTER 40 DEPARTMENT OF FORENSIC SCIENCES

Sec.

4000 GENERAL PROVISIONS

4000.1 The Department of Forensic Sciences (Department) was established pursuant to Section 2 of the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code § 5-1501.02) (DFS Establishment Act).

4000.2 The Department's mission is to provide high-quality, timely, accurate, and reliable forensic science services with the use of best practices and best available

technology, a focus on unbiased science and transparency, and the goal of enhancing public safety.

4000.3 The Department's Science Advisory Board (Board) was established pursuant to Section 11 of the DFS Establishment Act (D.C. Official Code § 5-1501.11) to perform the functions set out in Section 12 of the DFS Establishment Act (D.C. Official Code § 5-1501.12).

4000.4 An obligation of a Department employee under this chapter may be delegated to another Department employee with the approval of the Director. A Department employee is any person employed by the Department, including contractors, consultants, volunteers, and interns.

4001 ANNUAL REPORT

4001.1 The Director shall prepare an annual report on the activities of the Department as required by Section 4(a)(5) of the DFS Establishment Act (D.C. Official Code § 5-1501.04(a)(5)) and shall provide the report to the Mayor, the Council of the District of Columbia, and the Board. The report shall also be published on the Department's website.

4001.2 The report shall include descriptions of strategic developments, operational developments, outreach developments, and planned future actions for the Department.

4002 COMPLAINT PROCESS

4002.1 A complaint that involves an allegation of professional negligence, misconduct, or erroneous identification of a person or other testing error that occurred in the provision of forensic science services at the Department may be made by any individual or entity.

4002.2

(a) A complaint shall be filed with the Department using the Department's Complaint/Inquiry Form, which is available on the Open Government page of the Department's website (dfs.dc.gov).

(b) The form shall be completed by the person making the complaint or by a person acting on behalf of the person making the complaint.

(c) If the Department receives an oral complaint, the Department shall request that the complainant file the complaint using the Department's Complaint/Inquiry Form. If the complainant refuses to do so, the Department shall reduce the oral complaint to writing by filling out the Department's Complaint/Inquiry Form.

(d) If the Department receives a written complaint that is not provided on the Department's Complaint/Inquiry Form, the Department

shall transfer the complaint to the Department's Complaint/Inquiry Form.

4002.3 Upon receipt of a complaint by the Department, the following actions shall be taken:

(a) The Department shall forward the complaint to the Deputy Director and General Counsel.

(b) The Department shall acknowledge the complaint within two (2) business days of receipt, if contact information is provided for the complainant;

(c) The Deputy Director and General Counsel shall, within five (5) business days after the complaint is received, complete an investigation of the complaint and determine whether further action is necessary.

(d) If the complaint requires further action, the Department shall address the complaint through a Quality Corrective Action Report (QCAR), a Quality Preventative Action Report (QPAR), an employee investigation, or any other means deemed appropriate by the Deputy Director and General Counsel.

(e)

(1) If a complaint results in a QCAR, the Department shall notify the Board within five (5) business days. The notification shall include a copy of the complaint, a written description of the investigation of the investigation of the complaint, and a copy of the QCAR.

(2) The Department is not required to send to the Board a complaint that does not result in a QCAR.

(f) At each Board meeting, the Director shall report to the Board on all completed investigations. With respect to each completed investigation, the report shall include a summary of the underlying complaint conclusions from the investigation, and recommendations for any further action, if any.

4003 MISSION OF THE SCIENCE ADVISORY BOARD; MEETINGS

4003.1 The Science Advisory Board (Board) shall be responsible for assisting and advising the Department on providing high-quality, timely, accurate, and reliable forensic science services.

4003.2 Pursuant to Section 12 of the DFS Establishment Act (D.C. Official Code § 5-1501.12), the Board is responsible for:

(a) Reviewing reports of allegations of professional negligence, misconduct, or misidentification or other testing error that occurred in the provision of forensic science services at the Department;

(b) Periodically reviewing certain Department program standards, protocols, manuals, and procedures;

(c) Reviewing certain matters and making recommendations to the Director regarding such matters; and

(d) Advising the Director or the Mayor and Council, when it considers appropriate, on matters relating to the Department or forensic science.

4003.3

(a) The Board shall hold at least four (4) regular meetings per year, as required by Section 11(f) of the DFS Establishment Act (D.C. Official Code § 5-1501.11(f)).

(b) Additional meetings shall be held by the order of the Chairperson, or at the written request of the Director or of three (3) Board members, in accordance with Section 11(f) of the DFS Establishment Act (D.C. Official Code § 5-1501.11(f)).

(c) An additional meeting may be held for any reason.

4003.4 The presence of a majority of the voting members of the Board shall constitute a quorum.

4003.5

(a) The Board may create subcommittees as needed to assist in the performance of its duties.

(b) Subcommittees may be formed at the recommendation of the Director of the Department or the Chairperson of the Board.

(c) Each subcommittee shall elect a subcommittee leader, whose responsibility shall be to liaise between the Board and the subcommittee.

(d) Subcommittees are not subject to District Open Meetings Act requirements unless a quorum of members of the Board participates in the meeting or teleconference.

(e) The Board shall review each recommendation made by a subcommittee, and upon review of the recommendation, may adopt (in whole or in part, and with or without amendments) or reject the recommendation.

4003.6

(a) The Board may appoint an advisor(s) to provide specialized or technical assistance if the Board determines that such expertise is appropriate to perform its functions. The advisor's service shall be voluntary and unpaid.

(b) Any member of the Board may request that an advisor be appointed. The advisor must be approved by a majority vote of the Board before the advisor is appointed.

(c) The advisor must be qualified to provide the requested assistance. An advisor is deemed qualified if a majority of the Board deems the advisor qualified to provide assistance in the requested field.

4003.7

(a) Board members may communicate with each other on matters relating to the Department outside of Board meetings.

(b) Board members may communicate in person, via teleconference, by electronic communication, or in any other fashion as deemed appropriate by the Board.

(c) The Board must comply with the District Open Meetings Act if a quorum of its members communicates on matters relating to the Department in person or via teleconference outside of a Board meeting.

(d) Written correspondence as contemplated in this section is not subject to District Open Meetings Act requirements, but shall be subject to the District's freedom of information act.

4003.8

(a) Minutes shall be prepared for each meeting of the Board, as required by the Open Meetings Act.

(b) Draft minutes shall be made available to the public three (3) business days after the conclusion of a meeting. Final minutes approved by the Board shall be made available within seven (7) business days after the meeting at which the minutes were approved. The Department or Board may redact the minutes where permitted by District or federal law.

4004 SPECIFIC DUTIES OF THE SCIENTIFIC ADVISORY BOARD

4004.1 If the Board receives a QCAR from the Department pursuant to Subsection 4002.3(d), the following actions shall be taken:

(a) The Board shall complete its review of the QCAR within twenty (20) business days after it is received by the Board; provided, that if the Board determines that it needs additional time to complete its review, it may

request that the Director approve such additional time. The Board's request shall specify the additional time requested and the reason for the need for additional time, and the Director shall not unreasonably withhold approval of the request.

(b) As part of its review, the Board shall determine whether it will make any recommendations to the Department on the QCAR or the matters that gave rise to the QCAR. The Board shall provide its recommendations or advice, if any, to the Department within the twenty (20) day period described in paragraph (a) of this subsection (or such longer period as may be approved by the Director pursuant to paragraph (a) of this subsection).

(c) The Director shall review all recommendations made by the Board. If the Board provides recommendations to the Director within the twenty (20) day period (or such longer period of time as may be approved by the Director pursuant to paragraph (b) of this subsection), the Director may direct the QCAR to be modified to reflect the Board's recommendations.

(d) The Board may provide recommendations on the complaint or the Department's investigation into the complaint at any point.

(e) The Board is not required to comment on a complaint.

(f) The Department shall keep a record of all QCARs and complaints submitted to the Board. The record shall be available to the Board upon request.

4004.2

(a) The Board shall review and make recommendations, as necessary, to the Director on the topics enumerated in Section 12(4) of the DFS Establishment Act (D.C. Official Code § 5-1501.12(4)).

(b) Individual Board members may also make recommendations to the Director, but such recommendations shall be considered to be made in the Board member's individual capacity not on behalf of the Board.

(c) The Director shall review each recommendation of the Board and shall determine whether the recommendation will be adopted (in whole or in part, and with or without amendments), rejected, or further investigated by the Department.

(d) At the first quarterly Board meeting that occurs at least ninety (90) days after the Board transmits a recommendation to the Director, the Director shall discuss the recommendation and the outcome of his or her review.

4004.3

(a) The Board shall review program standards and protocols related to the Department's operations.

(b) In performing such reviews, the Board may make recommendations regarding new scientific programs, protocols, and methods of testing; plans for the implementation of new program standards or protocols, continuing existing programs, improving existing programs, and eliminating unnecessary programs; and qualification standards and training requirements for scientific staff.

(c) Upon request by the Director, the Board shall review specific program standards or protocols.

(d) The Board shall review the program standards and protocols requested by the Director within ninety (90) days after the Director's request. The Board may make written recommendations to the Director based on the Board's review.

4004.4

(a) At least once every three (3) years, the Board shall review all manuals and procedures referenced in Section 4(b) of the DFS Establishment Act (D.C. Official Code § 5-1501.04(b)) to determine whether modification of the manuals or procedures is desirable. In performing its review, the Board shall conduct a review of relevant scientific literature.

(b) The chairperson of the Board shall be responsible for ensuring the Board performs such reviews.

(c) At the first Board meeting of each three (3) year review period, and at the first Board meeting for the second and third year of each three (3) year review period, the Board shall determine what manuals and procedures it will review during the year.

(d) At the end of each year in a review period, the Board shall hold an extra meeting specifically to discuss the results of its review and any modifications to the manuals or procedures that the Board may propose based on its review. The Board shall not be required to hold an extra meeting in a review year to discuss its review and modifications if it submits to the Director a report describing its review and recommendations (if any) no later than three (3) months before the end of the review year.

(e) If the Department makes a substantial change to a manual or procedure during a three (3) year review period, the Department shall promptly notify the Board of the substantial change. For the purposes of this

provision, a substantial change is a significant modification, expansion, or reduction in the nature or scope of a manual or procedure

(f) This section does not prohibit the Board from reviewing any of the manuals and procedures referenced in Section 4(b) of the DFS Establishment Act (D.C. Official Code § 5-1501.04(b)) multiple times within a three (3) year period.

(g) The first three (3) year review period shall be from March 2016 to March 2019. Every three (3) years following the first three (3) year review period shall be deemed a review period.

4004. 5

(a) The Board shall advise the Mayor and Council of the District of Columbia on matters relating to the Department or forensic science where the Board deems it appropriate.

(b) The Board may advise the Mayor and Council either in writing or orally.

(c) The Board, prior to submitting a written report to the Mayor or Council, shall deliver a copy of a draft of the report to the Director who shall have forty-five (45) days to review, comment on, or respond to the draft report.

4005 MEMBERSHIP ON THE SCIENCE ADVISORY BOARD; ELECTION OF CHAIRPERSON

4005.1 As provided in Section 11(a) of the DFS Establishment Act (D.C. Official Code § 5-1501.11(a)), the Board is composed of nine (9) voting members, as well as the Director and Deputy Director of the Department as *ex officio*, non-voting members.

4005.2 The Board shall elect a chairperson from among its voting members, who shall serve for a term of one (1) year.

(a) A chairperson may be re-elected by the Board to serve consecutive one (1) year terms.

(b) No chairperson shall be permitted to serve for more than three (3) terms.

4099 DEFINITIONS

4099.1 For the purposes of this chapter, the following terms shall have the following meanings:

Chairperson – the Chairperson of the Board.

DFS Establishment Act – the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code §§ 5-1501.01 *et seq.*)

Director – the Director of the Department of Forensic Sciences.

Misconduct –an unacceptable or improper behavior that leads to a failure to meet expected standards of practice.

Open Meetings Act – the Open Meetings Act, effective March 9, 2016 (D.C. Law 21-84; D.C. Official Code §§ 2-571 - 2-580).

Professional negligence – the breach of professional duty through a violation of the standards of care.

QCAR – a Quality Corrective Action Report, which stems from a recommendation to correct a prior action on any function that has an analytical value that affected laboratory or work value.

QPAR – a Quality Preventative Action Report, which stems from a recommendation for improvement on any function that has an analytical value that affects laboratory or work value.

Testing error –a technical result or interpretation that is incorrect and which may have resulted in inaccurate conclusions being reported.

All persons interested in commenting on this proposed rulemaking action may submit comments in writing to Rashee Raj, Department of Forensic Sciences, 401 E Street, SW, 4th Floor, Washington, D.C. 20024 or by email to Rashee.Raj@dc.gov. Comments must be received no later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the above address.

OFFICE OF POLICE COMPLAINTS

NOTICE OF PROPOSED RULEMAKING

The Police Complaints Board, pursuant to the authority set forth under the Office of Citizen Complaint Review Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1106(d) (2012 Repl.)), hereby gives notice of their intent to repeal Chapter 21 (The Citizen Complaint Review Board and the Office of Citizen Complaint Review) of Title 6 (Personnel), Subtitle A (Police Personnel) of the District of Columbia Municipal Regulations (DCMR) and adopt the following Chapter 21 in its place.

The proposed rules update the current rules and ensure consistency with recent statutory changes to D.C. Official Code § 5-1101-1115 from the Neighborhood Engagement Achieves Results Amendment Act of 2016, effective June 30, 2016 (D.C. Law 21-125; 63 DCR 4659 (April 1, 2016)).

Final rulemaking action shall be taken not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 21, THE CITIZEN COMPLAINT REVIEW BOARD AND THE OFFICE OF CITIZEN COMPLAINT REVIEW, of Title 6-A DCMR, POLICE PERSONNEL, is repealed in its entirety and replaced to read as follows:

CHAPTER 21 THE POLICE COMPLAINTS BOARD AND THE OFFICE OF POLICE COMPLAINTS

Secs.

2100 SOURCE OF AUTHORITY

2100.1 The Police Complaints Board (the "Board" or "PCB") and the Office of Police Complaints ("OPC") were established on March 26, 1999 by the Council of the District of Columbia in the Office of Citizen Complaint Review Establishment Act of 1998 (the "Act"), D.C. Law 12-208, subsequently codified as Chapter 11 of Title 5 of the D.C. Official Code at D.C. Official Code §§ 5-1101 *et seq.*, as amended. The Board is the governing authority of OPC and has power to promulgate rules implementing the provisions of the Act. D.C. Official Code § 5-1106(d).

2101 PURPOSE

2101.1 The purpose of these regulations is to implement the authority delegated to the Board and OPC by establishing an effective, efficient, and fair system of independent review and resolution of complaints by the public against sworn members of the District of Columbia Metropolitan Police Department ("MPD") and the District of Columbia Housing Authority Police Department ("DCHAPD"), which have cooperative agreements with the MPD as provided in D.C. Official Code § 5-1107(j).

2101.2 In addition, it is the mission of the Board and OPC to improve the relationship between MPD and DCHAPD, their officers, and the community.

2102 THE POLICE COMPLAINTS BOARD

2102.1 The Board shall consist of five (5) residents of the District of Columbia, one of whom shall be a member of the MPD and four (4) of whom shall have no current affiliation with any law enforcement authority. Members of the Board shall be uncompensated and shall serve terms of three (3) years or until a successor has been appointed. A Board member may be reappointed, as provided by D.C. Official Code § 5-1104(b).

2102.2 The Board shall meet as frequently as it determines necessary, but it shall meet at least quarterly. Public notice of regular Board meetings and the location of the meetings shall be made in the *D.C. Register* and on the OPC website. Similar notice will be provided for any rescheduled or special meeting of the Board.

2102.3 All meetings of the Board shall be open to the public, unless the Board determines that the meeting, or portion thereof, should be closed. Closure is appropriate only when the matter subject to discussion would, if written, be exempt from disclosure under D.C. Official Code § 2-534. No resolution, rule, act, regulation, or other official action of the Board shall be effective unless taken, made, or enacted at an open meeting.[1]

2102.4 A quorum for the transaction of business shall be three (3) members of the Board.

2102.5 An audio recording and minutes shall be kept for all such meetings and shall be made available to the public.

2102.6 The Board shall conduct periodic reviews of the citizen complaint review process, and shall make recommendations, where appropriate, to the Mayor, the Council, the Chief of MPD, and the Director of the District of Columbia Housing Authority ("DCHA Director") concerning the status and the improvement of the citizen complaint process. The Board shall, where appropriate, make recommendations to the above-named entities concerning those elements of management of the MPD affecting the incidence of police misconduct, such as the recruitment, training, evaluation, discipline, and supervision of police officers, as provided by D.C. Official Code § 5-1104(d).

2102.7 The Board may monitor and evaluate MPD's handling of, and response to, First Amendment assemblies, as defined in § 5-333.02, held on District streets, sidewalks, or other public ways, or in District parks, as provided by D.C. Official Code § 5-1104(d-1).

2103 THE OFFICE OF POLICE COMPLAINTS

2103.1 OPC shall be headed by an Executive Director, who is appointed by the Board to serve a term of three (3) years, or until a successor is appointed. An Executive Director may be reappointed. The Board may remove the Executive Director from office for cause.

2103.2 The Executive Director shall be an attorney who is an active member in good standing of the District of Columbia Bar.

2103.3 The Executive Director shall employ such persons or retain such volunteers on a full-time or part-time basis as he or she deems appropriate. The Executive

1 See D.C. Official Code § 1-207.42 (2016 Repl.).

Director may hire contractors to resolve particular cases. Complaint investigators may not be persons currently or formerly employed by the MPD or DCHAPD.

2103.4 The Executive Director shall create a pool of mediators and complaint examiners, subject to the approval of the Board. Such mediators and complaint examiners may not be current or former employees of the MPD or DCHAPD.

2103.5 The Executive Director may delegate his or her powers or authorities to other employees of OPC as appropriate.

2104 JURISDICTION

2104.1 OPC shall have the authority to receive a complaint against a member or members of the MPD or DCHAPD (herein jointly referred to as "subject officers") that alleges abuse or misuse of police powers by such member or members, including:

(a) Harassment;

(b) Use of unnecessary or excessive force;

(c) Use of language or conduct that is insulting, demeaning or humiliating;

(d) Discriminatory treatment based upon a person's race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, physical handicap, matriculation, political affiliation, source of income, or place of residence or business;

(e) Retaliation against a person for filing a complaint pursuant to the Act; or

(f) Failure to wear or display required identification or to identify oneself by name and badge number when requested to do so by a member of the public.

2104.2 OPC shall have the sole authority to dismiss, conciliate, mediate, adjudicate, or refer for further action to MPD or DCHAPD a complaint received under § 2104.1.

2104.3 Complaints that allege misconduct that is not within the authority of OPC to review shall be referred to the Police Chief for further processing by the MPD or DCHAPD, as appropriate.

2104.4 OPC shall have authority to audit citizen complaints referred to the MPD or the DCHAPD for further action.

2104.5 OPC, under the authority of the Executive Director, and as provided by D.C. Official Code §§ 5-1104(d-2)(1) and (d-2)(2), shall review, with respect to the MPD:

(a) The number, type, and disposition of complaints received, investigated, sustained, or otherwise resolved;

(b) The race, national origin, gender, and age of the complainant and the subject officer or officers;

(c) The proposed discipline and the actual discipline imposed on a police officer as a result of any sustained complaint;

(d) All use of force incidents, serious use of force incidents, and serious physical injury incidents as defined in MPD General Order 907.07; and

(e) Any in-custody death.

2105 STANDING TO FILE A COMPLAINT

2105.1 A complaint may be filed with OPC by:

(a) An alleged victim;

(b) Any individual having personal knowledge of alleged police misconduct; or

(c) The parent, legal guardian, or legal representative of either (a) or (b) above.

2106 FILING COMPLAINTS

2106.1 A complaint must be on a form approved by OPC, reduced to writing and signed by the complainant or the complainant's parent, legal guardian or legal representative. Complaint forms shall conclude with the following statement: "I hereby certify that to the best of my knowledge, and under penalty of perjury, the statements made herein are true."

2106.2 If the complainant is represented by an attorney or other legal representative who files the complaint on behalf of the complainant, the complaint must be accompanied by a statement signed by the complainant that he or she has retained the representative for the purposes of investigation, mediation, conciliation or adjudication of the complaint.

2106.3 Complaints may be submitted electronically through the OPC website. The complainant shall assert the truthfulness of the statements within the complaint by electronic signature.

2106.4 If a paper complaint form is requested by telephone or other means, OPC shall send a complaint form and a self-addressed return envelope to the requestor's

address. OPC may also send complaint forms electronically, refer individuals to the OPC website, or to locations in the District of Columbia where complaint forms may be found.

2106.5 A complaint may be presented in person at OPC's business address. When a complaint is received in a form other than the form referred to in § 2106.1 or § 2106.3, the complainant will be asked to complete and sign a form approved by OPC. Once the approved form is completed and signed, it will be attached to any written document(s) provided by the complainant. Upon signature, the complaint shall be deemed received.

2106.6 A complaint may be received by United States Postal Service, private delivery service, email, or facsimile. When it is received, it shall be date-stamped. If the format of the complaint does not comply with § 2106.1, an employee of OPC will be assigned to make arrangements with the complainant to assist him or her in properly completing a complaint form approved by OPC.

2107 TIMELINESS

2107.1 Unless extended for good cause, a complaint form must be received by OPC within ninety (90) days from the date of the incident that is the subject of the complaint.

2107.2 The Executive Director may, in his or her discretion, extend the deadline for filing for good cause.

2108 INITIAL REVIEW OF COMPLAINTS

2108.1 Upon the receipt of a complaint, OPC shall create a case file for the complaint, designate a number for the complaint, enter the case in a database, and preserve any body-worn camera evidence.

2108.2 OPC may request additional information from the complainant, and collect any evidence necessary for the initial review.

2108.3 The Executive Director shall screen each complaint and shall take one of the following actions:

(a) Dismiss the complaint, with the concurrence of one member of the Board;

(b) Refer the complaint to the United States Attorney for the District of Columbia for possible criminal prosecution;

(c) Attempt to conciliate the complaint;

(d) Refer the complaint to mediation;

(e) Refer the complaint to investigation;

(f) Refer the complaint to the MPD or DCHAPD for investigation because the complaint falls outside of the authority of OPC to review;

(g) Refer the subject police officer or officers to complete appropriate policy training by the MPD or the DCHAPD; or

(h) Refer the complaint to MPD or DCHAPD for rapid resolution.

2109 WITHDRAWAL OF COMPLAINTS

2109.1 A complaint may be withdrawn orally or in writing from further consideration at any time by the complainant.

2110 DISMISSAL OF COMPLAINTS

2110.1 A complaint may be dismissed on the following grounds:

(a) The complaint is deemed to lack merit;

(b) The complainant refuses to cooperate with the investigation; or

(c) The complainant willfully fails to participate in good faith in the mediation process.

2110.2 A complaint may be dismissed upon the concurrence of one (1) member of the Board.

2111 REFERRAL OF COMPLAINT TO THE UNITED STATES ATTORNEY

2111.1 If the Executive Director determines that the misconduct alleged in the complaint or disclosed by investigation may be criminal in nature, he or she shall refer the case to the United States Attorney for the District of Columbia for possible criminal prosecution.

2111.2 The Executive Director shall give written notification of such referral to the Chief of Police of the MPD or DCHAPD, the complainant and subject officer(s). If requested by the United States Attorney, OPC shall delay notification of the referral to one or more of these parties until the United States Attorney determines that notification is appropriate.

2111.3 The Executive Director shall transmit copies of all relevant files to the United States Attorney, maintain a record of each referral, and record the disposition of each referred matter.

2111.4 If the United States Attorney declines in writing to prosecute, then the Executive Director may take any such action under § 2108.3, as applicable

2112 POLICY TRAINING REFERRAL OF COMPLAINTS

2112.1 If the Executive Director finds that an officer appears to be in violation of an MPD General Order, District Code, constitutional ruling, or other guiding authority, and that correction is best accomplished through additional training, the complaint may be referred to MPD or DCHAPD.

2112.2 OPC will notify MPD or DCHAPD in writing of the allegation(s), the rationale for policy training, and what type of policy training would be most appropriate.

2113 RAPID RESOLUTION REFERRAL OF COMPLAINTS

2113.1 If the Executive Director finds that an officer acted in compliance with all rules and regulations, then the Executive Director may refer the complaint to MPD or DCHAPD to contact the complainant to address the concerns.

2113.2 OPC will notify MPD or DCHAPD in writing of the allegation(s) and the rationale for rapid resolution.

2114 CONCILIATION OF COMPLAINTS

2114.1 If deemed appropriate by the Executive Director and if the complainant and the subject officer agree to participate, the Executive Director may attempt to resolve a complaint by conciliation. The complainant and the subject officer shall be notified of the date, time and place for the conciliation session. The conciliation session(s) may be conducted by telephone.

2114.2 The conciliation process will involve the complainant, the subject officer, the Executive Director, and an interpreter, if requested. In the case of a minor or incompetent adult, a parent, legal guardian or personal representative must be present. In appropriate cases arising from the same set of facts, more than one complainant and more than one subject officer may be asked to participate in the same conciliation process.

2114.3 No oral or written statement made during the conciliation process may be used by OPC, the MPD or DCHAPD as a basis for any discipline or recommended discipline of any subject officer or officers or in any civil or criminal litigation, except as otherwise provided by the rules of court or the rules of evidence.

2114.4 The parties, their attorneys, other representatives and participants shall not disclose to anyone oral or written statements made during the conciliation process for any reason, including any statements made or documents prepared for the

conciliation process by any party, attorney or representative for any party or other participant. Parties who participate in conciliation sessions will be required to sign a confidentiality agreement submitting to these terms. The parties may agree in writing that a conciliation agreement shall not be a public document and shall not be available to the public.

2114.5 If conciliation resolves the complaint, then resolution of the complaint shall be evidenced by a written agreement signed by the Executive Director, the complainant and the subject officer. The agreement may provide for any terms satisfactory to the parties, except that the subject officer may only provide assurances or agree to undertakings that are within his or her control and cannot bind the Chief of Police, the MPD or DCHAPD as part of any conciliation agreement.

2114.6 OPC shall place a copy of the conciliation agreement in the complaint file, provide copies to the parties and furnish a copy to the Chief of Police. OPC shall monitor implementation of the agreement. If a party fails to abide by the agreement, the aggrieved party may contact OPC. In response to such a contact or in the ordinary course of monitoring, the Executive Director may investigate whether a breach of the agreement has occurred. If the Executive Director finds that the officer or complainant violated the agreement, he or she may take any such action under § 2108.3 as applicable.

2114.7 If the Executive Director determines that conciliation efforts are unsuccessful, the Executive Director may take any such action under § 2108.3 as applicable.

2115 MEDIATION OF COMPLAINTS

2115.1 OPC may refer complaints to mediation. Mediation is a way for the complainant and the subject officer to meet face-to-face with a neutral third party in an attempt to resolve their differences. OPC shall be permitted to contract for mediation services.

2115.2 If the Executive Director refers the complaint to mediation, the complainant and the subject officer shall be notified of the time, date and location of the mediation session. The mediator shall be chosen from a pool of persons selected by the Executive Director and approved by the Board, taking into account the factors set forth in D.C. Official Code § 5-1106(c).

2115.3 Once the matter has been referred to mediation, if the complainant fails to participate in good faith in the mediation process, the Executive Director may take any such action under § 2108.3 as applicable.

2115.4 If the subject officer refuses to participate in good faith in the mediation process, the Executive Director shall notify the Chief of Police for appropriate disciplinary

action. In addition, the Executive Director may take any such action under § 2108.3 as applicable.

2115.5 The mediation session will involve the complainant, the subject officer, the mediator and an interpreter, if requested. In the case of a minor or incompetent adult, a parent, legal guardian or personal representative must be present. In appropriate cases arising from the same set of facts, more than one complainant and more than one subject officer may be asked to participate in the same mediation session. No other person may be present or participate in mediation sessions, except as determined by the mediator to be required for a fair and expeditious mediation of the complaint.

2115.6 No oral or written statement made during the mediation process may be used by OPC, the MPD, or DCHAPD as a basis for any discipline or recommended discipline of any subject officer or officers, or in any civil or criminal litigation, except as otherwise provided by the rules of court or the rules of evidence.

2115.7 The parties and mediators shall not disclose to anyone oral or written statements made during the mediation session for any reason, including any statements made or documents prepared for the mediation procedure by any party, attorney or representative for any party or other participant. Parties who attend mediation sessions will be required to sign a confidentiality agreement submitting to these terms.

2115.8 The parties shall not subpoena the mediator, or documents or records submitted to the mediator, for any later judicial or administrative proceedings related to the dispute, and the mediator shall not voluntarily testify on behalf of any party at any subsequent proceeding.

2115.9 The mediation session(s) will continue as long as the mediator believes it may result in the resolution of the complaint, except that it may not extend beyond thirty (30) days from the date of the initial mediation session without the approval of the Executive Director.

2115.10 The Executive Director shall not refer a complaint to mediation involving a subject officer who has either participated in mediation for similar alleged misconduct within the previous twelve (12) months or where a complaint examiner has within the previous twelve (12) months sustained a complaint against the subject officer for similar alleged misconduct.

2115.11 If mediation resolves the complaint, then resolution of the complaint shall be evidenced by a written agreement signed by the mediator, the complainant and the subject officer.

2115.12 The mediator shall provide copies of the mediation agreement to the parties and OPC. OPC shall place a copy of the mediation agreement in the complaint file and shall forward a copy of the mediation agreement to the Chief of Police.

2115.13 If the mediation does not resolve the complaint, the Executive Director may take any such action under § 2108.3 as applicable.

2116 INVESTIGATION OF COMPLAINTS

2116.1 The investigation shall be completed in an expeditious and efficient manner.

2116.2 The Executive Director may issue subpoenas under seal of the Superior Court of the District of Columbia compelling the complainant, the subject officer(s), witnesses, and other persons to respond to written or oral questions, produce relevant documents or other evidence necessary to carry out a proper investigation of the complaint.

2116.3 Service of a subpoena on a subject officer or other employee of the MPD or DCHAPD is deemed effective by service on the relevant Chief of Police or his/her designee who shall deliver the subpoena to the subject officer.

2116.4 If the complainant refuses or fails to cooperate in the investigation, the Executive Director may dismiss the complaint.

2116.5 If the subject officer, or an employee of the MPD or the DCHAPD refuses or fails to cooperate in the investigation, the Executive Director shall notify the relevant Chief of Police in writing. The Chief of Police shall institute appropriate disciplinary action against the officer or employee and shall notify the Executive Director of the outcome of the action.

2116.6 At the conclusion of the investigation, the Chief Investigator shall forward the file with a report of investigation to the Executive Director. The Executive Director shall take one of the following actions:

(a) Refer the complaint to a complaint examiner to determine whether a violation of D.C. Official Code § 5-1107(a) has occurred;

(b) Dismiss the complaint if, based on the file and report of investigation, report, it is determined that the complaint lacks merit, as defined in § 2110.3;

(c) Direct the investigator to undertake additional investigation;

(d) Refer the complaint to conciliation or mediation;

(e) Refer the subject officer or officers to appropriate policy training;

(f) Refer the complaint for rapid resolution; or

(g) Refer the complaint to the United States Attorney's Office.

2116.7 If the Executive Director refers the complaint to a complaint examiner, he or she shall provide a copy of the report of investigation and related exhibits to the subject officer. The officer may, within ten (10) calendar days, provide the complaint examiner a written response to the investigator's report.

2116.8 The Executive Director shall notify in writing all parties to the complaint of his or her decision under § 2116.6, and in the case of dismissal, provide a brief statement of the reasons.

2117 SELECTION OF THE COMPLAINT EXAMINER

2117.1 The complaint examiner shall be chosen from a pool of persons selected by the Executive Director and approved by the Board, taking into account the factors set forth in D.C. Official Code § 5-1106(c).

2117.2 In order to remain in the pool, complaint examiners must adjudicate at least one investigation per fiscal year. In addition, complaint examiners must attend at least one OPC training per fiscal year.

2117.3 A complaint examiner who cannot consider a case in a fair and impartial manner because of personal prejudice or bias, shall not consider that case and shall so inform the Executive Director. Examples of personal bias include, but are not limited to:

(a) Familial relationship or friendship with parties to the complaint;

(b) Being a party to the complaint;

(c) Witnessing material events relevant to the complaint;

(d) Having a financial interest in the outcome of the case;

(e) Holding a bias for or against a party that is sufficient to impair the examiner's impartiality.

2117.4 Either party may challenge the impartiality of the complaint examiner at any time by written complaint addressed to the Executive Director who shall issue a written opinion within seven (7) calendar days of receipt of the challenge. The Executive Director's decision is final and unappealable.

2117.5 Complaint examiners shall avoid making public comment on any complaints,

investigations and matters before OPC unless compelled to do so by a court of competent jurisdiction.

2118 DUTIES OF COMPLAINT EXAMINER

2118.1 The complaint examiner shall consider the complaint in a fair and impartial manner, ensure that facts are fully elicited, adjudicate all issues and avoid undue delay.

2118.2 If the parties express a willingness to resolve the complaint through conciliation, the complaint examiner may act as a conciliator. Any resulting written conciliation agreement may be kept confidential pursuant to D.C. Official Code § 5-1110 (b)(2), and neither any such agreement nor any oral nor written statement made by a party during the course of the conciliation or mediation process may be used as a basis for any discipline or recommended discipline of the subject police officer or officers or in any civil or criminal litigation, except as otherwise provided by the rules of court or the rules of evidence.

2118.3 Based on a review of the report of investigation and file, the complaint examiner may determine the merits of a complaint without conducting an evidentiary hearing. The complaint examiner may do so only when 1) the subject officer has had an opportunity pursuant to § 2116.7 to file a response to the report of investigation and 2) the material in the report and file present no genuine issue of material fact in dispute requiring an evidentiary hearing. In such cases, the complaint examiner shall issue findings of fact and a determination on the merits within thirty (30) days of the assignment of the matter, in accordance with § 2122 below.

2118.4 Upon review of the report of investigation and file and the evidence adduced at any evidentiary hearing, the complaint examiner shall make written findings of fact regarding all material issues of fact, and shall determine whether each allegation of misconduct is unfounded, sustained, presents insufficient facts or whether the officer is exonerated, as such terms are defined in § 2122.2 below. In making a determination, the complaint examiner will consider the definitions of misconduct contained in these regulations, as well as any regulation, policy, procedure or order that prescribes standards of conduct for officers.

2118.5 Based on a review of the report of investigation and file, the complaint examiner may determine that additional investigation is required. In such cases, the complaint examiner shall promptly notify the Executive Director, who may order the investigator to investigate the issues identified by the complaint examiner. Such additional investigation shall be completed within thirty (30) days. Upon completion, the Executive Director shall transmit the supplemental report and file to the complaint examiner and to the subject officer and shall make them available to the complainant. In cases requiring additional investigation, the time allowed for the complaint examination to be completed will be tolled.

2118.6 If the complaint examiner determines that no additional investigation is required and that an evidentiary hearing is required, he or she shall proceed in accordance with §§ 2119 and 2120 below.

2119 PRELIMINARY HEARING CONFERENCE

2119.1 If the complaint examiner determines that an evidentiary hearing is necessary, a preliminary hearing conference shall be scheduled within forty (40) days of his or her assignment to the matter. The conference may be conducted by telephone or in person and may include the parties or their designated representatives. Notice of such conference shall include the time, date and location of the conference and shall be sent to all parties and their representatives.

2119.2 Prior to the preliminary hearing conference, OPC shall make a copy of the report of investigation and related exhibits available to the complainant.

2119.3 The complaint examiner may permit discovery only in extraordinary circumstances. Depositions of parties or witnesses will not be permitted. The parties may, no later than seven (7) days prior to the preliminary hearing conference, submit to the complaint examiner requests for documents or tangible evidence that are reasonably believed to contain or reveal information directly relevant to the incident or incidents in question. Discovery of facts that pre-date the incident(s) in question and of facts relating solely to the character, credibility or motivation of any party or witness will not be permitted. The complaint examiner shall grant, modify or deny these requests at the preliminary hearing conference. Discovery requests filed less than seven (7) days before the preliminary hearing conference will be denied. Those in custody or control of documents or tangible evidence permitted to be discovered will furnish such items within ten (10) days after the preliminary hearing conference.

2119.4 At the preliminary hearing conference, the complaint examiner will determine which of the witness statements furnished will be added to the hearing record. The parties will designate those witnesses whose statements are made part of the hearing record they wish to cross-examine. The complaint examiner may also request the attendance of witnesses who he or she wishes to examine. Witnesses not subject to examination, as determined by the complaint examiner, are not required to attend the hearing.

2119.5 The complaint examiner shall accomplish the following objectives at the preliminary hearing conference:

(a) Facilitate the exchange of relevant information, including resolving discovery requests as provided in § 2119.3;

(b) Reach any stipulations of fact that will reduce the length and complexity

of the hearing;

(c) Determine the authenticity of any documents;

(d) Determine which witness statements to add to the hearing record, which witnesses will testify at the hearing and to determine whether to permit subsequent witness statements to be submitted in light of any discovery permitted;

(e) Present, discuss, or resolve any matters as may aid in the orderly disposition of the proceeding or expedite the presentation of evidence;

(f) Set the time, date and location of the evidentiary hearing, which shall occur no more than sixty (60) days after his or her assignment to the matter; and

(g) Determine whether the complaint can be resolved through mediation or conciliation and to undertake either process if appropriate.

2119.6 If the parties resolve the complaint at this conference, the complaint examiner shall draft a written conciliation agreement and have both parties sign it. The agreement shall then be entered into the file and submitted to the Executive Director.

2119.8 Failure of a party to appear at the preliminary hearing conference may result in a decision against that party. The subject officer and complainant may request that their presence be waived provided an attorney or other representative is attending the conference on their behalf.

2120 HEARING PROCEDURES

2120.1 The complaint examiner must provide the complainant and the subject officer at least twenty (20) days advance notice of the hearing. The notice shall include the time, date and location of the hearing. If requested by the complainant or the subject officer within ten (10) days of the date of the hearing notice, OPC shall provide an interpreter for the hearing.

2120.2 The Executive Director may cause the issuance of subpoenas to compel the appearance of witnesses, the complainant, the subject officer, the production of documents, and any other evidence as may be necessary for purposes of the hearing.

2120.3 All hearings shall be open to the public, unless the Executive Director approves the request of the complaint examiner to close the hearing to the public.

2120.4 The complainant may represent him or herself during the hearing or any phase of the complaint examination process, or may be represented by an attorney or other representative of their choice or by a law student under the supervision of a licensed attorney. OPC may assist in obtaining pro bono counsel for the complainant. Subject officers may represent themselves or be represented by a member of or an attorney for the police officers' labor organization, or by another representative of their own choosing.

2120.5 Hearings shall be conducted in accordance with the following provisions:

(a) *Burden and Standard of Proof:* The burden shall be on the complainant to show by a preponderance of the evidence that the alleged misconduct actually occurred.

(b) *Exhibits:* All evidence to be considered in the case, including, but not limited to, all records in the possession of either party, or a true and accurate photocopy, shall be marked as that party's exhibit and offered and made a part of the record. Such exhibits shall be preserved by the complaint examiner and shall be turned over to OPC at the conclusion of the proceedings, to be filed with other closed records.

(c) *Rules of Evidence:* District of Columbia rules of evidence shall not apply to these hearings. Any objection, including grounds for such objection, may be stated orally and shall be included in the record. The complaint examiner shall consider and rule upon objections as appropriate. The complaint examiner may admit all evidence, which possesses probative value, including reliable hearsay. Evidence which is irrelevant, immaterial or which is unduly repetitious shall be excluded.

2120.6 The failure of the subject officer and his or her representative to appear at the hearing, without good cause as determined by the complaint examiner, may be considered in the weighing of the evidence.

2120.7 If the complainant fails to appear at the hearing, without good cause as determined by the complaint examiner, the complaint examiner may ask that the complaint be dismissed by the Executive Director with the concurrence of a member of the Board.

2120.8 If the complaint examiner finds good cause for the complainant's failure to appear, the hearing will be promptly rescheduled.

2120.9 Examples of good cause for failure to appear include, but are not limited to:

(a) Sudden, severe illness or accident;

(b) Death or serious illness in the immediate family, such as spouse, partner, children, parents, siblings;

(c) Incarceration; or

(d) Inclement weather.

2120.10 If a witness designated by the complaint examiner at the preliminary conference to testify fails to appear at the hearing, the complaint examiner will determine how to proceed.

2120.11 The hearing shall proceed in the following order:

(a) *Opening the Hearing:* The complaint examiner shall begin the hearing by briefly stating the complaint allegations and the procedural rules, including any additional rules.

(b) *Opening Statement:* The complainant, or his or her representative, shall make a short oral statement to the complaint examiner first. The subject officer, or his or her representative, shall follow.

(c) *Presentation of Evidence and Witnesses:* All witnesses shall be introduced and sworn in by the complaint examiner. The complainant shall present his or her witnesses first, and the subject officer may introduce witnesses second. Each party may introduce evidence as necessary during questioning of witnesses. Each party has the right to cross-examine witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination. All witnesses may be questioned by the complaint examiner.

(d) *Closing Statements:* At the close of the presentation of evidence, the complaint examiner may provide each party with the opportunity for closing statements. The complainant shall proceed first and the subject officer shall follow.

(e) *Final Briefs:* The complaint examiner may direct parties to submit final briefs. The complaint examiner will set a due date for final briefs, and they shall not exceed ten (10) typewritten double-spaced pages unless the complaint examiner agrees in advance to accept a longer submission.

2121 RECORD OF HEARING

2121.1 The complaint examiner shall maintain the official record of the case until final findings of fact and a determination of the complaint are made.

2121.2 The record shall include:

(a) Any notices or other procedural matters reduced to writing;

(b) All evidence, witness statements added to the record and exhibits received and considered;

(c) All memoranda or information submitted by any party in connection with the case;

(d) A copy of the investigative report and file;

(e) A court reporter's stenographic notes of the hearing or a tape-recording of the hearing; and

(f) A transcript of the hearing, if one was prepared.

2121.3 The record of the hearing shall be closed upon completion of the hearing, or receipt of the final written briefs, if any.

2121.4 The court reporter's stenographic notes of the hearing shall be transcribed if requested by a party or if ordered by the complaint examiner. If a transcript is made, the party requesting the transcript may be required to pay a reasonable charge.

2122 FINDINGS OF FACT AND DETERMINATION

2122.1 Within thirty (30) days of either the conclusion of the hearing, the submission of final briefs, if required, or the assignment to a complaint examiner of a case that does not require an evidentiary hearing, the complaint examiner shall make written findings of fact and a determination of the merits of the complaint.

2122.2 In the merits determination, the complaint examiner shall make one of the following findings about each allegation in the complaint:

(a) "Unfounded," where the investigation determined no facts to support that the incident complained of actually occurred;

(b) "Sustained," where the complainant's allegation is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper;

(c) "Insufficient facts," where there are insufficient facts to decide whether the alleged misconduct occurred; or

(d) "Exonerated," where a preponderance of the evidence shows that the alleged conduct did occur but did not violate the policies, procedures, practices, orders or training of the MPD or DCHAPD.

2122.3 If the complaint examiner finds that no allegation in the complaint is sustained or the subject officer is exonerated on all allegations, the Executive Director shall dismiss the complaint and send written notice of such determination, along with copies of the merits determination, to the Chief of Police, the complainant, and the subject officer.

2122.4 If the complaint examiner determines that one or more allegations in the complaint is sustained, the Executive Director shall transmit OPC's investigative report, together with the attached exhibits, as well as the merits determination of the complaint examiner, to the Chief of Police for appropriate action. OPC shall also provide the complainant and subject officer with written notices of such determination, along with copies of the merits determination.

2122.5 The complaint examiner's written findings of fact and determination may not be rejected by the Chief of Police unless they clearly misapprehend the record before the complaint examiner and are not supported by substantial, reliable, and probative evidence in that record.

2123 FINAL REVIEW PANEL

2123.1 If the Chief of Police finds that the merits determination clearly misapprehends the record and is not supported by substantial, reliable, and probative evidence in the record, the Chief of Police shall return the merits determination to the Executive Director for review by a final review panel. This request must be received within forty-five (45) days of the merits determination being sent to the Chief of Police.

2123.2 The final review panel shall be comprised of three complaint examiners selected by the Executive Director, and shall not include the complaint examiner who prepared the original merits determination.

2123.3 The final review panel shall review the complete record without taking any additional evidence and shall issue a written decision within thirty (30) days from assignment, with supporting reasons, regarding the correctness of the merits determination.

2123.4 The final review panel shall uphold the merits determination as to any allegations of the complaint unless it concludes that the determination regarding the allegation clearly misapprehends the record and is not supported by substantial, reliable, and probative evidence in the record.

2123.5 A copy of the final review panel's decision shall be transmitted to the Executive Director, complainant, subject officer(s) and the Chief of Police.

2123.6 If the final review panel finds that the merits determination sustaining one or more of the allegations should be reversed in whole, the Executive Director shall dismiss the complaint and notify the Chief of Police and parties to the complaint in writing.

2123.7 If the final review finds that the merits determination sustaining one or more of the allegations should be upheld in whole or in part, then the upheld allegations will be sent in writing to the Chief of Police for action in accordance with § 2122.4. The parties will also be notified of the decision in writing.

2124 EFFECTIVE DATE OF REGULATIONS

2124.1 These regulations shall be effective upon publication of a Notice of Final Rulemaking in the *D.C. Register*.

2199 DEFINITIONS

2199.1 Whenever used in these regulations, unless plainly evident from the context that a different meaning is intended, the following terms are defined as follows:

Allegation(s): The conduct that forms the basis of a complaint for misconduct.

Board: The Police Complaints Board, which consists of five members appointed by the Mayor and confirmed by the Council of the District of Columbia.

Chief of Police: The Chief of the Metropolitan Police Department or District of Columbia Housing Authority Police Department.

Complainant: The person filing a complaint with OPC who alleges that he or she is a victim of, the guardian, parent or personal representative of a victim or, or has personal knowledge of alleged misconduct by a sworn member of the MPD or DCAHPD.

Complaint: An allegation of misconduct made by a person against a sworn officer who was either on-duty at the time of the incident or who, while off-duty, was acting under color of law during an incident occurring within the District of Columbia.

Complaint Examiner: The person designated by the Executive Director to determine the merits of a complaint.

Conciliation: A process whereby the Executive Director or his designated representative meets with the complainant(s) and the subject officer(s) and attempts to settle the allegations in a mutually satisfactory manner.

Day: In computing any period of time prescribed or allowed by the Act or these regulations, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

Discriminatory treatment: Conduct by a member of the MPD or DCHAPD that results in the disparate treatment of persons because of their race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, physical handicap, matriculation, political affiliation, source of income, place of residence or business or any other ground of discrimination prohibited under the statutory and the common law of the District of Columbia.

Evidentiary hearing: A proceeding overseen by a complaint examiner at which testimony and other evidence is presented in order to determine the merits of a complaint.

Excessive or Unnecessary Force: Unreasonable use of power, violence, or pressure under the particular circumstances. Factors to be considered when determining the "reasonableness" of a use of force include the following: 1) the severity of the crime at issue; 2) whether the suspect posed an immediate threat to the safety of officer or others; 3) whether the subject was actively and physically resisting arrest or attempting to evade arrest by flight; 4) the fact that officers are often required to make split second decisions regarding the use of force in a particular circumstance; 5) whether the officer adhered to the general orders, policies, procedures, practices and training of the MPD or DCHAPD, including adherence to the Use of Force Framework; and 6) the extent to which the officer attempted to use only the minimum level of force necessary to accomplish the objective.

Harassment: Words, conduct, gestures or other actions directed at a person that are purposefully, knowingly or recklessly in violation of the law or internal guidelines of the MPD or DCHAPD, so as to (1) subject the person to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien or other infringement of personal or property rights; or (2) deny or impede the person in the exercise or enjoyment of any right, privilege, power or immunity. In determining whether conduct constitutes

harassment, OPC will look to the totality of the circumstances surrounding the alleged incident, including, where appropriate, whether the officer adhered to applicable orders, policies, procedures, practices and training of the MPD or DCHAPD, the frequency of the alleged conduct, its severity, and whether it is physically threatening or humiliating.

Insulting, demeaning or humiliating language or conduct: Language or conduct that is intended to or has the effect of causing a reasonable person to experience distress, anxiety or apprehension.

Mediation: An informal dispute resolution process, facilitated by a neutral third party, whereby the complainant and the subject officer meet in good faith to discuss the alleged misconduct with the goal of reaching a resolution of the complaint.

Mediator: A neutral third party who has contracted with OPC to attempt to mediate disputes between complainants and subject officers.

Merits Determination: The complaint examiner's written findings of fact regarding all material issues of fact and law. This document will include the complaint examiner's determination as to whether each allegation of misconduct is unfounded, sustained, presents insufficient facts, or whether the officer is exonerated.

Misconduct: Abuse or misuse of police power by a sworn officer directed toward any person who is not a sworn officer, including: (1) harassment; (2) use of unnecessary or excessive force; (3) use of language or conduct that is insulting, demeaning or humiliating; (4) discriminatory treatment; (5) retaliation; and (6) failure to wear or display required identification or to identify oneself when requested.

Personal Knowledge: Direct knowledge of the incident from which the allegations arose, as the victim of or witness to the alleged misconduct.

Preponderance of Evidence: Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

Policy Training: A referral of a complaint to the MPD or DCHAPD when the action of the officer appears to be a violation of an MPD General Order, District Code, constitutional ruling, or other guiding authority and correction is best accomplished through additional training.

Rapid Resolution: A referral of a complaint to MPD or DCHAPD when it appears the officer acted in compliance with all rules and regulations to direct the MPD or DCHAPD to contact the complainant and address the concerns of the complainant.

Retaliation: Action that discriminates against a person for making or attempting to make a complaint pursuant to the Act, including action taken against a person because he or she has opposed any practice made unlawful by this Act or because he or she has made a complaint or expressed an intention to file a complaint, testified, assisted, or participated in any manner in an investigation, mediation, conciliation, complaint examination or other proceeding under this Act.

Review Panel: A panel of three complaint examiners, appointed by the Executive Director that reviews and determines the merits of allegations in the complaint that the Chief of Police determines is not supported by the evidence.

Subject Officer: A sworn member of the MPD or DCHAPD against whom an allegation of misconduct has been made in a complaint.

All persons wishing to comment on these proposed rules shall submit written comments no later than thirty (30) days after the publication of this notice in the *D.C. Register* to Alicia Yass, Office of Police Complaints, 1400 I St, N.W., Suite 700, Washington, D.C. 20005 or email at alicia.yass2@dc.gov. Copies of the proposed ruled may be obtained from the same address between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, excluding holidays. Questions may be directed to (202) 727-7585 or via the addresses listed above.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

RM-40-2017-01, IN THE MATTER OF 15 DCMR CHAPTER 40 — DISTRICT OF COLUMBIA SMALL GENERATOR INTERCONNECTION RULES

and

FORMAL CASE NO. 1050, IN THE MATTER OF THE INVESTIGATION OF IMPLEMENTATION OF INTERCONNECTION STANDARDS IN THE DISTRICT OF COLUMBIA

1. The Public Service Commission of the District of Columbia ("Commission"), pursuant to its authority under D.C. Official Code §§ 34-301, 34-302, 34-802, and 34-1516 (2012 Repl.) and in accordance with D.C. Official Code § 2-505,[1] hereby gives notice of its intent to amend Chapter 40 (District of Columbia Small Generator Interconnection Rules) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR). Amendments to the above referenced chapter shall take effect in not less than thirty-five (35) days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. The proposed amendments to Section 4000 address: (a) the enactment of the Renewable Portfolio Standard Expansion Amendment Act of 2016,[2] which increases the size of solar facilities qualified for solar renewable energy credits in D.C.; (b) the need for adding Authorization to Operate deadline as discussed in the merger commitments; (c) the evolution of best practice of interconnection of small generators over time; and (d) amendments to Institute of Electrical and Electronics Engineers ("IEEE") 1547 and the rapidly evolving nature of interconnection rules. Additionally, the proposed amendments contain several areas of significant changes, including, but not limited to the following: 1) integration of a Pre-Application report that helps developers identify more accommodating sites for installation; 2) updating several parts of the interconnection criteria; incorporating a Supplemental Review Process; 3) adding an Applicant Options Meeting prior to consideration as a Level 4 application and 4) updating the capacity size limit and other criteria for each level of review. Also, the proposed amendments introduce compressed timelines in a number of areas of the interconnection process and have incorporated a deadline for the Authorization to Operate timeline. Further, attached for comment are standard forms and agreements, which have been modified to comport with the amendments to Chapter 40.

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[1] D.C. Official Code §§ 34-301 and 302 (2012 Repl..); D.C. Official Code § 34-1516 (2012 Repl..); D.C. Official Code § 2-505 (a) (2012 Repl.) and D.C. Official Code § 34-802 (2012 Repl.).

[2] Renewable Portfolio Standard Expansion Amendment Act of 2016 was enacted July 25, 2016. *See* Renewable Portfolio Standard Expansion Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-0154; 63 DCR 10138 (August 5, 2016)).

The current Chapter 40 shall be repealed in its entirety, and the following amendments and new provisions shall be adopted to govern net energy metering in the District of Columbia. The current Chapter 40 shall remain in effect until the publication of the final version of these proposed rules.

Chapter 40, DISTRICT OF COLUMBIA SMALL GENERATOR INTERCONNECTION RULES, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is repealed in its entirety and replaced to read as follows:

CHAPTER 40 DISTRICT OF COLUMBIA SMALL GENERATOR INTERCONNECTION RULES

Section

4000 PURPOSE AND APPLICABILITY

4000.1 This chapter establishes the District of Columbia Small Generator Interconnection Rules ("DSGIR") which apply to facilities satisfying the following criteria:

(a) The total nameplate capacity of the small generator facility is equal to or less than twenty (20) megawatts ("MW").

(b) The small generator facility is not subject to the interconnection requirements of PJM Interconnection.

(c) The small generator facility is designed to operate in parallel with the electric distribution system.

4001 INTERCONNECTION REQUESTS, FEES, AND FORMS

4001.1 Interconnection customers seeking to interconnect a small generator facility shall submit an interconnection application and Interconnection Agreement using a standard form approved by the Commission to the electric distribution company ("EDC") that owns the electric distribution system to which interconnection is sought. The EDC shall establish processes for accepting interconnection requests electronically.

4001.2 The Commission shall determine the appropriate interconnection fees, and the fees shall be posted on the EDC's website and listed in the electric utility's tariffs. There shall be no application fee for submitting Level 1 applications.

4001.3 In circumstances where standard forms and agreements are used as part of the interconnection process defined in this document, electronic versions of those forms shall be approved by the Commission and posted on the EDC's website. The EDC's interconnection application forms shall be provided in a format that allows for electronic entry of data.

4001.4 The EDC shall allow interconnection applications to be submitted through the EDC's website. The EDC shall allow electronic signatures to be used for interconnection applications.

4001.5 In accordance with Subsection 4003.2 herein, interconnection customers may request an optional Pre-Application Report from the EDC to get information about the electric distribution system conditions at their proposed Point of Common Coupling without submitting a completed interconnection request form.

4002 APPLICABLE STANDARDS

4002.1 Unless waived by the EDC, a small generator facility must comply with the following standards, as applicable:

(a) Institute of Electrical and Electronics Engineers ("IEEE") Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems for Generating Facilities up to 20 MW in size;

(b) IEEE 1547.1 Standard for Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems;

(c) Underwriters Laboratories ("UL") 6142 Standard for Small Wind Turbine Systems; and

(d) UL 1741 Standard for Inverters, Converters and Controllers for Use in Independent Power Systems. UL 1741 compliance must be recognized or Certified by a Nationally Recognized Testing Laboratory as designated by

the U.S. Occupational Safety and Health Administration. Certification of a particular model or a specific piece of equipment is sufficient. It is also sufficient for an inverter built into a Generating Facility to be recognized as being UL 1741 compliant by a Nationally Recognized Testing Laboratory.

4002.2-4002.4 [RESERVED]

4002.5 The interconnection equipment shall meet the requirements of the most current approved version of each document listed in Subsection 4002.1, as amended and supplemented at the time the interconnection request is submitted.

4002.6 Nothing herein shall preclude the need for an on-site Witness Test or operational test by the interconnection customer.

4003 INTERCONNECTION REVIEW LEVELS

4003.1 The EDC shall review interconnection requests using one (1) or more of the four (4) levels of review procedures established by this chapter. The EDC shall first use the level of agreement specified by the interconnection customer in the application form. The EDC may not impose additional requirements not specifically authorized unless the EDC and the interconnection customer mutually agree to do so in writing.

4003.2 If an interconnection customer requests a Pre-Application Report from the EDC, the request shall include:

(a) Contact information (name, address, phone and email).

(b) A proposed Point of Common Coupling, including latitude and longitude, site map, street address, utility equipment number (*e.g.*, pole number), meter number, account number or some combination of the above sufficient to clearly identify the location of the Point of Common Coupling.

(c) Generation technology and fuel source (if applicable).

(d) A three hundred dollar ($300) non-refundable processing fee.

4003.3 For each Pre-Application Report requested, which includes the requisite information and fee, the EDC shall furnish a report, within ten (10) business days of receipt of the completed Pre-Application Report Request which:

(a) Advises the interconnection customer that the existence of "Available Capacity" in no way implies that an interconnection up to this level may

be completed without impacts since there are many variables studied as part of the interconnection review procedures.

(b) Informs the interconnection customer that the Electric Distribution System is dynamic and subject to change.

(c) Informs the interconnection customer that data provided in the Pre-Application Report may become outdated and not useful at the time of submission of the complete Interconnection Request.

(d) Includes the following information, if available:

(1) Total Capacity (MW) of substation/area bus or bank and distribution circuit likely to serve proposed Point of Common Coupling.

(2) Allocated Capacity (MW) of substation/area bus or bank and distribution circuit likely to serve proposed Point of Common Coupling.

(3) Queued Capacity (MW) of substation/area bus or bank and distribution circuit likely to serve proposed Point of Common Coupling.

(4) Available Capacity (MW) of substation/area bus or bank and distribution circuit most likely to serve proposed Point of Common Coupling.

(5) Whether the proposed Small Generator Facility is located on an area, spot or radial network.

(6) Substation nominal distribution voltage or transmission nominal voltage if applicable.

(7) Nominal distribution circuit voltage at the proposed Point of Common Coupling.

(8) Approximate distribution circuit distance between the proposed Point of Common Coupling and the substation.

(9) Relevant Line Section(s) peak load estimate, and minimum load data, when available.

(10) Number of protective devices and number of voltage regulating devices between the proposed Point of Common Coupling and the substation/area.

(11) Whether or not three-phase power is available at the proposed Point of Common Coupling and/or distance from three-phase service.

(12) Limiting conductor rating from proposed Point of Common Coupling to the electrical distribution substation.

(13) Based on proposed Point of Common Coupling, existing or known constraints such as, but not limited to, electrical dependencies at that location, short circuit interrupting capacity issues, power quality or stability issues on the circuit, capacity constraints, or secondary networks.

(14) The Pre-Application Report need only include pre-existing data. The EDC is not obligated in its preparation of a Pre-Application Report to conduct a study or other analysis of the proposed project in the event that data is not available. If the EDC cannot complete all or some of a Pre-Application Report due to lack of available data, the EDC will provide the potential Applicant with a Pre-Application Report that includes the information that is available and identify the information that is unavailable. Notwithstanding any of the provisions of this Section, the EDC shall, in good faith, provide Pre-Application Report data that represents the best available information at the time of reporting.

(e) As an alternative to information required pursuant to § 4003.3(d), the EDC may elect to perform a power flow-based study providing the interconnection customer with the maximum size DER that can be installed at a specified location without Distribution System Upgrades and the constraint encountered precluding installation of a larger system without upgrades. Pepco shall make available upon request a copy of its power flow-based study for each applicant to the Commission within thirty (30) days after analysis completion.

4004 LEVEL 1 INTERCONNECTION REVIEWS

4004.1 For Level 1 Interconnection Review, the EDC shall use Level 1 procedures for evaluation of all interconnection requests to connect inverter-based small generation facilities.

4004.2 For Level 1 Adverse Impact Screens, the EDC shall evaluate the potential for adverse system impacts using the following screens, which must be satisfied:

(a) The small generator facility has a nameplate capacity of twenty-five (25) kW or less.

(b) For interconnection of a proposed small generator facility to a line section on a radial distribution circuit, the aggregated generation on the line section, including the proposed small generator facility and all other generator facilities capable of exporting energy on the line section, shall not exceed fifteen percent (15%) of the line section's annual peak load as most recently measured at the substation or calculated for the line section.

(c) When a proposed small generator facility is to be interconnected on a single-phase shared secondary line, the aggregate generation capacity on the shared secondary line, including the proposed small generator facility, may not exceed twenty (20) kW.

(d) When a proposed small generator facility is single-phase and is to be interconnected on a transformer center tap neutral of a two hundred forty (240) volt service, its addition may not create an imbalance between the two sides of the 240 volt service of more than twenty percent (20%) of the nameplate rating of the service transformer.

(e) For interconnection of a small generator facility within a spot network or area network, the aggregate generating capacity including the small generator facility may not exceed fifty percent (50%) of the network's anticipated minimum load. If solar energy small generator facilities are used, only the anticipated daytime minimum load shall be considered. The EDC may select any of the following methods to determine anticipated minimum load:

(1) The network's measured minimum load in the previous year, if available;

(2) Five percent (5%) of the network's maximum load in the previous year;

(3) The interconnection customer's good faith estimate, if provided; or

(4) The EDC's good faith estimate, if provided in writing to the interconnection customer, along with the reasons why the EDC considered the other methods to estimate minimum load inadequate.

(f) Construction of facilities by the EDC on its own system is not required in order to accommodate the small generator facility.

(g) As an alternative to report required pursuant to § 4003.3, the EDC may elect to perform a power flow-based study, providing the interconnection customer with the results and the required mitigation, if necessary. Pepco

shall make available upon request a copy of its power flow-based study for each applicant to the Commission within thirty (30) days after analysis completion.

4004.3 The Level 1 Interconnection Review shall be conducted in accordance with the following procedures:

(a) The EDC shall, within three (3) business days after receipt of Part 1 of the interconnection request, notify the interconnection customer in writing or by electronic mail of the review results, which shall indicate that the interconnection request is complete or incomplete, whether the small generator facility meets all of the applicable Level 1 screens, and what materials, if any, are missing.

(b) If the proposed interconnection meets all of the applicable Level 1 Adverse System Impact screens and the EDC determines that the small generator facility can be interconnected safely and reliably to its system, the EDC shall provide the interconnection customer with an Approval to Install.

(i) If the proposed interconnection requires no construction of facilities by the EDC on its own system, including any metering or commercial devices, the EDC shall provide an interconnection agreement within three (3) business days. If the EDC does not notify an interconnection customer in writing or by email within twenty (20) business days whether an interconnection request is approved or denied, the interconnection application and agreement signed by the interconnection customer as part of the Level 1 Interconnection Review shall be deemed effective.

(c) Unless extended by mutual agreement of the interconnection customer and the EDC, within six (6) months of receiving an Approval to Install or six (6) months from the completion of any upgrades, whichever is later, the interconnection customer shall provide the EDC with at least ten (10) business day notice of the anticipated start date of the small generator facility. The interconnection customer may satisfy this requirement by submitting a completed Level 1 PART II - Small Generator Facility Interconnection Certificate of Completion Form and the inspection certificate to the EDC.

(d) The EDC may, within ten (10) business days of receiving a completed Level 1 PART II – Small Generator Facility Interconnection Certificate of Completion Form and the inspection certificate from the interconnection customer, conduct a witness test at a time mutually agreeable to the parties. If the witness test fails to reveal that all equipment has been appropriately installed and that all electrical connections have been made

in accordance with applicable codes, the EDC shall offer to redo the witness test at the interconnection customer's expense at a time mutually agreeable to the parties. If the EDC determines that the small generator facility fails the inspection it must provide a written explanation detailing the reasons and any standards violated. If the EDC does not perform the Witness Test within ten (10) business days or other time as is mutually agreed to by the parties, the Witness Test is deemed waived.

(e) An interconnection customer may begin interconnected operation of a small generator facility provided that there is a small generator interconnection agreement in effect, the EDC has received proof of the electrical code official's approval, the small generator facility has passed any Witness Test by the EDC. Evidence of approval by an electric code official includes a signed certificate of completion. The EDC shall provide the interconnection customer with notification that its small generator facility is authorized to operate within twenty (20) business days of receiving a completed Level 1 PART II - Small Generator Facility Interconnection Certificate of Completion Form.

(f) The EDC may require photographs of the site, small generator facility components, meters or any other aspect of the Interconnection Facilities as part of the Level 1 Interconnection Review process, provided that failure to provide a photo in a timely manner will not be a reason for the EDC to deem an interconnection request incomplete.

4004.4 Modifications to proposed Level 1 interconnections shall be treated in the following manner:

(a) If the proposed interconnection requires only the addition of Interconnection Facilities to the electric distribution system, a non-binding good faith cost estimate and construction schedule for such upgrades, shall be provided within fifteen (15) business days after notification of the Level 1 Interconnection Review results.

(b) If the proposed interconnection requires more than the addition of Interconnection Facilities to the electric distribution system, the EDC may elect to either provide a non-binding good faith cost estimate and construction schedule for such upgrades within thirty (30) business days after notification of the Level 1 Interconnection Review results, or the EDC may notify the interconnection customer that the EDC will need to complete a Facilities Study under Subsection 4007.2, paragraphs (d)(3)(B), (C), (D) and (E) to determine the necessary upgrades.

4004.5 **[RESERVED]**

4004.6 The EDC, at its sole option, may approve the interconnection provided that such approval is consistent with safety and reliability. If the EDC cannot determine that the small generator facility may nevertheless be interconnected consistent with safety, reliability, and power quality standards, the EDC shall provide the interconnection customer with detailed information on the reason(s) for failure in writing. In addition, the EDC shall either:

(a) Notify interconnection customer that the EDC is continuing to evaluate the small generating facility under Supplemental Review if the EDC concludes that the Supplemental Review might determine that the small generator facility could continue to qualify for interconnection pursuant to Level 2; or

(b) Offer to continue evaluating the interconnection request under Level 4.

4004.7 If, on an annual basis, the electric utility fails to issue at least ninety percent (90%) of All Authorizations to Operate in the Level 1 interconnection process within the twenty (20) business days as required in § 4004.5(b), it shall be required to develop a corrective action plan.

4004.8 The corrective action plan shall describe the cause(s) of the electric utility's non-compliance with Subsection 4004.7, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and set a target date for completion of the corrective measure(s).

4004.9 Progress on current corrective action plans shall be included in the electric distribution utility's Small Generator Interconnection Annual Report.

4004.10 The electric utility shall report the actual performance of compliance with 15 DCMR § 4004.7 during the reporting period in the Small Generator Interconnection Annual Report of the following year.

4005 LEVEL 2 INTERCONNECTION REVIEWS

4005.1 For a Level 2 Interconnect Review, the EDC shall use the Level 2 procedures for an interconnection request.

4005.2 For Level 2 Adverse System Impact screens, the EDC shall evaluate the potential or adverse system impacts using the following screens, which must be satisfied:

(a) The Small generator facility nameplate capacity rating does not exceed the limits identified in the table below, which vary according to the voltage of the line at the proposed Point of Common Coupling. Small generator facilities located within two and a half (2.5) miles of a substation and on a main distribution line with minimum six hundred (600)-amp capacity are eligible for Level 2 Interconnection Review under higher thresholds.

Line Capacity	**Level 2 Eligibility**	
	Regardless of location	**On ≥ 600 amp line and ≤ 2.5 miles from substation**
≤ 4 kV	< 1 MW	< 2 MW
4.1 kV – 14 kV	< 2 MW	< 3 MW
15 kV – 30 kV	< 3 MW	< 4 MW
31 kV – 60 kV	≤ 4 MW	≤ 5 MW

(b) For interconnection of a proposed small generator facility to a radial distribution circuit, the small generator facility aggregated with all other generation capable of exporting energy on the line section may not exceed fifteen percent (15%) of the line section annual peak load, as most recently measured at the substation or calculated for the line section.

(c) For interconnection of a proposed small generator facility within a spot or area network, the proposed small generator facility shall utilize an inverter-based equipment package and use a minimum import relay or other protective scheme that will ensure power imported from the EDC to the network will, during normal EDC operations, remain above twenty percent (20%) of the minimum load on the network transformer based on historical data, or will remain above an import point reasonably set by the EDC in good faith. For interconnection of a proposed small generation facility within an area network, the proposed small generator facility shall utilize an inverter-based equipment package and adhere to a maximum aggregate export level of eighty percent (80%) of the generation level that would cause reverse flow on a network transformer, or will remain below an export point reasonably set by the EDC in good faith. At the EDC's discretion, the requirement for minimum import relays or other protective schemes may be waived.

(d) The proposed small generator facility, in aggregation with other generation on the distribution circuit, may not contribute more than ten percent (10%) to the distribution circuit's maximum fault current at the point on the high voltage (primary) level nearest the point of common coupling.

(e) The proposed small generator facility, in aggregate with other generation on the distribution circuit, may not cause any distribution protective devices and equipment (including substation breakers, fuse cutouts, and line reclosers), or EDC customer equipment on the electric distribution system, to exceed ninety percent (90%) of the short circuit interrupting capability. The interconnection request may not receive approval for

interconnection on a circuit that already exceeds 90% of the short circuit interrupting capability.

(f) The proposed small generator facility's point of common coupling may not be on a transmission line.

(g) The small generator facility complies with the applicable type of interconnection, based on the table below. This screen includes a review of the type of electrical service provided to the Interconnecting Customer, including line configuration and the transformer connection to limit the potential for creating over-voltages on the EDC's Electric Distribution System due to a loss of ground during the operating time of any anti-islanding function. This screen does not apply to small generator facilities with a gross rating of 11 kVA or less.

(h)

Primary Distribution Line Configuration	**Type of Interconnection to be Made to the Primary Circuit**	**Results/Criteria**
Three-phase, three-wire	Any type	Pass Screen
Three-phase, four-wire	Single-phase, line-to-neutral	Pass Screen
Three-phase, four-wire (For any line that has such a section, or mixed three wire and four wire)	All Others	To pass, aggregate small generator facility nameplate rating must be less than or equal to 10% of Line Section peak load

(i) When the proposed small generator facility is to be interconnected on single-phase shared secondary line, the aggregate generation capacity on the shared secondary line, including the proposed small generator facility, shall not exceed sixty-five percent (65%) of the transformer nameplate power rating.

(i) When a proposed small generator facility is single-phase and is to be interconnected on a transformer center tap neutral of a 240 volt service, its addition may not create an imbalance between the two sides of the 240-volt service of more than twenty percent (20%) of the nameplate rating of the service transformer.

(j) A small generator facility, in aggregate with other generation interconnected to the distribution low-voltage side of a substation transformer feeding the electric distribution circuit where the small generator facility proposes to interconnect, may not exceed 20MW in an area where there are known or posted transient stability limitations to generating units located in the general electrical vicinity (*e.g.* three or four transmission voltage level buses from the point of common coupling), or the proposed small generator facility shall not have interdependencies, known to the EDC, with earlier-queued interconnection requests.

(k) Except as permitted by an additional review in Level 2 procedures, Subsection 4005.7, no construction of facilities by the EDC on its own system shall be required to accommodate the small generator facility.

(l) As an alternative to the evaluation required pursuant to § 4005.2, the EDC may elect to perform a power flow-based study, providing the interconnection customer with the results and the required mitigation, if necessary. Pepco shall make available upon request a copy of its power flow-based study for each applicant to the Commission within thirty (30) days after analysis completion.

4005.3 [RESERVED]

4005.4 The Level 2 Interconnection Review shall be conducted in accordance with the following procedures:

(a) The EDC shall, within three (3) business days after receipt of Part 1 of the interconnection application and Interconnection Agreement, acknowledge receipt and inform the interconnection customer in writing or by electronic mail that the interconnection request is complete or incomplete.

(b) When the interconnection request is deemed incomplete, the EDC shall provide a written list detailing all information that must be provided to complete the request. The interconnection customer shall have ten (10) business days after receipt of the list interconnection request to include the requested information and resubmit the interconnection request or request an extension of time to provide such information. If the interconnection request is not resubmitted with the requested information within ten (10) days, the interconnection request shall be deemed withdrawn. The EDC shall notify the interconnection customer within three (3) business days of receipt of a revised interconnection request whether the request is complete or incomplete. The EDC may deem the request withdrawn if it remains incomplete.

(c) Within fifteen (15) business days after the EDC notifies the interconnection customer that it has received a completed interconnection

request, the EDC shall evaluate the interconnection request using the Level 2 screening criteria and notify the interconnection customer whether the small generator facility meets all of the applicable Level 2 screens; Adverse System Impact screens. If the proposed interconnection meets all of the applicable Level 2 Adverse System Impact screens and the EDC determines that the small generator facility can be interconnected safely and reliably to the electric distribution system, the EDC shall provide the interconnection customer an Approval to Install.

4005.5 The timing of inspections and interconnect operation shall be conducted under the following conditions:

(a) An interconnection customer that receives a small generator interconnection agreement executed by the EDC shall have ten (10) business days to execute the agreement and return it to the EDC. When an interconnection customer does not sign the agreement within ten (10) business days, the interconnection request shall be deemed withdrawn unless the interconnection customer requests to have the deadline extended in writing prior to the expiration of the ten (10) business day period. The request for extension may not be unreasonably denied by the EDC. An interconnection customer shall communicate with the EDC no less frequently than every six (6) months regarding the status of a proposed small generator facility to which an Interconnection Agreement refers. Within twenty-four (24) months from receiving an Approval to Install or six (6) months of completion of any upgrades, whichever is later, the interconnection customer shall provide the EDC with at least ten (10) business days' notice of the anticipated start date of the small generator facility.

(b) The EDC may conduct a witness test within ten (10) business days of receiving the completed Level 2-4 Part II – Small Generator Facility Interconnection Certificate of Completion and the signed inspection certificate from the interconnection customer, conduct a witness test at a time mutually agreeable to the parties. If the witness test fails to reveal that all equipment has been appropriately installed and that all electrical connections have been made in accordance with applicable codes, the EDC shall offer to redo the witness test at the interconnection customer's expense at a time mutually agreeable to the parties. If the EDC determines that the small generator facility fails the inspection it must provide a written explanation detailing the reasons and any standards violated. If the EDC does not perform the Witness Test within ten (10) business days or other such time as is mutually agreed to by the parties, the Witness Test is deemed waived.

(c) An interconnection customer may begin interconnected operation of a small generator facility provided that there is an Interconnection

Agreement in effect, the EDC has received proof of the electrical code official's approval, the small generator facility has passed any Witness Test by the EDC, and the EDC has issued the Authorization to Operate. Evidence of approval by an electric code official includes a signed inspection certificate.

(d) The EDC may require photographs of the site, small generator facility components, meters or any other aspect of the Interconnection Facilities as part of the Level 2 Interconnection Review process, provided that failure to provide a photo in a timely manner will not be a reason for the EDC to deem an application incomplete.

4005.6 When the EDC determines that the interconnection request passes the Level 2 screening criteria, the EDC shall provide the interconnection customer a small generator interconnection agreement within the following timeframes.

(a) If the proposed interconnection requires no construction of facilities by the EDC on its own system, including any metering or commercial devices, the EDC shall provide an interconnection agreement within three (3) business days after notification of Level 2 Interconnection Review results.

(b) If the proposed interconnection requires only the addition of Interconnection Facilities to the electric distribution system, a non-binding good faith cost estimate and construction schedule for such upgrades, shall be provided within fifteen (15) business days after notification of the Level 2 Interconnection Review results. Upon completion of such upgrades, the EDC shall issue a small generator interconnection agreement to the interconnection customer

(c) If the proposed interconnection requires more than the addition of Interconnection Facilities to the electric distribution system, the EDC may elect to either provide a non-binding good faith cost estimate and construction schedule for such upgrades within thirty (30) business days after notification of the Level 2 Interconnection Review results, or the EDC may notify the interconnection customer that the EDC will need to complete a Facilities Study under Subsection 4007.2, paragraphs (d)(3) (B), (C), (D) and (E) to determine the necessary upgrades, complete the construction, and issue a small generator an Interconnection Agreement to the interconnection customer.

4005.7 When a small generator facility is not approved under a Level 2 review, the EDC, at its sole option, may approve the interconnection provided such approval is consistent with safety and reliability and shall provide the interconnection customer a small generator interconnection agreement within five (5) business days after the determination. If the EDC cannot determine that the small generator facility may nevertheless be interconnected consistent with safety, reliability, and

power quality standards, the EDC shall provide the interconnection customer with detailed information on the reason(s) for failure in writing. In addition, the EDC shall either:

(a) Notify interconnection customer that the EDC is continuing to evaluate the small generating facility under Supplemental Review if the EDC concludes that the Supplemental Review might determine that the small generator facility could continue to qualify for interconnection pursuant to Level 2; or

(b) Offer to continue evaluating the interconnection request under Level 4.

4006 LEVEL 3 INTERCONNECTION REVIEWS

4006.1 The EDC shall use Level 2 Interconnection Review procedures for evaluating Level 3 interconnection requests provided the proposed small generator facility has a nameplate capacity rating not greater than 15MW and uses reverse power relays, minimum import relays or other protective devices to assure that power may never be exported from the small generator facility to the EDC's electrical distribution system. An interconnection customer proposing to interconnection a small generator facility to a spot or area network is not permitted under the Level 3 review process.

4006.2-4006.8 [RESERVED]

4007 LEVEL 4 INTERCONNECTION REVIEWS

4007.1 The EDC shall use the Level 4 Interconnection Review procedures for evaluating interconnection requests when:

(a) The interconnection request was not approved under a Level 1, Level 2, or Level 3 Interconnection Review and the interconnection customer has submitted a new interconnection request for consideration under a Level 4 Interconnection Review or requested that an existing interconnection request already in the EDC's possession be treated as a Level 4 interconnection request; and

(b) The interconnection request does not meet the criteria for qualifying for a review under Level 1, Level 2 or Level 3 Interconnection Review procedures.

4007.2 The Level 4 Interconnection Review shall be conducted in accordance with the following process:

(a) Within three (3) business days from receipt of Part I of an interconnection request or transfer of an existing request to a Level 4 interconnection

request, the EDC shall notify the interconnection customer whether or not the request is complete. When the interconnection request is deemed not complete, the EDC shall provide the interconnection customer with a written list detailing information required to complete the interconnection request. The interconnection customer shall have twenty (20) business days to revise the interconnection request to include the requested information and resubmit the interconnection request, or the interconnection request shall be considered withdrawn. The parties may agree to extend the time for receipt of the revised interconnection request. The EDC shall notify the interconnection customer within three (3) business days of receipt of the revised interconnection request whether or not the interconnection request is complete. The EDC may deem the interconnection request withdrawn if it remains incomplete.

(b) When an interconnection request is complete, the EDC shall assign a queue position. The queue position of an interconnection request shall be used to determine the cost responsibility necessary for the facilities to accommodate the interconnection. The EDC shall notify the interconnection customer about other higher-queued interconnection customers that have the potential to impact the cost responsibility.

(c) The following procedures shall be followed in performing a Level 4 Interconnection Review:

(1) By mutual agreement of the parties, the scoping meeting, interconnection feasibility study, interconnection impact study, or interconnection Facilities Study provided for in a Level 4 Interconnection Review and discussed in this paragraph may be waived;

(2) If agreed to by the parties, a scoping meeting shall be held within ten (10) business days, or other mutually agreed to time, after the EDC has notified the interconnection customer that the interconnection request is deemed complete, or the interconnection customer has requested that its interconnection request proceed after failing the requirements of a Level 2 Interconnection Review or Level 3 review. The scoping meeting shall take place in person, by telephone, or electronically by a means mutually agreeable to the parties. The purpose of the meeting shall be to review the interconnection request; existing studies relevant to the interconnection request; the conditions at the proposed location including the available Fault Current at the proposed location, the existing peak loading on the lines in the general vicinity of the proposed small generator facility, and the configuration of the distribution line at the proposed point of common coupling; and

the results of the Level 1, Level 2 or Level 3 Adverse System Impact screening criteria;

(3) When the parties agree at a scoping meeting that an interconnection feasibility study shall be performed, and if the parties do not waive the interconnection impact study, the EDC shall provide to the interconnection customer, no later than five (5) business days after the scoping meeting, an interconnection feasibility study agreement, including an outline of the scope of the study and a nonbinding good faith estimate of the cost and time to perform the study;

(4) When the parties agree at a scoping meeting that an interconnection feasibility study is not required, the EDC shall provide to the interconnection customer, no later than five (5) business days after the scoping meeting, an interconnection system impact study agreement, including an outline of the scope of the study and a nonbinding good faith estimate of the cost to perform the study; and

(5) When the parties agree at the scoping meeting that an interconnection feasibility study and system impact study are not required, the EDC shall provide to the interconnection customer, no later than five (5) business days after the scoping meeting, an interconnection Facilities Study agreement including an outline of the scope of the study and a nonbinding good faith estimate of the cost to perform the study.

(6) The EDC may elect to perform one or more of these studies concurrently.

(d) Any required interconnection studies shall be carried out using the following guidelines:

(1) An interconnection feasibility study shall include the following analyses and conditions for the purpose of identifying and addressing potential Adverse System Impacts to the EDC's electric distribution system that would result from the interconnection:

(A) Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;

(B) Initial identification of any thermal overload or voltage limit violations resulting from the interconnection;

(C) Initial review of grounding requirements and system protection;

(D) Description and nonbinding estimated cost of facilities required to interconnect the small generator facility to the EDC's electric distribution system in a safe and reliable manner; and

(E) Additional evaluations at the expense of the interconnection customer, when an interconnection customer requests that the interconnection feasibility study evaluate multiple potential points of common coupling.

(2) An interconnection system impact study shall evaluate the impact of the proposed interconnection on both the safety and reliability of the EDC's electric distribution system. The study shall identify and detail the system impacts that result when a small generator facility is interconnected without project or system modifications, focusing on the Adverse System Impacts identified in the interconnection feasibility study or potential impacts including those identified in the scoping meeting. The interconnection system impact study shall consider all generating facilities that, on the date the interconnection system impact study is commenced, are directly interconnected with the EDC's electric distribution system, have a pending higher queue position to interconnect to the system, or have a signed Standard Agreement for Interconnection.

(A) A distribution interconnection system impact study shall be performed when a potential electric distribution system Adverse System Impact is identified in the interconnection feasibility study. The EDC shall send the interconnection customer an interconnection system impact study agreement within five (5) business days of transmittal of the interconnection feasibility study report. The agreement shall include an outline of the scope of the study and a good faith estimate of the cost to perform the study. The impact study shall include:

(i) A load flow study;
(ii) Identification of affected systems;
(iii) An analysis of equipment interrupting ratings;
(iv) A protection coordination study;
(v) Voltage drop and flicker studies;
(vi) Protection and set point coordination studies;
(vii) Grounding reviews; and
(viii) Impact on system operation.

(B) An interconnection system impact study shall consider the following criteria:

(i) A short circuit analysis;
(ii) A stability analysis;
(iii) Alternatives for mitigating Adverse System Impacts on affected systems;
(iv) Voltage drop and flicker studies;
(v) Protection and set point coordination studies; and
(vi) Grounding reviews.

(C) The final interconnection system impact study shall provide the following:

(i) The underlying assumptions of the study;
(ii) The results of the analyses;
(iii) A list of any potential impediments to providing the requested interconnection service;
(iv) Required distribution upgrades; and
(v)_ A nonbinding good faith estimate of cost and time to construct any required distribution upgrades.

(D) The parties shall use an interconnection impact study agreement approved by the Commission.

(3) The interconnection Facilities Study shall be conducted as follows:

(A) Within five (5) business days of completion of the interconnection system impact study, the EDC shall transmit a report to the interconnection customer with an interconnection Facilities Study agreement, which includes an outline of the scope of the study and a nonbinding good faith estimate of the cost and time to perform the study;

(B) The interconnection Facilities Study shall estimate the cost of the equipment, engineering, procurement and construction work including overheads needed to implement the conclusions of the interconnection feasibility study and the interconnection system impact study to interconnect the small generator facility. The interconnection facilities study shall identify:

(i) The electrical switching configuration of the equipment, including transformer, switchgear, meters and other station equipment;

(ii) The nature and estimated cost of the EDC's interconnection facilities and distribution upgrades necessary to accomplish the interconnection; and

(iii) An estimate of the time required to complete the construction and installation of the facilities;

(C) The parties may agree to permit an interconnection customer to separately arrange for a third party to design and construct the required Interconnection Facilities. The EDC may review the design of the facilities under the Interconnection Facilities study agreement. When the parties agree to separately arrange for design and construction and to comply with security and confidentiality requirements, the EDC shall make all relevant information and required specifications available to the interconnection customer to permit the interconnection customer to obtain an independent design and cost estimate for the facilities, which shall be built in accordance with the specifications;

(D) Upon completion of the interconnection Facilities Study, and with the agreement of the interconnection customer to pay for the Interconnection Facilities and Distribution System Upgrades identified in the interconnection Facilities Study, the EDC shall provide the interconnection customer with a small generator interconnection agreement within five (5) business days; and

(E) The parties shall use an interconnection Facility Study agreement approved by the Commission.

(e) When the EDC determines, as a result of the studies conducted under a Level 4 review, that it is appropriate to interconnect the small generator facility, the EDC shall provide the interconnection customer with a small generator interconnection agreement. If the interconnection request is denied, the EDC shall provide a written explanation;

(f) An interconnection customer shall have thirty (30) business days, or another mutually agreeable time frame, after submission of the small generator interconnection agreement to sign and return the agreement. If an interconnection customer does not sign and return the agreement within thirty (30) business days, the interconnection request shall be deemed withdrawn unless the interconnection customer requests to have the deadline extended by the thirtieth (30^{th}) business day. The request for

extension may not be unreasonably denied by the EDC. When construction is required, the interconnection of the small generator facility shall proceed according to milestones agreed to by the parties in the Interconnection Agreement. The Authorization to Operate may not be final until:

(1) The milestones agreed to in the Interconnection Agreement are satisfied;

(2) The small generator facility is approved by electric code officials with jurisdiction over the interconnection;

(3) The interconnection customer provides a certificate of completion to the EDC. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and

(4) There is a successful completion of the witness test per the terms and conditions found in the Standard Agreement for Interconnection of Small Generator Facilities, unless waived.

(g) The EDC may require photographs of the site, small generator facility components, meters or any other aspect of the Interconnection Facilities as part of the Level 4 Interconnection Review process, provided that failure to provide a photo in a timely manner will not be a reason for the EDC to deem an interconnection request incomplete.

4007.3 An interconnection Adverse System Impact study is not required when the interconnection feasibility study concludes there is no adverse system impact, or when the study identifies an Adverse System Impact, but the EDC is able to identify a remedy without the need for an interconnection system impact study.

4007.4 The parties shall use a form of interconnection feasibility study agreement approved by the Commission.

4008 TECHNICAL REQUIREMENTS

4008.1 Unless waived by the EDC, a small generator facility must comply with the technical standards listed in Subsection 4002.1, as applicable. IEEE 1547.2, "Application Guide for IEEE 1547 Standard for Interconnecting Distributed Resources with Electric Power Systems" and the PJM Interconnection Planning Manual 14A Attachment E, which is available at: https://www.pjm.com/~/media/documents/manuals/m14a.ashx, shall be used as a guide (but not a requirement) to detail and illustrate the interconnection protection requirements that are provided in IEEE 1547.

4008.2 When an interconnection request is for a small generator facility that includes multiple energy production devices at a site for which the interconnection customer seeks a single point of common coupling, the interconnection request shall be evaluated on the basis of the aggregate nameplate capacity of multiple devices.

4008.3 When an interconnection request is for an increase in capacity for an existing small generator facility, the interconnection request shall be evaluated on the basis of the new total nameplate capacity of the small generator facility.

4008.4 The EDC shall maintain records of the following for a minimum of three (3) years:

(a) The total number of and the nameplate capacity of the interconnection requests received, approved and denied under Level 1, Level 2, Level 3 and Level 4 reviews;

(b) The number of interconnection requests that were not processed within the timelines established in this rule;

(c) The number of scoping meetings held and the number of feasibility studies, impact studies, and facility studies performed and the fees charged for these studies;

(d) The justifications for the actions taken to deny interconnection requests; and

(e) Any special operating requirements required in Interconnection Agreements that are not part of the EDC's written and published operating procedures applicable to small generator facilities.

4008.5 The EDC shall provide a report to the Commission containing the information required in Subsection 4008.4, paragraphs (a)-(c) within ninety (90) calendar days of the close of each year.

4008.6 The EDC shall designate a contact person and contact information on its website and the Commission's website for submission of all interconnection requests and from whom information on the interconnection request process and the EDC's electric distribution system can be obtained regarding a proposed project. The information shall include studies and other materials useful to an understanding of the feasibility of interconnecting a small generator facility at a particular point on the EDC's electric distribution system, except to the extent that providing the materials would violate security requirements or confidentiality agreements, or otherwise deemed contrary to District or federal law/regulations. In appropriate circumstances, the EDC may require a confidentiality agreement prior to release of information.

4008.7 When an interconnection request is deemed complete, a modification other than a minor equipment modification that is not agreed to in writing by the EDC, shall require submission of a new interconnection request.

4008.8 When an interconnection customer is not currently a customer of the EDC at the proposed site, the interconnection customer, upon request from the EDC, shall provide proof of site control evidenced by a property tax bill, deed, lease agreement, or other legally binding contract.

4008.9 To minimize the cost of interconnecting multiple small generator facilities, the EDC or the customer may propose a single point of common coupling for multiple small generator facilities located at a single site. If the interconnection customer rejects the EDC's proposal for a single point of common coupling, the interconnection customer shall pay the additional cost, if any, of providing a separate point of common coupling for each small generator facility. If the EDC rejects the customer's proposal for a single point of common coupling without providing a written technical explanation, the EDC shall pay the additional cost, if any, of providing a separate point of common coupling for each small generator facility.

4008.10 Small generator facilities shall be capable of being isolated from the EDC. For Level 2-4 small generator facilities interconnecting to a primary line, the isolation shall be by means of a lockable, visible-break isolation device accessible by the EDC. For Level 2-4 small generator facilities interconnecting to a secondary line, the isolation shall be by means of a lockable isolation device whose status is clearly indicated and is accessible by the EDC. The isolation device shall be installed, owned and maintained by the owner of the small generation facility and located between the small generation facility and the point of common coupling. A draw-out type circuit breaker with a provision for padlocking at the draw-out position can be considered an isolation device for purposes of this requirement.

4008.11 A Level 2-4 interconnection customer may elect to provide the EDC access to an isolation device that is contained in a building or area that may be unoccupied and locked or not otherwise readily accessible to the EDC, by installing a lockbox provided by the EDC that shall provide ready access to the isolation device. The interconnection customer shall install the lockbox in a location that is readily accessible by the EDC, and the interconnection customer shall permit the EDC to affix a placard in a location of its choosing that provides clear instructions to the EDC's operating personnel on access to the isolation device. In the event that the interconnection customer fails to comply with the terms of this subsection and the EDC needs to gain access to the isolation device, the EDC shall not be held liable for any damages resulting from any necessary EDC action to isolate the interconnection customer.

4008.12 Any metering necessitated by a small generator interconnection shall be installed, operated and maintained in accordance with applicable tariffs. Any such metering requirements shall be clearly identified as part of the Interconnection Agreement executed by the interconnection customer and the EDC. The EDC is not responsible for installing, operating, or maintaining customer-owned meters.

4008.13 The EDC shall design, procure, construct, install, and own any Distribution Upgrades. The actual cost of the Distribution System Upgrades, including overheads, shall be directly assigned to the interconnection customer. The interconnection customer may be entitled to financial contribution from any other EDC customers who may in the future utilize the Distribution System Upgrades paid for by the interconnection customer. Such contributions shall be governed by the rules, regulations, and decisions of the Commission.

4008.14 [RESERVED]

4008.15 The interconnection customer shall design its Small Generator Facility to maintain a composite power delivery at continuous rated power output at the Point of common coupling at a power factor within the power factor range required by the EDC's applicable tariff for a comparable load customer. The EDC may also require the Interconnection Customer to follow a voltage or VAR schedule if such schedules are applicable to similarly situated generators in the control area on a comparable basis and have been approved by the Commission. The specific requirements for meeting a voltage or VAR schedule shall be clearly specified in Attachment 3 of the "District of Columbia Small Generator Interconnection Rule Level 2-4 Standard Agreement for Interconnection of Small Generator Facilities". (Under no circumstance shall these additional requirements for reactive power or voltage support exceed the normal operating capabilities of the Small Generator Facility.)

4008.16 For retail interconnection non-exporting Energy Storage devices, the load aspects of the storage devices will be treated the same as other load from customers, based on incremental net load.

4008.17 Interconnection of Energy Storage facilities should comply with IEEE standard 1547 technical & test specifications and requirements.

4008.18 The Energy Storage overcurrent protection (charge/discharge) ratings from inverter nameplate shall not exceed EDC capabilities.

4008.19 In front of the meter Energy Storage exporting systems will be subject to Level 4 review requirements.

4008.20 When the Microgrid reconnects to the EDC, the Microgrid must be synchronized to the grid, matching: (1) voltage, (2) frequency, and (3) phase angle. This should require an asynchronous interconnection.

4008.21 At all interconnection levels, the power conversion system performing energy conversion/control at the point of common coupling must be equipped to communicate system characteristics over secured EDC protocol.

4008.22 Inverters shall meet the safety requirements of UL 1741 and 12 months after the publication of UL 1741 SA (Supplement A) utility-interactive inverters shall meet the specifications of UL 1741 SA.

4009 DISPUTES

4009.1 A party shall attempt to resolve all disputes regarding interconnection as provided in the DCSGIR promptly, equitably, and in a good faith manner.

4009.2 When a dispute arises, a party may seek immediate resolution through complaint procedures available through the Commission by providing written notice to the Commission and the other party stating the issues in dispute.

4009.3 When disputes relate to the technical application of the DCSGIR, the Commission may designate a technical consultant to resolve the dispute. Upon Commission designation, the parties shall use the technical consultant to resolve disputes related to interconnection. Costs for a dispute resolution conducted by the technical consultant shall be established by the technical consultant and subject to review by the Commission.

4009.4 Pursuit of dispute resolution shall not affect an interconnection customer with regard to consideration of an interconnection request or an interconnection customer's queue position.

4010 WAIVER

4010.1 The Commission may, in its discretion, waive any provisions of Chapter 40 upon notice to the affected persons.

4011 SUPPLEMENTAL REVIEW

Within twenty (20) business days of determining that Supplemental Review is appropriate, the EDC shall perform Supplemental Review using the screens set forth below, notify the interconnection customer of the results, and include with the notification a written report of the analysis and data underlying the EDC's determinations under the screens.

(a) Where twelve (12) months of line section minimum load data is available, can be calculated, can be estimated from existing data, or can be determined from a power flow model, the aggregate small generator facility nameplate capacity on the line section is less than one hundred

percent (100%) of the minimum load for all line sections bounded by automatic sectionalizing devices upstream of the proposed small generator facility. If the minimum load data is not available, or cannot be calculated or estimated, the aggregate small generator facility nameplate capacity on the line section is less than thirty percent (30%) of the peak load for all line sections bounded by automatic sectionalizing devices upstream of the proposed small generator facility.

(1) The type of generation used by the proposed small generator facility will be taken into account when calculating, estimating, or determining circuit or line section minimum load relevant for the application of this screen. Solar photovoltaic (PV) generation systems with no battery storage use daytime minimum load (*e.g.*, 8 a.m. to 6 p.m.), while all other generation uses absolute minimum load.

(2) When this screen is being applied to a small generator facility that serves some onsite electrical load, all generation will be considered as part of the aggregate generation.

(b) In aggregate with existing generation on the line section:

(1) The voltage regulation on the line section can be maintained in compliance with relevant requirements under all system conditions;

(2) The voltage fluctuation is within acceptable limits as defined by IEEE 1453 or utility practice similar to IEEE 1453; and

(3) The harmonic levels meet IEEE 519 limits at the Point of Common Coupling.

(c) The location of the proposed small generator facility and the aggregate small generator facility nameplate capacity on the line section do not create impacts to safety or reliability that cannot be adequately addressed without application of Level 4 Interconnection Review procedures. The EDC may consider the following factors and others in determining potential impacts to safety and reliability in applying this screen.

(1) Whether the line section has significant minimum loading levels dominated by a small number of customers (i.e., several large commercial customers).

(2) If there is an even or uneven distribution of loading along the feeder.

(3) If the proposed small generator facility is located in close proximity to the substation (*i.e.*, < 2.5 electrical line miles), and if the distribution line from the substation to the small generator facility is composed of large conductor/feeder section (*i.e.*, 600A class cable).

(4) If the proposed small generator facility incorporates a time delay function to prevent reconnection of the generator to the electric distribution system until system voltage and frequency are within normal limits for a prescribed time.

(5) If operational flexibility is reduced by the proposed small generator facility, such that transfer of the line section(s) of the small generator facility to a neighboring distribution circuit/substation may trigger overloads or voltage issues.

(6) If the proposed small generator facility utilizes certified anti-islanding functions and equipment.

(d) If the proposed interconnection request passes the Supplemental Review screens, the interconnection request shall be approved and the EDC shall provide the interconnection customer an executable interconnection agreement within the timeframes established below.

(1) If the proposed interconnection request requires no construction of facilities by the EDC on its own electrical distribution system, the interconnection agreement shall be provided within five (5) business days after the notification of the Supplemental Review results.

(2) If the proposed interconnection request requires only Interconnection Facilities to the electrical distribution system, a non-binding good faith cost estimate and construction schedule for the Interconnection Facilities to the electrical distribution system, shall be provided within fifteen (15) business days after notification of the Supplemental Review results.

(3) If the proposed interconnection request requires more than the addition of Interconnection Facilities, the EDC may elect to provide a non-binding good faith cost estimate and construction schedule for such upgrades within thirty (30) business days after notification of the Supplemental Review results, or the EDC may notify the interconnection customer that the EDC will need to complete a facilities study under Level 4 Interconnection Review to determine the cost estimate and construction schedule for necessary upgrades.

(e) An interconnection customer that receives an interconnection agreement executed by the EDC shall have ten (10) business days to execute the agreement and return it to the EDC.

(1) For Level 1 requests: Unless extended by mutual agreement of the parties, within six (6) months of receipt of the Approval to Install or six (6) months from the completion of any upgrades, whichever is later, the interconnection customer shall provide the EDC with at least ten (10) business days' notice of the anticipated start date of the small generator facility.

(2) For Level 2 and 3 requests: an interconnection customer shall communicate with the EDC no less frequently than every six (6) months regarding the status of a proposed small generator facility to which an Interconnection Agreement refers. Within twenty-four (24) months from an interconnection customer's receipt of the Approval to Install or six (6) months of completion of any upgrades, whichever is later, the interconnection customer shall provide the EDC with at least ten (10) business days' notice of the anticipated start date of the small generator facility.

(f) The EDC may conduct a witness test within ten (10) business days' of receiving the notice of the anticipated start date at a time mutually agreeable to the parties. If a small generator facility initially fails the test, the EDC shall offer to redo the witness test at the interconnection customer's expense at a time mutually agreeable to the parties. If the EDC determines that the small generator facility fails the witness test it must provide a written explanation detailing the reasons and any standards violated.

(g) Upon EDC's issuance of the Authorization to Operate, an interconnection customer may begin interconnected operation of a small generator facility, provided that there is an Interconnection Agreement in effect and that the small generator facility has passed any inspection required by the EDC. Evidence of approval by an electric code official includes a signed inspection certificate.

(h) As an alternative to the Supplemental Review procedures prescribed in this section, the EDC may elect to perform a power flow-based study, providing the interconnection customer with the results and the required mitigation, if necessary. Pepco shall make available upon request a copy of its power flow-based study for each applicant to the Commission within thirty (30) days after analysis completion.

(i) The EDC may require photographs of the site, small generator facility components, meters or any other aspect of the Interconnection Facilities as part of the Supplemental Review process.

4012 APPLICANT OPTIONS MEETING

If the EDC determines the interconnection request cannot be approved without evaluation under Level 4 Interconnection Review, at the time the EDC notifies the interconnection customer of either the Level 1, 2 or 3 Interconnection Review, or Supplemental Review, results, it shall provide the interconnection customer the option of proceeding to a Level 4 Interconnection Review or of participating in an Applicant Options Meeting with the EDC to review possible small generator facility modifications or the screen analysis and related results, to determine what further steps are needed to permit the small generator facility to be connected safely and reliably. The interconnection customer shall notify the EDC that it requests an Applicant Options Meeting or that it would like to proceed to Level 4 Interconnection Review in writing within fifteen (15) business days of the EDC's notification or the interconnection request shall be deemed withdrawn. If the interconnection customer requests an Applicant Options Meeting, the EDC shall offer to convene a meeting at a mutually agreeable time within the next fifteen (15) business days.

4013-4098 [RESERVED]

4099 DEFINITIONS

4099.1 When used in this chapter, the following terms and phrases shall have the following meaning:

"Adverse System Impact" means a negative effect, due to technical or operational limits on conductors or equipment being exceeded, that compromises the safety and reliability of the electric distribution system.

"Affected System" means an electric system not owned or operated by the electric distribution company reviewing the interconnection request that may suffer an Adverse System Impact from the proposed interconnection.

"Area Network" means a type of electric distribution system served by multiple transformers interconnected in an electrical network circuit, which is generally used in large metropolitan areas that are densely populated. Area networks are also known as grid networks. Area network has the same meaning as the term distribution secondary grid networks in 4.1.4.1 of IEEE Standard 1547.

"Authorization to Operate" means written notification that the Small Generator Facility is approved for operation under the terms and conditions of the

District of Columbia Small Generator Interconnection Rules including 15 DCMR §§ 4004.3, 4004.4 and 4004.5(a).

"Certificate of Completion" means a certificate in a completed form approved by the Commission containing information about the interconnection equipment to be used, its installation and local inspections.

"Certified Equipment" means a designation that the interconnection equipment meets the requirements set forth in Section 4002 of this document

"Commission" means the Public Service Commission of the District of Columbia.

"Commissioning Test" means the tests applied to a small generator facility by the interconnection customer after construction is completed to verify that the facility does not create Adverse System Impacts. The scope of the commissioning tests performed shall include the commissioning test specified IEEE Standard 1547 Section 5.4 "Commissioning tests".

"Distribution System Upgrade" means a required addition or modification to the EDC's electric distribution system at or beyond the point of common coupling to accommodate the interconnection of a small generator facility. Distribution upgrades do not include interconnection facilities.

"District of Columbia Small Generator Interconnection Rule (DCSGIR)" means the most current version of the procedures for interconnecting Small Generator Facilities adopted by the Public Service Commission of the District of Columbia.

"Draw-out Type Circuit Breaker" means a switching device capable of making, carrying and breaking currents under normal and abnormal circuit conditions such as those of a short circuit. A draw-out circuit breaker can be physically removed from its enclosure, creating a visible break in the circuit. For the purposes of these regulations, the draw-out circuit breaker shall be capable of being locked in the open, draw-out position.

"Electric Distribution Company" or "EDC" means an electric utility entity that distributes electricity to customers and is subject to the jurisdiction of the Commission.

"Electric Distribution System" means the facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries from interchanges with higher voltage transmission networks that transport bulk power over longer distances. The voltage levels at which electric distribution systems operate differ among areas but generally carry less than sixty-nine (69) kilovolts of electricity. Electric distribution

system has the same meaning as the term Area EPS, as defined in 3.1.6.1 of IEEE Standard 1547.

"Electric Storage" A resource capable of receiving electric energy from the grid and storing it for later injection of electrical energy back to the grid regardless of where the resource is located on the electric distribution system. These resources include all types of electric storage technologies, regardless of their size, storage medium (*e.g.*, batteries, flywheels, electric vehicles, compressed air), or operational purpose.

"Estimated Commissioning Date" means the date an interconnection customer is expected to start operation.

"Facilities Study" means an engineering study conducted by the EDC to determine the required modifications to the EDC's Electric Distribution System, including the cost and the time required to build and install such modifications as necessary to accommodate an Interconnection Request.

"Fault Current" means the electrical current that flows through a circuit during an electrical fault condition. A fault condition occurs when one or more electrical conductors contact ground or each other. Types of faults include phase to ground, double-phase to ground, three-phase to ground, phase-to-phase, and three-phase. Fault current is several times larger in magnitude than the current that normally flows through a circuit.

"Good Utility Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result of the lowest reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

"Governmental Authority" means any federal, State, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, respective facilities, or services provided, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, EDC or any affiliate thereof.

"IEEE Standard 1547" means the Institute of Electrical and Electronics Engineers, Inc. (IEEE) Standard 1547 (2003) "Standard for Interconnecting Distributed Resources with Electric Power Systems," as amended and supplemented at the time the interconnection request is submitted.

"IEEE Standard 1547.1" means the IEEE Standard 1547.1 (2005) "Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems", as amended and supplemented at the time the interconnection request is submitted.

"Interconnection Customer" means an entity that has submitted either an interconnection request to interconnect a small generator facility to the EDC's electric distribution system or a pre-application report to get information about EDC's electrical distribution system at a proposed Point of Common Coupling.

"Interconnection Equipment" means a group of equipment, components, or an integrated system connecting an electric generator with a local electric power system or an electric distribution system that includes all interface equipment including switchgear, protective devices, inverters or other interface devices. Interconnection equipment may be installed as part of an integrated equipment package that includes a generator or other electric source.

"Interconnection Facilities" means facilities and equipment required by the EDC to accommodate the interconnection of a small generator facility. Collectively, Interconnection Facilities include all facilities and equipment between the small generator facility and the point of common coupling, including modification, additions, or upgrades that are necessary to physically and electrically interconnect the small generator facility to the electric distribution system. Interconnection Facilities are sole use facilities and do not include Distribution System Upgrades.

"Interconnection Request" means an interconnection customer's application and Interconnection Agreement, in a form approved by the Commission, requesting to interconnect a new small generator facility, or to increase the capacity or modify operating characteristics of an existing approved small generator facility that is interconnected with the EDC's electric distribution system.

"Line Section" means that portion of the EDC's electric distribution system connected to an interconnection customer, bounded by automatic sectionalizing devices or the end of the distribution line.

"Local Electric Power System" or "Local EPS" means facilities that deliver electric power to a load that are contained entirely within a single premises or group of premises. Local electric power system has the same meaning as the term local electric power system defined in 3.1.6.2 of IEEE Standard 1547.

"Microgrid" means a collection of interconnected loads, generation assets, and advanced control equipment, installed across a limited geographic area and within a defined electrical boundary that is capable of disconnecting from the larger electric distribution system. A microgrid may serve a single customer with several structures or serve multiple customers. A microgrid can connect and disconnect from the distribution system to enable it to operate in both interconnected or island mode.

"Minor Equipment Modification" means changes to the proposed small generator facility that do not have a material impact on safety or reliability of the electric distribution system.

"Nameplate Capacity" means the maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer and is usually indicated on a nameplate physically attached to the power production equipment.

"Nationally Recognized Testing Laboratory" or "NRTL" means a qualified private organization that meets the requirements of the Occupational Safety and Health Administration's (OSHA) regulations. NRTLs perform independent safety testing and product certification. Each NRTL shall meet the requirements as set forth by OSHA in the NRTL program.

"Parallel Operation" or "Parallel" means the sustained state of operation over one hundred (100) milliseconds, which occurs when a small generator facility is connected electrically to the electric distribution system and thus has the ability for electricity to flow from the small generator facility to the electric distribution system.

"PJM Interconnection" means the regional transmission organization that is regulated by the Federal Energy Regulatory Commission and functionally controls the transmission system for the region that includes the District of Columbia.

"Point of Common Coupling" means the point where the small generator facility is electrically connected to the electric distribution system. Point of common coupling is has the same meaning as defined in 3.1.13 of IEEE Standard 1547.

"Primary Line" means a distribution line rated at greater than six hundred (600) volts.

"Production Test" is defined in IEEE Standard 1547.

"Queue Position" means the order of a valid interconnection request, relative to all other pending valid interconnection requests, that is established based upon the date and time of receipt of the valid interconnection request by the EDC.

"Radial Distribution Circuit" means a circuit configuration where independent feeders branch out radially from a common source of supply. From the standpoint of a utility system, the area described is between the generating source or intervening substations and the customer's entrance equipment. A radial distribution system is the most common type of connection between a utility and load in which power flows in one direction from the utility to the load.

"Scoping Meeting" means a meeting between representatives of the interconnection customer and EDC conducted for the purpose of discussing alternative interconnection options, exchanging information including any electric distribution system data and earlier study evaluations that would be reasonably expected to impact interconnection options, analyzing information, and determining the potential feasible points of interconnection.

"Secondary Line" means a service line subsequent to the primary line that is rated for six hundred (600) volts or less, also referred to as the customer's service line.

"Shared Transformer" means a transformer that supplies secondary source voltage to more than one customer.

"Small Generator Facility" means the equipment used by an interconnection customer to generate or store electricity that operates in parallel with the electric distribution system and, for the purposes of this standard, is rated at twenty (20) MW or less. A small generator facility typically includes an electric generator, Energy Storage, prime mover, and the interconnection equipment required to safely interconnect with the electric distribution system or local electric power system.

"Spot Network" means a type of electric distribution system that uses two or more inter-tied transformers to supply an electrical network circuit. A spot network is generally used to supply power to a single customer or a small group of customers. Spot network has the same meaning as the term

distribution secondary spot networks defined in 4.1.4.2 of IEEE Standard 1547.

"Standard Agreement for Interconnection of Small Generator Facilities, Interconnection Agreement, or Agreement" means a set of standard forms of interconnection agreements approved by the Commission which are applicable to interconnection requests pertaining to small generating facilities. The agreement between the Interconnection Customer and the EDC, which governs the connection of the Small Generator Facility to the EDC's Electric Distribution System, as well as the ongoing operation of the Small Generator Facility after it is connected to the EDC's Electric Distribution System.

"UL Standard 1741" means Underwriters Laboratories' standard titled "'Inverters Converters, and Controllers for Use in Independent Power Systems," as amended and supplemented at the time the interconnection request is submitted.

"Witness Test" means verification (either by an on-site observation or review of documents) by the EDC that the installation evaluation required by IEEE Standard 1547 Section 5.3 and the commissioning test required by IEEE Standard 1547 Section 5.4 have been adequately performed. For interconnection equipment that has not been certified, the witness test shall also include the verification by the EDC of the on-site design tests as required by IEEE Standard 1547 Section 5.1 and verification by the EDC of production tests required by IEEE Standard 1547 Section 5.2. All tests verified by the EDC are to be performed in accordance with the applicable test procedures specified by IEEE Standard 1547.1.

3. All persons interested in commenting on content of this NOPR are invited to submit written comments and reply comments no later than twenty (20) and fifteen (15) days, respectively, after the publication of this NOPR in the *D.C. Register*. Written comments should be filed with: Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005, submitted via email to psc-commissionsecretary@dc.gov, or through the Commission's website at: http://edocket.dcpsc.org/comments/submitpubliccomments.asp. Persons with questions concerning this Notice should call (202) 626-5150.

DISTRICT OF COLUMBIA SMALL GENERATOR INTERCONNECTION RULE
LEVEL 2-4
STANDARD AGREEMENT FOR INTERCONNECTION OF SMALL GENERATOR FACILITIES

This Agreement is made and entered into this ___ day of _____, by and between _____, a _____ organized and existing under the laws of _____, (''Interconnection Customer,'') and _____, a _____, existing under the laws of _____, (''EDC''). The Interconnection Customer and the EDC each may be referred to as a ''Party,'' or collectively as the ''Parties.''

Recitals:

Whereas, Interconnection Customer is proposing to, install or direct the installation of a Small Generator Facility, or is proposing a generating capacity addition to an existing Small Generator Facility, consistent with the Interconnection Request completed by Interconnection Customer on _____; and

Whereas, the Interconnection Customer will operate and maintain, or cause the operation and maintenance of the Small Generator Facility; and

Whereas, Interconnection Customer desires to interconnect the Small Generator Facility with the EDC's Electric Distribution System.

Now, therefore, in consideration of the promises and mutual covenants set forth herein, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties covenant and agree as follows:

Article 1. Scope and Limitations of Agreement

1.1 This Agreement shall be used for all approved Level 2, Level 3 and Level 4 Interconnection Requests according to the procedures set forth in the District of Columbia Small Generator Interconnection Rules.

1.2 This Agreement governs the terms and conditions under which the Small Generator Facility will interconnect to, and operate in Parallel with, the EDC's Electric Distribution System.

1.3 This Agreement does not constitute an agreement to purchase or deliver the Interconnection Customer's power.

1.4 Nothing in this Agreement is intended to affect any other agreement between the EDC and the Interconnection Customer. However, in the event that the provisions of this Agreement are in conflict with the provisions of the EDC's tariff, the EDC

tariff shall control.

1.5 Responsibilities of the Parties

1.5.1 The Parties shall perform all obligations of this Agreement in accordance with all Applicable Laws and Regulations.

1.5.2 The EDC shall construct, own, operate, and maintain its Interconnection Facilities in accordance with this Agreement, IEEE Standard 1547, the National Electrical Safety Code and applicable standards promulgated by the District of Columbia Public Service Commission.

1.5.3 The Interconnection Customer shall construct, own, operate, and maintain its Interconnection Facilities in accordance with this Agreement, IEEE Standard 1547, the National Electrical Code and applicable standards promulgated by the District of Columbia Public Service Commission.

1.5.4 Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for the facilities that it now or subsequently may own unless otherwise specified in the attachments to this Agreement. Each Party shall be responsible for the safe installation, maintenance, repair and condition of their respective lines and appurtenances on their respective sides of the Point of Common Coupling.

1.5.5 The Interconnection Customer agrees to design, install, maintain and operate its Small Generator Facility so as to minimize the likelihood of causing an Adverse System Impact on an electric system that is not owned or operated by the EDC.

1.6 Metering

The Interconnection Customer shall be responsible for the cost of the purchase, installation, operation, maintenance, testing, repair, and replacement of metering and data acquisition equipment specified in Attachments 4 and 5 of this Agreement.

1.7 Reactive Power

The Interconnection Customer shall design its Small Generator Facility to maintain a composite power delivery at continuous rated power output at the Point of common coupling at a power factor within the power factor range required by the EDC's applicable tariff for a comparable load customer. The EDC may also require the Interconnection Customer to follow a voltage or VAR schedule if such schedules are applicable to similarly situated generators in the control area on a comparable basis and have been approved by the Commission. The specific requirements for meeting a voltage or VAR schedule shall be clearly specified in

Attachment 3. Under no circumstance shall these additional requirements for reactive power or voltage support exceed the normal operating capabilities of the Small Generator Facility.

1.8 Capitalized Terms

Capitalized terms used herein shall have the meanings specified in the Definitions section of the District of Columbia Small Generator Interconnection Rules or the body of this Agreement.

Article 2. Inspection, Testing, Authorization, and Right of Access

2.1 Equipment Testing and Inspection

The Interconnection Customer shall test and inspect its Small Generator Facility including the Interconnection Equipment prior to interconnection in accordance with IEEE Standard 1547, IEEE Standard 1547.1, and the technical and procedural requirements in the District of Columbia Small Generator Interconnection Rule. The Interconnection Customer shall not operate its Small Generator Facility in Parallel with the EDC's Electric Distribution System without prior written authorization by the EDC as provided for in Articles 2.1.1 – 2.1.3.

2.1.1 The EDC shall have the option of performing a Witness Test after construction of the small generator facility is completed. The Interconnection Customer shall provide the EDC at least twenty (20) days' notice of the planned Commissioning Test for the small generator facility. If the EDC elects to perform a Witness Test, it shall contact the Interconnection Customer to schedule the Witness Test at a mutually agreeable time within ten (10) business days of the scheduled commissioning test. If the EDC does not perform the Witness Test within ten (10) business days of the commissioning test, the Witness Test is deemed waived unless the parties mutually agree to extend the date for scheduling the Witness Test. If the witness test fails to reveal that all equipment has been appropriately installed and that all electrical connections have been made in accordance with applicable codes, the EDC shall offer to redo the witness test at the interconnection customer's expense at a time mutually agreeable to the parties. If the EDC determines that the small generator facility fails the inspection it must provide a written explanation detailing the reasons and any standards violated. If the EDC does not perform the Witness Test within ten (10) business days or other time as is mutually agreed to by the parties, the Witness Test is deemed waived. After considering the "redo" option, if the Witness Test is still not acceptable to the EDC, the Interconnection Customer will be granted a period of thirty (30) calendar days to address and resolve any deficiencies. The time period for addressing and resolving any deficiencies

may be extended upon the mutual agreement of the EDC and the Interconnection Customer. If the Interconnection Customer fails to address and resolve the deficiencies to the satisfaction of the EDC, the applicable termination provisions of Article 3.3.7 shall apply. If a Witness Test is not performed by the EDC or an entity approved by the EDC, the Interconnection Customer must still satisfy the interconnection test specifications and requirements set forth in IEEE Standard 1547 Section 5. The Interconnection Customer shall, if requested by the EDC, provide a copy of all documentation in its possession regarding testing conducted pursuant to IEEE Standard 1547.1.

2.1.2 To the extent that the Interconnection Customer decides to conduct interim testing of the Small Generator Facility prior to the Witness Test, it may request that the EDC observe these tests and that these tests be deleted from the final Witness Test. The EDC may, at its own expense, send qualified personnel to the Small Generator Facility to observe such interim testing. Nothing in this Section 2.1.2 shall require the EDC to observe such interim testing or preclude the EDC from performing these tests at the final Witness Test. Regardless of whether the EDC observes the interim testing, the Interconnection Customer shall obtain permission in advance of each occurrence of operating the Small Generator Facility in parallel with the EDC's system.

2.1.3 Upon successful completion of the Witness Test, the EDC shall affix an authorized signature to the Certificate of Completion and return it to the Interconnection Customer approving the interconnection and authorizing Parallel Operation. Such authorization shall not be unreasonably withheld, conditioned, or delayed.

2.2 Commercial Operation

The interconnection customer shall not operate the Small Generator Facility, except for interim testing as provided in Article 2.1, until such time as the Certificate of Completion is signed by all Parties.

2.3 Right of Access

The EDC shall have access to the disconnect switch and metering equipment of the Small Generator Facility at all times. The EDC shall provide reasonable notice to the customer when possible prior to using its right of access.

Article 3. Effective Date, Term, Termination, and Disconnection

3.1 Effective Date

This Agreement shall become effective upon execution by the Parties.

3.2 Term of Agreement

This Agreement shall become effective on the Effective Date and shall remain in effect in perpetuity unless terminated earlier in accordance with Article 3.3 of this Agreement.

3.3 Termination

No termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination.

3.3.1 The Interconnection Customer may terminate this Agreement at any time by giving the EDC thirty (30) calendar days prior written notice.

3.3.2 Either Party may terminate this Agreement after default pursuant to Article 6.5.

3.3.3 The EDC may terminate upon sixty (60) calendar days' prior written notice for failure of the Interconnection Customer to complete construction of the Small Generator Facility within twelve (12) months of the in-service date as specified by the Parties in Attachment 1, which may be extended by mutual agreement of the Parties which shall not be unreasonably withheld.

3.3.4 The EDC may terminate this Agreement upon sixty (60) calendar days' prior written notice if the Interconnection Customer fails to operate the Small Generator Facility in parallel with EDC's electric system for three consecutive years.

3.3.5 Upon termination of this Agreement, the Small Generator Facility will be disconnected from the EDC's Electric Distribution System. The termination of this Agreement shall not relieve either Party of its liabilities and obligations, owed or continuing at the time of the termination.

3.3.6 The provisions of this Article shall survive termination or expiration of this Agreement.

3.3.7 The EDC may terminate this Agreement if the Interconnection Customer fails to comply with the Witness Test requirement in Article 2.2.1.

3.4 Temporary Disconnection

A Party may temporarily disconnect the Small Generator Facility from the Electric Distribution System in the event of an Emergency Condition for as long as the Party determines it is reasonably necessary in the event one or more of the following conditions or events occurs:

3.4.1 Emergency Conditions - Emergency Conditions shall mean any condition or situation: (1) that in the judgment of the Party making the claim is reasonably likely to endanger life or property; or (2) that, in the case of the EDC, is reasonably likely to cause an Adverse System Impact; or (3) that, in the case of the Interconnection Customer, is reasonably likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Small Generator Facility or the Interconnection Equipment. Under Emergency Conditions, the EDC or the Interconnection Customer may immediately suspend interconnection service and temporarily disconnect the Small Generator Facility. The EDC shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Interconnection Customer's operation of the Small Generator Facility. The Interconnection Customer shall notify the EDC promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the EDC's Electric Distribution System. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of both Parties' facilities and operations, its anticipated duration, and the necessary corrective action.

3.4.2 Scheduled Maintenance, Construction, or Repair – The EDC may interrupt interconnection service or curtail the output of the Small Generator Facility and temporarily disconnect the Small Generator Facility from the EDC's Electric Distribution System when necessary for scheduled maintenance, construction, or repairs on the EDC's Electric Distribution System. The EDC shall provide the Interconnection Customer with five business days' notice prior to such interruption. The EDC shall use reasonable efforts to coordinate such reduction or temporary disconnection with the Interconnection Customer.

3.4.3 Forced Outages - With any forced outage, the EDC may suspend interconnection service to effect immediate repairs on the EDC's Electric Distribution System. The EDC shall use reasonable efforts to provide the Interconnection Customer with prior notice. If prior notice is not given, the EDC shall, upon written request, provide the Interconnection Customer written documentation after the fact explaining the circumstances of the disconnection.

3.4.4 Adverse Operating Effects – The EDC shall provide the Interconnection Customer with a written notice of its intention to disconnect the Small Generator Facility if, based on the operating requirements specified in Attachment 3, the EDC determines that operation of the Small Generator Facility will likely cause disruption or deterioration of service to other customers served from the same electric system, or if operating the Small Generator Facility could cause damage to the EDC's Electric Distribution

System. Supporting documentation used to reach the decision to disconnect shall be provided to the Interconnection Customer upon written request. The EDC may disconnect the Small Generator Facility if, after receipt of the notice, the Interconnection Customer fails to remedy the adverse operating effect within a reasonable time unless Emergency Conditions exist in which case the provisions of Article 3.4.1 apply.

3.4.5 Modification of the Small Generator Facility - The interconnection customer shall provide written notification to the EDC before making any modifications to the small generator facility. The EDC will determine if the modifications are minor or non-minor in nature. Written authorization from the EDC is required for non-minor changes if the EDC determines that the interconnection customer's modifications could cause an Adverse System Impact. If the interconnection customer makes such modifications without the EDC's prior written authorization the EDC shall have the right to temporarily disconnect the small generator facility until such time as the EDC reasonably concludes the modification poses no threat to the safety or reliability of its electric distribution system.

3.4.6 Reconnection - The Parties shall cooperate with each other to restore the Small Generator Facility, Interconnection Facilities, and EDC's Electric Distribution System to their normal operating state as soon as reasonably practicable following any disconnection pursuant to this section; provided, however, if such disconnection is done pursuant to Article 3.4.5 due to the Interconnection Customer's failure to obtain prior written authorization from the EDC for Non- Minor Equipment Modifications, the EDC shall reconnect the Interconnection Customer only after determining the modifications do not impact the safety or reliability of its Electric Distribution System.

Article 4. Cost Responsibility for Interconnection Facilities and Distribution Upgrades

4.1 Interconnection Facilities

4.1.1 The Interconnection Customer shall pay for the cost of the Interconnection Facilities itemized in Attachment 2 of this Agreement if required under the additional review procedures of a Level 2 review or under a Level 4 review. If a Facilities Study was performed, the EDC shall identify the Interconnection Facilities necessary to safely interconnect the Small Generator Facility with the EDC's Electric Distribution System, the cost of those facilities, and the time required to build and install those facilities.

4.1.2 The Interconnection Customer shall be responsible for its expenses, including overheads, associated with (1) owning, operating, maintaining, repairing, and replacing its Interconnection Equipment, and (2) its

reasonable share of operating, maintaining, repairing, and replacing any Interconnection Facilities owned by the EDC as set forth in Attachment 2.

4.2 Distribution Upgrades

The EDC shall design, procure, construct, install, and own any Distribution Upgrades. The actual cost of the Distribution Upgrades, including overheads, shall be directly assigned to the Interconnection Customer. The Interconnection Customer may be entitled to financial contribution from any other EDC customers who may in the future utilize the upgrades paid for by the Interconnection Customer. Such contributions shall be governed by the rules, regulations and decisions of the District of Columbia Public Service Commission.

Article 5. Billing, Payment, Milestones, and Financial Security

5.1 Billing and Payment Procedures and Final Accounting (Applies to additional reviews conducted under Levels 2, 3 or 4)

5.1.1 The EDC shall bill the Interconnection Customer for the design, engineering, construction, and procurement costs of the EDC provided Interconnection Facilities and Distribution Upgrades contemplated by this Agreement as set forth in Attachment 2, on a monthly basis, or as otherwise agreed by the Parties. The Interconnection Customer shall pay each bill within thirty (30) calendar days of receipt, or as otherwise agreed to by the Parties.

5.1.2 Within ninety (90) calendar days of completing the construction and installation of the EDC's Interconnection Facilities and Distribution Upgrades described in the Attachments 1 and 2 to this Agreement, the EDC shall provide the Interconnection Customer with a final accounting report of any difference between (1) the actual cost incurred to complete the construction and installation and the budget estimate provided to the Interconnection Customer and a written explanation for any significant variation; and (2) the Interconnection Customer's previous deposit and aggregate payments to the EDC for such Interconnection Facilities and Distribution Upgrades. If the Interconnection Customer's cost responsibility exceeds its previous deposit and aggregate payments, the EDC shall invoice the Interconnection Customer for the amount due and the Interconnection Customer shall make payment to the EDC within thirty (30) calendar days. If the Interconnection Customer's previous deposit and aggregate payments exceed its cost responsibility under this Agreement, the EDC shall refund to the Interconnection Customer an amount equal to the difference within thirty (30) calendar days of the final accounting report.

5.1.3 If a Party in good faith disputes any portion of its payment obligation pursuant to this Article 5, such Party shall pay in a timely manner all non-disputed portions of its invoice, and such disputed amount shall be resolved pursuant to the dispute resolution provisions contained in Article 8. Provided such Party's dispute is in good faith, the disputing Party shall not be considered to be in default of its obligations pursuant to this Article.

5.2 Interconnection Customer Deposit

When a Level 4 Interconnection Feasibility Study, Interconnection System Impact Study, or Interconnection Facility Study or a Level 2 Review of Minor Modifications is required under the District of Columbia Small Generator Interconnection Rules, the EDC may require the Interconnection Customer to pay a deposit equal to fifty percent (50%) of the estimated cost to perform the study or review. At least twenty (20) business days prior to the commencement of the design, procurement, installation, or construction of a discrete portion of the EDC's Interconnection Facilities and Distribution Upgrades, the Interconnection Customer shall provide the EDC with a deposit equal to fifty percent (50%) of the estimated costs prior to its beginning design of such facilities, provided the total cost is in excess of one thousand dollars ($1,000).

Article 6. Assignment, Limitation on Damages, Indemnity, Force Majeure, and Default

6.1 Assignment

This Agreement may be assigned by either Party upon fifteen (15) business days' prior written notice, and with the opportunity to object by the other Party. Should the Interconnection Customer assign this agreement, the EDC has the right to request that the assignee agree to the assignment and the terms of this Agreement in writing. When required, consent to assignment shall not be unreasonably withheld; provided that:

6.1.1 Either Party may assign this Agreement without the consent of the other Party to any affiliate (which shall include a merger of the Party with another entity), of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement;

6.1.2 The Interconnection Customer shall have the right to assign this Agreement, without the consent of the EDC, for collateral security purposes to aid in providing financing for the Small Generator Facility. For Small Generator systems that are integrated into a building facility, the sale of the building or property will result in an automatic transfer of this agreement to the new owner who shall be responsible for complying with the terms and conditions of this Agreement.

6.1.3 Any attempted assignment that violates this Article is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. An assignee is responsible for meeting the same obligations as the Interconnection Customer.

6.2 Limitation on Damages

Except for cases of gross negligence or willful misconduct, the liability of any Party to this Agreement shall be limited to direct actual damages, and all other damages at law are waived. Under no circumstances, except for cases of gross negligence or willful misconduct, shall any Party or its directors, officers, employees and agents, or any of them, be liable to another Party, whether in tort, contract or other basis in law or equity for any special, indirect, punitive, exemplary or consequential damages, including lost profits, lost revenues, replacement power, cost of capital or replacement equipment. This limitation on damages shall not affect any Party's rights to obtain equitable relief, including specific performance, as otherwise provided in this Agreement. The provisions of this Article 6.2 shall survive the termination or expiration of the Agreement.

6.3 Indemnity

6.3.1 This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Article 6.2.

6.3.2 The Parties shall at all times indemnify, defend, and hold the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or failure to meet its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

6.3.3 Promptly after receipt by an indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Article may apply, the indemnified Party shall notify the indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

6.3.4 If an indemnified Party is entitled to indemnification under this Article as a result of a claim by a third party, and the indemnifying Party fails, after

notice and reasonable opportunity to proceed under this Article, to assume the defense of such claim, such indemnified Party may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

6.3.5 If an indemnifying Party is obligated to indemnify and hold any indemnified Party harmless under this Article, the amount owing to the indemnified person shall be the amount of such indemnified Party's actual loss, net of any insurance or other recovery.

6.4 Force Majeure

6.4.1 As used in this Article, a Force Majeure Event shall mean any act of God, labor disturbance, act of the public enemy, war, acts of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment through no direct, indirect, or contributory act of a Party, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure Event does not include an act of gross negligence or intentional wrongdoing.

6.4.2 If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the Force Majeure Event (Affected Party) shall promptly notify the other Party of the existence of the Force Majeure Event. The notification must specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the Affected Party is taking and will take to mitigate the effects of the event on its performance, and if the initial notification was verbal, it should be promptly followed up with a written notification. The Affected Party shall keep the other Party informed on a continuing basis of developments relating to the Force Majeure Event until the event ends. The Affected Party shall be entitled to suspend or modify its performance of obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the Force Majeure Event cannot be reasonably mitigated. The Affected Party shall use reasonable efforts to resume its performance as soon as possible.

6.5 Default

6.5.1 No default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure Event as defined in this Agreement, or the result of an act or omission of the other Party.

6.5.2 Upon a default of this Agreement, the non-defaulting Party shall give written notice of such default to the defaulting Party. Except as provided

in Article 6.5.3 the defaulting Party shall have sixty (60) calendar days from receipt of the default notice within which to cure such default; provided however, if such default is not capable of cure within 60 calendar days, the defaulting Party shall commence such cure within twenty (20) calendar days after notice and continuously and diligently complete such cure within six months from receipt of the default notice; and, if cured within such time, the default specified in such notice shall cease to exist.

6.5.3 If a Party has made an assignment of this Agreement not specifically authorized by Article 6.1, fails to provide reasonable access pursuant to Article 2.3, is in default of its obligations pursuant to Article 7, or if a Party is in default of its payment obligations pursuant to Article 5 of this Agreement, the defaulting Party shall have thirty (30) days from receipt of the default notice within which to cure such default.

6.5.4 If a default is not cured as provided for in this Article, or if a default is not capable of being cured within the period provided for herein, the non-defaulting Party shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article will survive termination of this Agreement.

Article 7. Insurance

For Small generator facilities, the Interconnection Customer shall carry adequate insurance coverage that shall be acceptable to the EDC; provided, that the maximum comprehensive/general liability coverage that shall be continuously maintained by the Interconnection Customer during the term for non-inverter based systems 500 kW up to 2 MW shall have one million dollars ($1 million) of insurance, two million dollars ($2 million) for non-inverter based systems larger than 2 MW up to 5 MW, and three million dollars ($3 million) for non-inverter systems larger than 5 MW. For inverter-based generating facilities, systems between 1 MW and 5 MW have $1 million of insurance and systems larger than 5 MW have $2 million of insurance. The EDC, its officers, employees and agents will be added as an additional insured on this policy.

Article 8. Dispute Resolution

8.1 A party shall attempt to resolve all disputes regarding interconnection as provided in this Agreement and the District of Columbia Small Generator Interconnection Rule promptly, equitably, and in a good faith manner.

8.2 When a dispute arises, a party may seek immediate resolution through complaint procedures available through the Commission, or an alternative dispute resolution process approved by the Commission, by providing written notice to the Commission and the other party stating the issues in dispute. Dispute resolution will be conducted in an informal, expeditious manner to reach resolution with minimal costs and delay. When available, dispute resolution may be conducted by phone.

8.3 When disputes relate to the technical application of this Agreement and the District of Columbia Small Generator Interconnection Rule, the Commission may designate a technical consultant to resolve the dispute. Upon Commission designation, the parties shall use the technical consultant to resolve disputes related to interconnection. Costs for a dispute resolution conducted by the technical consultant shall be established by the technical consultant, subject to review by the Commission.

8.4 Pursuit of dispute resolution may not affect an Interconnection Customer with regard to consideration of an Interconnection Request or an Interconnection Customer's queue position.

8.5 If the Parties fail to resolve their dispute under the dispute resolution provisions of this Article, nothing in this Article shall affect any Party's rights to obtain equitable relief, including specific performance, as otherwise provided in this Agreement.

Article 9. Miscellaneous

9.1 Governing Law, Regulatory Authority, and Rules

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the District of Columbia, without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations.

9.2 Amendment

Modification of this Agreement shall be only by a written instrument duly executed by both Parties.

9.3 No Third-Party Beneficiaries

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

9.4 Waiver

9.4.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement shall not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

9.4.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from EDC. Any waiver of this Agreement shall, if requested, be provided in writing.

9.5 Entire Agreement

This Agreement, including all attachments, constitutes the entire Agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants that constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

9.6 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

9.7 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

9.8 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to

restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

9.9 Environmental Releases

Each Party shall notify the other Party, first orally and then in writing, of the release any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Small Generator Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (1) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four (24) hours after such Party becomes aware of the occurrence, and (2) promptly furnish to the other Party copies of any publicly available reports filed with any governmental authorities addressing such events.

9.10 Subcontractors

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

9.10.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

9.10.2 The obligations under this Article will not be limited in any way by any limitation of subcontractor's insurance.

Article 10. Notices

10.1 General

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

If to Interconnection Customer:

Interconnection Customer: _____
Attention: _____
Address: _____
City: _____ State:_____ Zip:_____
Phone: _____ Fax: _____ E-mail_____

If to EDC:

EDC_____
Attention: _____
Address: _____

City: _____ State:_____ Zip:_____
Phone: _____ Fax: _____E-mail_____

10.2 Billing and Payment

Billings and payments shall be sent to the addresses set forth below:

If to Interconnection Customer:

Interconnection Customer: _____
Attention: _____
Address: _____
City: _____ State:_____ Zip:_____

If to EDC

EDC: _____
Attention: _____
Address: _____
City: _____ State:_____ Zip:_____

10.3 Designated Operating Representative

The Parties may also designate operating representatives to conduct the communications which may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

Interconnection Customer's Operating Representative:

Attention: _____

Address: _____

City: _____ State:_____ Zip:_____
Phone: _____ Fax: _____E-Mail_____

EDC's Operating Representative:

Attention: _____

Address: _____

City: _____ State:_____ Zip:_____

Phone: _____ Fax: _____ E-Mail_____

10.4 Changes to the Notice Information

Either Party may change this notice information by giving five business days written notice prior to the effective date of the change.

Article 11. Signatures

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the Interconnection Customer:

Name: _____

Title: _____

Date: _____

For EDC:

Name: _____

Title: _____

Date: _____

ATTACHMENT 1

CONSTRUCTION SCHEDULE, PROPOSED EQUIPMENT & SETTINGS

This attachment shall include the following:

1. The construction schedule for the Small Generator Facility
2. A one-line diagram indicating the Small Generator Facility, Interconnection Equipment, Interconnection Facilities, Metering Equipment, and Distribution Upgrades
3. Component specifications for equipment identified in the one-line diagram
4. Component settings
5. Proposed sequence of operations

ATTACHMENT 2

DESCRIPTION, COSTS AND TIME REQUIRED TO BUILD AND INSTALL THE EDC'S INTERCONNECTION FACILITIES

The EDC's Interconnection Facilities including any required metering shall be itemized and a best estimate of itemized costs, including overheads, shall be provided based on the Facilities Study.

Also, a best estimate for the time required to build and install the EDC's Interconnection Facilities will be provided based on the Facilities Study.

ATTACHMENT 3

OPERATING REQUIREMENTS FOR SMALL GENERATOR FACILITIES OPERATING IN PARALLEL

Applicable sections of the EDC's operating manuals applying to the small generator interconnection shall be listed and Internet links shall be provided. Any special operating requirements not contained in the EDC's existing operating manuals shall be clearly identified. The EDC's operating requirements shall not impose additional technical or procedural requirements on the small generator facility beyond those found in the District of Columbia Small Generator Interconnection Rules, except those required for safety.

ATTACHMENT 4

METERING REQUIREMENTS

Metering requirements for the Small Generator Facility shall be clearly indicated along with an identification of the appropriate tariffs that establish these requirements and an internet link to these tariffs.

ATTACHMENT 5

AS BUILT DOCUMENTS

After completion of the Small Generator Facility, the Interconnection Customer shall provide the EDC with documentation indicating the as built status of the following when it returns the Certificate of Completion to the EDC:

1. A one-line diagram indicating the Small Generator Facility, Interconnection Equipment, Interconnection Facilities, Metering Equipment, and Distribution Upgrades
2. Component specifications for equipment identified in the one-line diagram
3. Component settings
4. Proposed sequence of operations

LEVEL 2, LEVEL 3 AND LEVEL 4

INTERCONNECTION REQUEST APPLICATION FORM

Interconnection Customer Contact Information

Name_____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Mobile): _____

Facsimile Number: _____ E-Mail Address: _____

Alternative Contact Information (if different from Customer Contact Information)

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Mobile): _____

Facsimile Number: _____ E-Mail Address: _____

Facility Address (Building where the small generator facility is located)

Address: _____

City: _____ State: _____ Zip Code: _____

Equipment Contractor

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Mobile): _____

Facsimile Number: _____ E-Mail Address: _____

Electrical Contractor (if Different from Equipment Contractor):

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Mobile): _____

Facsimile Number: _____ E-Mail Address: _____

License number: _____

Active License? Yes ___ No ___

Electric Service Information for Customer Facility Where Generator Will Be Interconnected

Electric Distribution Company (EDC) serving Facility site: _____

Electric Supplier (if different from EDC):_____

Account Number of Facility site (existing EDC customers): _____

Capacity: _____(Amps) Voltage: _____(Volts)

Type of Service: ☐ Single Phase ☐ Three Phase

If 3 Phase Transformer, Indicate Type

Primary Winding ☐ Wye ☐ Delta

Secondary Winding ☐ Wye ☐ Delta

Transformer Size:_____ Impedance: _____

Intent of Generation (choose one)

☐ Offset Load (Unit will operate in parallel, but will not export power to EDC.)

☐ Net Energy Metering (Small generator facility will export power pursuant to District of Columbia Customer Net Energy Metering Contract.)

☐ Community Net Metering (interconnection with EDC).

☐ Export Power (Unit will operate in parallel and will export power, but does not fit the criteria established in the District of Columbia Customer Net Energy Metering Contract for net metering.)

Note: if Unit will operate in parallel and participate in the PJM market(s), unit will need to obtain an interconnection agreement from PJM.

☐ Back-up Generation (Units that temporarily parallel for more than 100 milliseconds.)

Backup units that do not operate in parallel for more than 100 milliseconds do not need an interconnection agreement.

Requested Procedure Under Which to Evaluate Interconnection Request
Please indicate below which review procedure applies to the interconnection request.

☐ **Level 2 -** Certified interconnection equipment with an aggregate electric nameplate capacity less than or equal to 5 MW. Indicate type of certification below. (Application fee amount is $500.)

☐ **Level 3 –** Small generator facility does not export power. Nameplate capacity rating is equal to or less than 15 MW if connecting to a radial distribution feeder. An interconnection customer proposing to interconnect a small generator to a spot or area network is not permitted under the Level 3 review process. (Application fee amount is $500.)

☐ **Level 4 –** Nameplate capacity rating is less than 15 MW and the small generator facility does not qualify for a Level 1, Level 2 or Level 3 review or, the small generator facility has been reviewed but not approved under a Level 1, Level 2 or Level 3 review. (Application fee amount is $1,000, to be applied toward any subsequent studies related to this application.)

For Level 1, 2, 3 applications before EDC's considering a Level 4 review, the applicant can request a meeting based on "Applicant Options Meeting" section of Chapter 40.

Descriptions for interconnection review categories do not list all criteria that must be satisfied. For a complete list of criteria, please refer to the District of Columbia Small Generator Interconnection Rules.

Small Generator Facility Information

Energy Production Equipment/Inverter Information

Energy Source: ☐ Hydro ☐ Wind ☐ Solar ☐ Diesel ☐ Biomass ☐ Natural Gas

☐ Coal ☐ Oil ☐ Other _____

Energy Converter Type: ☐ Water Turbine ☐ Wind Turbine ☐ Photovoltaic Cell ☐ Steam Turbine ☐ Combustion Turbine ☐ Reciprocating Engine

☐ Other _____

Generator Type: ☐ Synchronous ☐ Induction ☐ Inverter ☐ Other _____

Rating: _____ kW Rating: _____ kVA Number of Units: _____

Rated Voltage: _____Volts

Rated Current: _____Amps

System Type Tested (Total System): ☐ Yes ☐ No; attach product literature

Interconnection components/system(s) to be used in the Small Generation Facility that are lab certified (required for Level 2 and Level 3 Interconnection requests only).

Component/System NRTL Providing Label & Listing
1._____
2._____
3._____
4._____
Please provide copies of manufacturer brochures or technical specifications.

For Synchronous Machines:

Note: Contact EDC to determine if all the information requested in this section is required for the proposed small generator facility.

Manufacturer: _____
Model No. _____ Version No. _____
Submit copies of the Saturation Curve and the Vee Curve
☐ Salient ☐ Non-Salient
Torque: _____ lb-ft Rated RPM: _____ Field Amperes: _____ at rated generator voltage and current and _____% PF over-excited
Type of Exciter: _____
Output Power of Exciter: _____
Type of Voltage Regulator: _____ Locked Rotor Current: _____ Amps Synchronous Speed: _____RPM
Winding Connection: _____ Min. Operating Freq./Time: _____
Generator Connection: ☐ Delta ☐ Wye ☐ Wye Grounded
Direct-axis Synchronous Reactance (Xd) _____ohms
Direct-axis Transient Reactance (X'd) _____ohms
Direct-axis Sub-transient Reactance (X"d) _____ohms
Negative Sequence Reactance: _____ ohms
Zere Sequence Reactance: _____ ohms
Neutral Impedance or Grounding Resister (if any): _____ ohms

For Induction Machines:

Note: Contact EDC to determine if all the information requested in this section is required for the proposed small generator facility.

Manufacturer: _____
Model No. _____ Version No. _____
Locked Rotor Current: _____ Amps
Rotor Resistance (Rr)_____ohms Exciting Current ____Amps
Rotor Reactance (Xr)_____ohms Reactive Power Required: _____
Magnetizing Reactance (Xm)_____ohms ___VARs (No Load)
Stator Resistance (Rs)_____ohms ___VARs (Full Load)
Stator Reactance (Xs)_____ohms

Short Circuit Reactance (X"d)_____ohms
Phases: ☐ Single ☐ Three-Phase
Frame Size: _____ Design Letter: ____ Temp. Rise: _____°C.

Reverse Power Relay Information (Level 3 Review Only)
Manufacturer: _____
Relay Type: _____ Model Number: _____
Reverse Power Setting: _____
Reverse Power Time Delay (if any): _____

Additional Information For Inverter Based Facilities
Inverter Information:
Manufacturer:_____ Model: _____
Type: ☐ Forced Commutated ☐ Line Commutated
Rated Output _____ Watts _____ Volts
Efficiency _____% Power Factor _____%
Inverter UL1547 Listed: ☐ Yes ☐ No

D.C. Source / Prime Mover:
Rating: _____ kW Rating: _____ kVA
Rated Voltage: _____Volts
Open Circuit Voltage (If applicable): _____Volts
Rated Current: _____Amps
Short Circuit Current (If applicable): _____Amps

Other Facility Information:
One Line Diagram attached: ☐ Yes
Plot Plan attached: ☐ Yes

Estimated Commissioning Date: _____

Customer Signature
I hereby certify that all of the information provided in this application request form is true.

Interconnection Customer Signature: _____
Title: _____ Date:_____

An application fee is required before the application can be processed. Please verify that the appropriate fee is included with the application:
Application fee included ☐
Amount_____

EDC Acknowledgement

Receipt of the application fee is acknowledged and the interconnection request is complete.

EDC Signature: _____ Date: _____

Printed Name:_____Title:_____

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FOURTH 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 (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat.744; D.C. Official Code § 1-307.02 (2016 Repl. & 2017 Supp.)), and the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Chapter 45 (Medicaid Reimbursement for Federally Qualified Health Centers) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

This fourth emergency and proposed rule amends the Medicaid reimbursement methodology for a Federally Qualified Health Center (FQHC). Federal law authorizes Medicaid reimbursement of FQHCs on a Prospective Payment System (PPS) that comports with federal regulations that have been in place since 2001, or an Alternative Payment Methodology (APM) that is based on reasonable costs, subject to certain requirements. The current PPS reimbursement model has been in effect since January 1, 2001. Since that time, the number of FQHCs operating in the District, the variety of services offered, and patients served have increased.

The major components of the proposed reimbursement model include: (1) an APM for primary care services, behavioral health services, preventive, diagnostic, and comprehensive dental services; (2) a limit on reimbursement for administrative costs; (3) an additional payment based upon performance of each FQHC beginning in January 2018; and (4) a new PPS reimbursement model for new providers that enroll in the Medicaid program after the effective date of the corresponding SPA. These rules set forth the standards for participation in the Medicaid program, the standards used to develop the PPS, APM, cost reporting and auditing processes, and establish the requirements for Medicaid reimbursement of FQHCs for Medicaid-reimbursable services that are outside the scope of core services that qualify for APM rates. DHCF projects an increase in aggregate expenditures of approximately $151,000 in Fiscal Year (FY) 2016 and $2,507,000 in FY 2017.

An initial Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on August 5, 2016, at 63 DCR 010227. Two (2) sets of comments were received and a number of substantive changes were made. A Notice of Second Emergency and Proposed Rulemaking was adopted on November 19, 2016 and published in the *D.C. Register* on December 2, 2016, at 63 DCR 014902. Two (2) sets of comments were received from FQHC stakeholders and DHCF made a number of substantive changes to the rules in response to the comments. A Notice of Third Emergency and Proposed Rulemaking was adopted on March 16, 2017 and published in the *D.C. Register* on March 31, 2017 at 64 DCR 003175. Comments were received from the D.C. Primary Care Association (DCPCA). DHCF carefully considered all comments received and substantive changes were made as appropriate, as detailed below.

Scope of Covered Primary Care Services

DCPCA alleged that reimbursing "other ambulatory services" at a fee-for-service rate instead of the PPS rate and the four APM rates, described in Sections 4502 (PPS), 4503 (Primary Care Services), 4504 (Behavioral Health Services), 4505 (Preventive and Diagnostic Dental Services), and 4506 (Comprehensive Dental Services), is contrary to the requirements of § 1902(bb) of the Social Security Act. Section 1902(bb)(1) requires that states reimburse for FQHC services described in Section 1905(a)(2)(C), which requires coverage of "FQHC services (as defined in § 1902(l)(2) and any other ambulatory services offered by a FQHC and which are otherwise included in the [state] plan." Commenters assert that all of these services must be covered on a per visit basis under § 1902(bb) of the Social Security Act.

As proposed, DHCF will cover the full scope of services required under § 1902(bb)(1). Services that meet the definition of primary medical, behavioral health, preventive and diagnostic dental or comprehensive dental services will be reimbursed on a per encounter basis. All other services reimbursable under the Medicaid fee schedule that are appropriately provided in a clinic setting and not within these indicated categories, including ambulatory services, will be paid on a fee-for-service basis under the Medicaid fee schedule. DHCF believes this approach is consistent with federal requirements and other state reimbursement approaches. The language proposed in this rule mirrors language adopted by New Hampshire, which only reimburses for "other ambulatory services" (as defined in § 1905(a)(2)(B) and (C) of the Social Security Act) that are covered under the Medicaid State Plan, and provides payment according to the Medicaid fee schedule. The language indicates that ambulatory services are those outside the defined scope of services for primary medical, behavioral health or dental services that are not hospital-based and otherwise covered under the Medicaid State Plan and are reimbursable on a fee-for-service basis.

Additionally, DCPCA requested clarification on which services are eligible for reimbursement at the Prospective Payment System and Alternative Payment Methodology rates. The rule establishes the scope of covered services, both generally and specifically, in Subsections 4505.7 and 4506.7 and Sections 4507 and 4508. DHCF program staff may offer further sub-regulatory reimbursement guidance as necessary. DHCF is not proposing additional revisions at this time.

Reimbursement for Out of State Providers

DCPCA objects to payment of the District's PPS rate to out-of-state providers for services delivered to a District resident if the FQHC in question has elected to be paid the alternative payment methodology rate. DHCF received direct guidance from the Centers for Medicare and Medicaid Services (CMS) on this issue and is proposing revisions to the rule in order to align with changes made to the State Plan Amendment (SPA). Consistent with CMS direction, under the proposed rule DHCF will reimburse out-of-state FQHC providers for services delivered to District Medicaid-enrolled beneficiaries at the PPS rate for the State Medicaid Program in the state where the FQHC is geographically located. In accordance with this policy, out-of-state FQHC providers may not elect the District's proposed APM rates, which are reserved for FQHCs that are geographically located within the District's boundaries. Specifically, DHCF is

proposing amendments to Subsections 4501.2, 4503.1, 4504.1 and Section 4513 to reflect CMS guidance on reimbursement for out-of-state providers.

Reimbursement Exclusions for Allowable Costs

DCPCA requested that DHCF clarify that the cost offset does not apply to grants that are awarded by a local agency, but funded with federal dollars. DHCF has incorporated this technical clarification into the language of Subsection 4511.2. Further, DCPCA objected to the inclusion of investment income as revenue that will be offset against expenses. DHCF's position is that the inclusion of investment income as a cost offset is consistent with the underlying tenets of the cost-based payment methodology at the center of FQHC reimbursement policy. This policy is rooted in the Medicaid reimbursement principles of cost-efficiency and cost-effectiveness. DHCF is not proposing changes to this section.

Additionally, DCPCA requested clarification as to whether transportation costs associated with direct patient care may be included in allowable costs. The treatment of costs related to direct patient care is addressed in Section 4510 as enabling or incidental services. DHCF is proposing revisions to § 4511.1(c)(6) in order to clarify that transportation costs are excluded from allowable costs, except as they are provided for in Section 4510 of this rule.

Eligibility to Elect the APM Payment Rate

DCPCA objects to the lengthy time that a new FQHC or FQHC-look-alike must wait before establishing a PPS or APM rate. DCPCA interprets Subsections 4503.3, 4504.5, 4505.16, and 4506.17 as precluding new FQHC providers from establishing a PPS or APM rate for the first five (5) years of operation. Section 4512 governs reimbursement of new providers. As written, the rule indicates that a new FQHC can submit its cost report to DHCF after its first year of operation. Subsequently, DHCF will use the cost report to determine the FQHC's PPS rate that will only remain in effect until FQHC rates are rebased. Under Section 4516, no later than January 1, 2018 and every three (3) years thereafter, FQHC rates will be rebased, at which time the new provider can select to be reimbursed at the APM rate. In effect, FQHCs will only wait for two (2) to four (4) years before establishing an individualized PPS or APM rate. DHCF is not proposing further revisions to the relevant sections at this time.

Administrative Review

DCPCA requested the inclusion of language in Subsection 4519.1 to clarify that the resolution of payment rate adjustments, scope of service adjustments, or audit findings in favor of an FQHC would be applied retroactively to the date the initial adjustment was to have taken effect. DHCF agrees in part and is proposing revisions to Subsection 4519.1 of this rule in order to clarify the retroactive effect, if any, of administrative reviews. The resolution of audit findings in favor of an FQHC will be applied retroactively to the date the initial adjustment was to have taken effect. The resolution of scope of service adjustments in favor of an FQHC shall be prospective only, beginning the first day of the month following DHCF's decision on of the scope of services adjustment. The resolution of payment rate adjustments shall be retroactive to the date when DHCF received a completed request for administrative review. DHCF believes that this proposed

clarification strikes a fair balance between ensuring that FQHCs are adequately remunerated in the event of an appeal in their favor, while limiting the administrative burden associated with reprocessing a high volume of claims retroactively. This approach also encourages thorough and timely cost and scope of service reporting by FQHCs, which promotes the agency and FQHCs' interests in payment efficiency and accuracy.

Further, DCPCA requested that DHCF's determination of an FQHC's eligibility to receive a wrap-around supplemental payment be added to the scope of administrative review under Subsection 4519.2. The process for determining an FQHC's eligibility to receive a wrap-around supplemental payment is relatively straightforward and already involves a thorough review by DHCF staff. DHCF believes that the addition of an administrative review process for determining an FQHC's eligibility to receive a wrap-around supplemental payment will increase DHCF's administrative burden associated with providing timely administrative reviews without resulting in a substantial number of reversals. For these reasons, DHCF is not proposing further revisions at this time.

DCPCA also raised concerns about the process outlined for administrative review of Managed Care Organization (MCO) decisions on FQHC claims, arguing that it does not comply with their interpretation of the relevant federal statute nor is it consistent with current legal opinion and court decisions at District and Appellate level. It is DHCF's position that the rule, as written, complies with the requirements set out at 42 USC § 1396a(bb)(5)(B) and is consistent with legal guidance from CMS. DHCF further believes that the outlined process will provide a fair, consistent, and timely process for hearing and resolving disputes associated with MCO payment decisions. For these reasons, DHCF is not proposing any revisions at this time.

Finally, DHCF is adding language to Subsection 4519.3 to clarify that at the conclusion of administrative review of an MCO payment decision where DHCF finds that the MCOs decision was proper and that the FQHC is not due additional reimbursement, that DHCF will deny the FQHC's claim for reimbursement.

Revisions to Conform with State Plan Amendment Submission and CMS Requirements

DHCF is also proposing changes in this rulemaking to comport with comments received from CMS on the SPA submitted by DCHF to CMS to authorize implementation of this new reimbursement methodology. Pursuant to these comments, DHCF is proposing the following changes: (1) adding clarification in Subsections 4502.6, 4503.9, 4503.10, 4504.10, 4505.9, and 4506.10 that payments related to yearly reconciliations of wrap-around supplemental payments will be made within the two year payment requirement at 42 CFR 447.45 and 45 CFR 95, Subpart A; (2) changing from 'global' MCO payments reference to "per member per month" (PMPM) payments and adding the definition of PMPM payments discussed in Subsections 4502.7, 4503.10, 4504.11, 4505.10, and 4506.10; (3) clarifying the reasonable costs standard in 4502.2 (c) and updating the relevant federal statutory citations; (4) clarifying in Subsections 4504.3 and 4504.12 that the reimbursement rate for group psychotherapy is claimable for each beneficiary attending the group visit; (5) generally clarifying that the appropriate scope of services includes those services covered under Section 1905(a)(2) of the Social Security Act in Sections 4502 - 4508; (6) updating the policy on reimbursement of out-of-state providers

(consistent with changes noted above) in Section 4513; (7) adding language in Subsection 4501.12 to clarify that DHCF will review and reconcile the total payments made to each FQHC that elects the APM rate to ensure that the overall per encounter rate is at least equal to the PPS rate for that FQHC for the fiscal year; (8) adding the requirement that FQHCs submit their Scope of Project approved by the federal Health Resources Services Administration to DHCF in Subsection 4500.2 and generally removing the requirement that a service be in the FQHC's Scope of Project as a prerequisite for reimbursement; (9) changing 'sites and activities' to 'claims for reimbursement' in in Subsection 4500.4; (10) adding language in Subsection 4505.5 to clarify that the reference to 'all FQHCs' includes FQHCs with less than ten thousand (10,000) annual encounters; and (11) making various technical corrections.

Further substantive changes were made to the rule based on internal DHCF discussions around implementation and reimbursement policy. DHCF is proposing to classify group psychotherapy as outside the scope of covered behavioral health services. Effective September 1, 2017, the reimbursement rate for group psychotherapy will be equal to the D.C. Medicaid Fee for Service schedule rate for group psychotherapy. FQHCs seeking reimbursement for group psychotherapy shall comply with the requirements set forth under Subsection 4501.7. DHCF has worked closely with CMS to determine a reimbursement strategy that helps ensure FQHCs are adequately reimbursed for the services they provide to Medicaid beneficiaries, while also preserving limited Medicaid resources and complying with the requirements of with § 1902(bb) of the Social Security Act. Reimbursement at the fee-for-service rate is compatible with how other State Medicaid Programs reimburse for group behavioral health services. For example, Massachusetts reimburses at one-eighth (1/8) of an FQHC encounter rate, and New York's State Medicaid Program does not reimburse at the full PPS rate. New York's FQHCs are reimbursed a flat fee of $35.16 per person for a group visit.

Additionally, DHCF is amending Subsection 4519.3(a), in order to clarify the effective date of for FQHC appeals of MCO decisions on claims for reimbursement. DHCF is proposing an effective date of July 1, 2017 for service dates after April 1, 2017 for the updated appeals process established in the Notice of Third Emergency and Proposed published in the *D.C. Register* on March 31, 2017 at 64 DCR 003175.

These emergency rules were adopted on September 19, 2017, 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 January 17, 2018, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

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

Chapter 45, MEDICAID REIMBURSEMENT FOR FEDERALLY QUALIFIED HEALTH CENTERS of Title 29 DCMR, PUBLIC WELFARE, is deleted in its entirely and replaced with a new Chapter 45 to read as follows:

CHAPTER 45 MEDICAID REIMBURSEMENT FOR FEDERALLY QUALIFIED HEALTH CENTERS

4500 GENERAL PROVISIONS

4500.1 The rules set forth in this chapter establish the conditions of participation for a Federally Qualified Health Center (FQHC) in the Medicaid program. These rules also establish the reimbursement methodology for services rendered to Medicaid beneficiaries by an FQHC.

4500.2 Prior to seeking Medicaid reimbursement each FQHC must:

(a) Be approved by the federal Health Resources Services Administration (HRSA) and meet the requirements set forth in the applicable provisions of Title XVIII of the Social Security Act and implementing regulations, which shall include but not be limited to meeting the requirements governing federal approval of FQHC Look-Alikes;

(b) Be screened and enrolled in the Medicaid program pursuant to the requirements set forth in Chapter 94 of Title 29 of the District of Columbia Municipal Regulations; and

(c) Obtain a National Provider Identifier (NPI) for each site operated by an FQHC.

(d) Submit the FQHC's Scope of Project approved by the federal Health Resources Services Administration (HRSA).

4500.3 Medicaid reimbursable services provided by an FQHC shall be consistent with the Section 1905(a)(2) of the Social Security Act and furnished in accordance with Section 4231 of the State Medicaid Manual.

4500.4 Services may be provided at other sites including mobile vans, intermittent sites such as a homeless shelter, a seasonal site, or a beneficiary's place of residence, provided the claims for reimbursement are consistent with the services covered under Section 1905(a)(2) of the Social Security Act and described in Sections 4502 and 4505 - 4508.

4500.5 All services provided by an FQHC shall be subject to quality standards, measures and guidelines established by National Committee for Quality Assurance (NCQA), HRSA, CMS and the Department of Health Care Finance (DHCF).

4500.6 Services for which an FQHC seeks Medicaid reimbursement pursuant to this Chapter shall be delivered in accordance with the corresponding standards for service delivery, as described in relevant sections of the District of Columbia State Plan for Medical Assistance and implementing regulations.

4501 REIMBURSEMENT

4501.1 Medicaid reimbursement for primary care, behavioral health, and dental services furnished by an FQHC shall be made under:

(a) A Prospective Payment System (PPS) as described in Section 4502; or

(b) An Alternative Payment Methodology (APM) as described in Sections 4503 - 4506.

4501.2 Each FQHC that is geographically located in the District of Columbia and enrolled in the District's Medicaid program as of the effective date of the corresponding State Plan Amendment (SPA) that elects to be reimbursed for services under an APM shall sign an agreement with the DHCF.

4501.3 The APM referenced in Subsection 4501.2 shall become effective on or after the date of an executed agreement between DHCF and the FQHC, or the effective date of the corresponding State Plan amendment, whichever is later.

4501.4 The APM shall comply with Section 1902(bb)(6) of the Social Security Act .

4501.5 Any FQHC that elects not to be reimbursed under an APM shall be reimbursed under the PPS methodology described in Section 4502.

4501.6 An FQHC may only be reimbursed at the PPS or APM rate for services that are within the scope of services described in Sections 4502, 4505, 4506, 4507, and

4508, in accordance with Section 1905(a)(2) of the Social Security Act.

4501.7 If an FQHC seeks Medicaid reimbursement for services covered under the DC Medicaid State Plan, in accordance with Section 1905(a)(2)(B) and (C) of the Social Security Act, that are outside the scope of services described in Sections 4502, 4505, 4506, 4507, and 4508, the FQHC shall be reimbursed at the fee-for-service rate if it meets the following conditions:

(a) Obtain a separate D.C. Medicaid identification number in accordance with Chapter 94 of Title 29 DCMR;

(b) Obtain a separate Healthcare Provider Taxonomy Code;

(c) Ensure that all individuals providing the service are authorized to render the service and meet the requirements governing the service; and

(d) Be subject to the limitations set forth in the State Plan for Medical Assistance (State Plan) and any governing rules and regulations.

4501.8 Each encounter for a Medicaid enrollee who is enrolled in Medicare or another form of insurance (or both) shall be paid an amount that is equal to the difference between the payment received from Medicare and any other payers and the FQHC's payment rate calculated pursuant to these rules.

4501.9 Each encounter for a qualified Medicare beneficiary for whom Medicaid is responsible for only cost-sharing payments shall be paid the amount that is equal to the difference between the payment the FQHC received from Medicare and the FQHCs' Medicare prospective payment rate.

4501.10 The payment received by an FQHC from Medicare, any other payor and Medicaid shall not exceed the Medicaid reimbursement rate.

4501.11 Each FQHC shall ensure that a service that requires multiple procedures, and which may be performed as part of a single course of treatment under general standards of care, shall be completed as a single encounter unless multiple visits are medically required to complete the treatment plan and the medical necessity is documented in the clinical record.

4501.12 At the end of each fiscal year, DHCF will review and reconcile the total payments made to each FQHC that elects the APM rate to ensure that the overall per encounter rate is at least equal to the PPS rate for that FQHC for the fiscal year. If the payments are less than the total amount that would be paid under the PPS rate methodology for that FQHC, DHCF will pay the FQHC the difference between the amount paid and the amount the FQHC would have been due under the APM rate methodology for the total number of encounters provided.

4501.13 Payments related to yearly reconciliations will be made in accordance with the two-year payment requirement at 42 CFR § 447.45 and 45 CFR § 95, Subpart A.

4502 PROSPECTIVE PAYMENT SYSTEM

4502.1 Medicaid reimbursement for services furnished on or after January 1, 2001 by an FQHC shall be at a Prospective Payment System (PPS) rate consistent with the requirements set forth in Section 1902(bb) of the Social Security Act and subject to the following conditions:

(a) When an FQHC furnishes "other ambulatory services" as defined under Section 1902(bb) of the Social Security Act, DHCF shall reimburse the provider using the fee-for-service rate; and

(b) Other ambulatory services shall include services provided by an FQHC to a Medicaid-enrolled beneficiary that meet the following conditions:

(1) Not included in the scope of services defined under section 4501.6;

(2) Not provided in a hospital setting, either on an inpatient or outpatient basis; and

(3) Is a reimbursable service under the Medicaid State Plan.

4502.2 The PPS rate shall be paid for each encounter with a Medicaid beneficiary when a medical service or services are furnished. The PPS for services rendered beginning on or after January 1, 2001 through and including September 30, 2001, shall be calculated as follows:

(a) The sum of the FQHC's audited allowable costs for the FYs 1999 and 2000 shall be divided by the total number of patient encounters in FYs 1999 and 2000;

(b) The amount established in Subsection 4502.2(a) shall be adjusted to take into account any increase or decrease in the scope of services furnished by the FQHC during FY 2001. Each FQHC shall report to DHCF any increase or decrease in the scope of services, including the starting date of the change. The amount of the adjustment shall be negotiated between the parties. The adjustment shall be implemented no later than ninety (90) days after establishment of the negotiated rate; and

(c) Allowable costs shall include reasonable costs that are incurred by the FQHC in furnishing Medicaid coverable services to Medicaid eligible beneficiaries, as determined by Reasonable Cost Principles set forth in 42 CFR Chapter IV, Sub Chapter B, Part 413 and 45 CFR Part 75 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for

HHS Awards.

4502.3 For services furnished beginning FY 2002 and each fiscal year thereafter, an FQHC shall be reimbursed at a rate that is equal to the rate in effect the previous fiscal year, increased by the percentage increase in the Medicare Economic Index, established in accordance with Section 1842(i)(3) of the Social Security Act and adjusted to take into account any increase or decrease in the scope of services furnished by the FQHC during the fiscal year.

4502.4 Each FQHC shall report to DHCF any increase or decrease in the scope of services, including the starting date of the change, consistent with the requirements established in Section 4509.

4502.5 In any case in which an entity first qualifies as an FQHC after FY 2000, the prospective rate for services furnished in the first year shall be equal to the average of the prospective rates paid to other FQHCs located in the same area with a similar caseload, effective on the date of application. For each fiscal year following the first year in which the entity first qualified as an FQHC, the prospective payment rate shall be computed in accordance with Subsection 4502.3. This section shall not apply to a new provider. Reimbursement for a new provider is set forth in Section 4512.

4502.6 An FQHC that furnishes services that qualify as an encounter to Medicaid beneficiaries pursuant to a contract with a managed care entity, as defined in Section 1932(a)(1)(B) of the Social Security Act, where the payment (including a per member per month (PMPM) payment) from such entity is less than the amount the FQHC would be entitled to receive under Subsections 4502.2 through 4502.5, will be eligible to receive a wrap-around supplemental payment processed and paid by DHCF. The wrap-around supplemental payment shall be made at least every four (4) months and reconciled at least annually. Payments related to yearly reconciliations will be made in accordance with the two-year payment requirement at 42 CFR § 447.45 and 45 CFR § 95, Subpart A.

4502.7 The amount of the wrap-around supplemental payment identified in Subsection 4502.6 shall equal the difference between the payment received from the managed care organization (MCO) as determined on a per encounter basis and the FQHC PPS rate calculated pursuant to this section. In cases where an FQHC has a capitation payment arrangement with an MCO under which it receives a PMPM payment for certain services, the amount payable to the FQHC shall be offset by the capitation payment, but in no case will the payment be less than the PPS rate the FQHC would be entitled to receive on a per encounter basis. The FQHC shall report the aggregate of all capitation payments received in the period covered by each wrap-around supplemental payment submission. This amount shall be offset against total amounts otherwise payable to the provider as part of the annual reconciliation described in Subsection 4502.6.

4503 ALTERNATIVE PAYMENT METHODOLOGY FOR PRIMARY CARE SERVICES

4503.1 The APM rate for primary care services rendered beginning the effective date of the corresponding SPA by an FQHC shall be determined as described in this section. The APM rate shall be applicable to all sites within the District of Columbia for FQHCs operating in multiple locations. The APM rate shall be available for each encounter with a D.C. Medicaid beneficiary for primary care services described in Section 4507 in accordance with Section 1905(a)(2) of the Social Security Act.

4503.2 The APM rate for primary care services shall be calculated by taking the sum of the FQHC's audited allowable costs for primary care services and related administrative and capital costs and dividing it by the total number of eligible primary care visits.

4503.3 For services rendered beginning the effective date of the corresponding SPA through December 31, 2017, the APM rate shall be determined based upon each FQHC's FY 2013 audited allowable costs.

4503.4 An FQHC which has been in operation as an FQHC, or an FQHC look-alike as determined by HRSA, for fewer than five (5) years at the time of audit will receive the lesser of the average APM rate calculated as of the first day of the District fiscal year for similar facilities pursuant to Subsection 4503.2 or the APM rate based on costs reported by the FQHC or FQHC look-alike.

4503.5 For services rendered beginning the effective date of the corresponding SPA through December 31, 2017, the APM rate for primary care services shall not be lower than the Medicaid PPS rate in FY 2016. If, an FQHC's APM rate for primary care services is less than the Medicaid PPS rate, the APM rate shall be adjusted up to the Medicaid PPS rate for the applicable time period.

4503.6 Except as described in Subsection 4503.4, for services rendered beginning January 1, 2018 through December 31, 2018, each FQHC shall be reimbursed an APM rate (which shall apply to all of the FQHC's sites if the FQHC has more than one (1) site), for each encounter with a D.C. Medicaid beneficiary for primary care services as follows:

(a) The APM rate for primary care services shall be determined under Subsection 4503.2, except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for any FQHC that has ten thousand (10,000) or more encounters in a year as reported in the audited cost report.

4503.7 Except as described in Subsection 4503.4, the APM rate for primary care services rendered on or after January 1, 2019, shall be determined as described in

Subsection 4503.2, except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for all FQHCs.

4503.8 The APM rate established pursuant to Subsection 4503.7 shall be adjusted annually by the percentage increase in the Medicare Economic Index, established in accordance with Section 1842(i)(3) of the Social Security Act, except for the years the APM rate is rebased as described in Section 4516.

4503.9 An FQHC that furnishes primary care services that qualify as an encounter to Medicaid beneficiaries pursuant to a contract with a managed care entity, as defined in Section 1932(a)(1)(B) of the Social Security Act, where the payment (including a PMPM payment) from such entity is less than the amount the FQHC would be entitled to receive under this section will be eligible to receive a wrap-around supplemental payment processed and paid by DHCF. The wrap-around supplemental payment shall be made at least every four (4) months and reconciled at least annually. Payments related to yearly reconciliations will be made in accordance with the two-year payment requirement at 42 CFR § 447.45 and 45 CFR § 95, Subpart A.

4503.10 The amount of the wrap-around supplemental payment shall equal the difference between the payment received from the MCO as determined on a per encounter basis and the FQHC APM rate calculated pursuant to this section. In cases where an FQHC has a capitation payment arrangement with an MCO under which it receives a PMPM payment for certain services, the amount payable to the FQHC shall be offset by the capitation payment, but in no case will the payment be less than the APM rate the FQHC would be entitled to receive on a per encounter basis. The FQHC shall report their monthly capitation payment amount to DHCF. The FQHC shall report the aggregate of all capitation payments received in the period covered by each wrap-around supplemental payment submission. This amount shall be offset against total amounts otherwise payable to the provider as part of the annual reconciliation described in Subsection 4503.9.

4503.11 Reimbursement shall be limited for each beneficiary to one primary care encounter per day. The FQHC shall document each encounter in the beneficiary's medical record.

4503.12 The APM rate established pursuant to this section may be subject to adjustment to take into account any change in the scope of services as described in Section 4509.

4503.13 Each FQHC shall include the Current Procedural Terminology (CPT) code(s) that correspond to the specific services provided on each claim submitted for reimbursement.

4503.14 If an FQHC seeks Medicaid reimbursement for services that are outside the scope of primary care services described in Section 4507 in accordance with Section

1905(a)(2) of the Social Security Act, such as prescription drugs, labor and delivery services, or laboratory and x-ray services that are not office based, the FQHC shall follow the requirements set forth in Subsection 4501.07.

4504 ALTERNATIVE PAYMENT METHODOLOGY FOR BEHAVIORAL HEALTH SERVICES

4504.1 The APM rate for behavioral health services rendered beginning the effective date of the corresponding SPA by an FQHC shall be determined as described in this section. The APM rate shall be applicable to all sites within the District of Columbia for FQHCs operating in multiple locations. The APM rate shall be available per encounter with a D.C. Medicaid beneficiary for behavioral health services described in Section 4508.

4504.2 Except for reimbursement to certain FQHCs as described in Subsection 4504.5, the APM rate for behavioral health services shall be calculated by taking the sum of the FQHC's audited allowable costs for behavioral health services and related administrative and capital costs and dividing it by the total number of eligible behavioral health encounters.

4504.3 Effective September 1, 2017, the reimbursement rate claimable for each beneficiary attending group therapy behavioral health services shall be equal to the D.C Medicaid Fee for Service schedule rate for group psychotherapy. The D.C. Medicaid Fee for Service schedule is available online at http://www.dc-medicaid.com. FQHCs seeking reimbursement for group psychotherapy shall comply with the requirements set forth under Subsection 4501.7.

4504.4 For services rendered beginning the effective date of the corresponding SPA through December 31, 2017, the APM rate shall be determined based upon each FQHC's FY 2013 audited allowable costs.

4504.5 An FQHC which has been in operation as an FQHC, or an FQHC look-alike as determined by HRSA for fewer than five (5) years, at the time of audit will receive the lesser of the average APM rate calculated as of the first day of the District fiscal year for similar facilities pursuant to Subsection 4504.2 or the APM rate based on costs reported by the FQHC or FQHC look-alike.

4504.6 For services rendered beginning the effective date of the corresponding SPA through December 31, 2017, the APM rate for behavioral services shall not be lower than the Medicaid PPS in FY 2016. If, an FQHC's APM rate for behavioral health services is less than the Medicaid PPS rate, the APM rate shall be adjusted up to the Medicaid PPS rate for the applicable time period.

4504.7 Except as described in Subsection 4504.5, for services rendered beginning January 1, 2018 through December 31, 2018, each FQHC shall be reimbursed an APM rate (which shall apply to all of the FQHC's sites if the FQHC has more

than one (1) site), for each encounter with a D.C. Medicaid beneficiary for behavioral health services as follows: The APM rate for behavioral health services shall be the amount determined under Subsection 4504.2, except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for any FQHC that has ten thousand (10,000) or more encounters in a year as reported in the audited cost report.

4504.8 Except as described in Subsection 4504.5, the APM rate for behavioral health services rendered on or after January 1, 2019, shall be determined as described in Subsection 4504.2, except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for all FQHCs.

4504.9 The APM rate established pursuant to Subsection 4504.8 shall be adjusted annually by the percentage increase in the Medicare Economic Index, established in accordance with Section 1842(i)(3) of the Social Security Act except for the years the APM rate is rebased as described in Section 4516.

4504.10 An FQHC that furnishes behavioral health services that qualify as an encounter to Medicaid beneficiaries pursuant to a contract with a managed care entity, as defined in Section 1932(a)(1)(B) of the Social Security Act, where the payment (including a PMPM payment) from such entity is less than the amount the FQHC would be entitled to receive under this section will be eligible to receive a wrap-around supplemental payment processed and paid by DHCF. The wrap-around supplemental payment shall be made at least every four months and reconciled at least annually. Payments related to yearly reconciliations will be made in accordance with the two-year payment requirement at 42 CFR § 447.45 and 45 CFR § 95, Subpart A.

4504.11 The amount of the wrap-around supplemental payment shall equal the difference between the payment received from the MCO as determined on a per encounter basis and the FQHC APM rate calculated pursuant to this section. In cases where an FQHC has a capitation payment arrangement with an MCO under which it receives a PMPM payment for certain services, the amount payable to the FQHC shall be offset by the capitation payment, but in no case will the payment be less than the APM rate the FQHC would be entitled to receive on a per encounter basis The FQHC shall report their monthly capitation payment amount to DHCF. The FQHC shall report the aggregate of all capitation payments received in the period covered by each wrap-around supplemental payment submission. This amount shall be offset against total amounts otherwise payable to the provider as part of the annual reconciliation described in Subsection 4504.10.

4504.12 For services furnished on or after the effective date of the corresponding SPA, reimbursement shall be limited for each beneficiary to one behavioral service encounter per day. Reimbursement for a Behavioral Health encounter shall not affect an FQHCs ability to claim for group psychotherapy on a fee-for-service basis for the same service day. The FQHC shall document each encounter in the

beneficiary's medical record.

4504.13 The APM rate established pursuant to this Section may be subject to adjustment to take into account any change in the scope of services as described in Section 4509 in accordance with Section 1905(a)(2) of the Social Security Act.

4504.14 Each FQHC shall include the Current Procedural Terminology (CPT) code(s) that correspond to the specific services provided on each claim submitted for reimbursement.

4504.15 If an FQHC seeks Medicaid reimbursement for services that are outside the scope of behavioral health services described in Section 4508, such as rehabilitative services, including Mental Health Rehabilitative Services, prescription drugs, or laboratory and x-ray services that are not office-based, the FQHC shall comply with the requirements set forth under Subsection 4501.07.

4504.16 Each FQHC that delivers substance abuse services must be certified by the Department of Behavioral Health in accordance with Chapter 63 of Title 22-A of the District of Columbia Municipal Regulations.

4505 ALTERNATIVE PAYMENT METHODOLOGY FOR PREVENTIVE AND DIAGNOSTIC DENTAL SERVICES

4505.1 The APM rate for preventive and diagnostic dental services rendered beginning the effective date of the corresponding SPA by an FQHC shall be determined as described in this section. The APM rate shall be applicable to all sites for FQHCs operating in multiple locations. The APM rate shall be available per encounter with a D.C. Medicaid beneficiary for preventive and diagnostic dental services described in Subsection 4505.5.

4505.2 The APM rate for preventive and diagnostic dental services shall be calculated by taking the sum of the FQHC's audited allowable costs for preventative and diagnostic dental services and administrative and capital costs and dividing it by the total number of eligible preventive and diagnostic dental service encounters.

4505.3 For services rendered beginning the effective date of the corresponding SPA through December 31, 2017, the APM rate shall be determined based upon each FQHC's FY 2013 audited allowable costs.

4505.4 Except as described in Subsection 4505.16, for services rendered beginning January 1, 2018 through December 31, 2018, the APM rate for preventive and diagnostic dental services shall be determined as described in Subsection 4505.2, except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for any FQHC that has ten thousand (10,000) or more encounters in a year as reported in the audited cost report.

4505.5 Except as described in Subsection 4505.16, the APM for preventive and diagnostic dental services rendered on or after January 1, 2019 shall be determined as described in Subsection 4505.2 except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for all FQHCs, including those with less than ten thousand (10,000) annual encounters.

4505.6 The APM rate established pursuant to Subsection 4505.5 shall be adjusted annually by the percentage increase in the Medicare Economic Index, established in accordance with Section 1842(i)(3) of the Social Security Act, except for the years the APM rate is rebased as described in Section 4516.

4505.7 Subject to the limitations set forth in the section, covered preventive and diagnostic dental services provided by the FQHC may include the following procedures in accordance with Section 1905(a)(2) of the Social Security Act:

(a) Diagnostic-American Dental Association (ADA) dental procedure codes (D0100-D0999) representing clinical oral examinations, radiographs, diagnostic imaging, tests and examinations; and

(b) Preventive-ADA dental procedure codes (D1000-D1999) representing dental prophylaxis, topical fluoride treatment (office procedure), space maintenance (passive appliances and sealants).

4505.8 Only procedure codes listed in Subsection 4505.7 that are included on the D.C. Medicaid Fee for Service schedule as covered benefits shall be reimbursed by the Medicaid program. The D.C. Medicaid Fee for Service schedule is available online at http://www.dc-medicaid.com.

4505.9 An FQHC that furnishes preventive and diagnostic dental services that qualify as an encounter to Medicaid beneficiaries pursuant to a contract with a managed care entity, as defined in Section 1932(a)(1)(B) of the Social Security Act, where the payment (including a PMPM payment) from such entity is less than the amount the FQHC would be entitled to receive under this section will be eligible to receive a wrap-around supplemental payment processed and paid by DHCF. The wrap-around supplemental payment shall be made at least every four months and reconciled at least annually. Payments related to yearly reconciliations will be made in accordance with the two-year payment requirement at 42 CFR § 447.45 and 45 CFR § 95, Subpart A.

4505.10 The amount of the wrap-around supplemental payment shall equal the difference between the payment received from the MCO as determined on a per encounter basis and the amount of the FQHC APM rate calculated pursuant to this section. In cases where an FQHC has a capitation payment arrangement with an MCO under which it receives a PMPM payment for certain services, the amount payable to the FQHC shall be offset by the capitation payment, but in no case will the payment be less than the APM rate the FQHC would be entitled to receive on a

per encounter basis. The FQHC shall report their monthly capitation payment amount to DHCF. The FQHC shall report the aggregate of all capitation payments received in the period covered by each wrap-around supplemental payment submission. This amount shall be offset against total amounts otherwise payable to the provider as part of the annual reconciliation described in Subsection 4505.9.

4505.11 Reimbursement of preventive and diagnostic dental service encounters shall be limited to one encounter per day for each beneficiary. The FQHC shall document each encounter in the beneficiary's dental record.

4505.12 If an encounter comprises both a preventive and diagnostic service and a comprehensive dental service as described in Section 4506, the FQHC shall bill the encounter as a comprehensive dental service.

4505.13 All preventive and diagnostic dental services shall be provided in accordance with the requirements, including any limitations, as set forth in Section 964 (Dental Services) of Title 29 DCMR.

4505.14 Each FQHC shall include the Current Dental Terminology (CDT) code(s) that correspond to the specific services provided on each claim submitted for reimbursement with associated tooth number, quadrant, and arch if applicable for the dental procedure.

4505.15 Each provider of preventive and diagnostic dental services, with the exception of children's fluoride varnish treatments, shall be a dentist or dental hygienist, working under the supervision of a dentist, who provide services consistent with the scope of practice authorized pursuant to the District of Columbia Health Occupations Revisions Act (HORA) of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq*. (2012 Repl. & 2016 Supp.)), or consistent with the applicable professional practices act within the jurisdiction where services are provided.

4505.16 An FQHC, or an FQHC look-alike as determined by HRSA, which has been in operation for fewer than five (5) years at the time of audit will receive the lesser of the average APM rate calculated as of the first day of the District fiscal year for similar facilities pursuant to Subsection 4505.2 or the APM rate based on costs reported by the FQHC, or FQHC look-alike.

4506 ALTERNATIVE PAYMENT METHODOLOGY FOR COMPREHENSIVE DENTAL SERVICES

4506.1 The APM rate for comprehensive dental services rendered by the FQHC on or after the effective date of the corresponding SPA by an FQHC shall be determined in accordance with this section.

4506.2 The APM rate shall be applicable to all sites for FQHCs operating in multiple

locations. The APM rate shall be available for each encounter with a D.C. Medicaid beneficiary for comprehensive dental services described in Subsection 4506.8.

4506.3 The APM rate for comprehensive dental services shall be calculated by taking the sum of the FQHC's audited allowable costs for comprehensive dental services and related administrative and capital costs and dividing it by the total number of eligible comprehensive dental service encounters.

4506.4 For services rendered beginning on or after the effective date of the corresponding SPA, through December 31, 2017, the APM rate shall be determined based upon each FQHC's FY 2013 audited allowable costs.

4506.5 Except as described in Subsection 4506.17, for services rendered from January 1, 2018 through December 31, 2018, the APM rate for comprehensive dental services shall be determined as described in Subsection 4506.3, except that administrative costs shall not exceed twenty percent (20%) of the total allowable costs for any FQHC that has ten thousand (10,000) or more encounters in a year as reported in the audited cost report.

4506.6 Except as described in Subsection 4506.17, the APM for comprehensive dental services rendered on or after January 1, 2019, the twenty percent (20%) administrative cap described in Subsection 4506.5 shall apply in determining the APM rate for all FQHCs, including those with less than ten thousand (10,000) annual encounters.

4506.7 The APM rate established pursuant to Subsection 4506.6 shall be adjusted annually by the percentage increase in the Medicare Economic Index, established in accordance with Section 1842(i)(3) of the Social Security Act, except for the years the APM rate is rebased as described in Section 4516.

4506.8 Subject to the limitations set forth in this section, covered comprehensive dental services provided by the FQHC may include the following procedures:

(a) Restorative - ADA dental procedure codes (D2000-D2999) representing amalgam restoration, resin-based composite restorations, crowns (single restorations only), and additional restorative services;

(b) Endodontic - ADA dental procedures codes (D3000-D3999) representing pulp capping, pulpotomies, endodontic therapy of primary and permanent teeth, endodontic retreatment, apexification/recalcification procedures, apicoectomy/periradicular services, and other endodontic services;

(c) Peridontic - ADA dental procedure codes (D4000-D4999) representing surgical services, including usual postoperative care), nonsurgical periodontal services, and other periodontal services;

(d) Prosthodontic - ADA dental procedure codes (D5000-D5899) representing complete and partial dentures treatment including repairs and rebasing, interim prosthesis, and other removable prosthetic services;

(e) Maxillofacial Prosthetics - ADA dental procedure code (D5982) representing the surgical stent procedure;

(f) Implants Services - ADA dental procedure codes (D6000-D6199) representing Pre-surgical and surgical services, implant-supported prosthetics, and other implant services;

(g) Oral and Maxillofacial Surgery - ADA dental procedure codes (D7000-D7999) representing treatment and care related to extractions, alveoloplasty, vestibuloplasty, surgical treatment of lesions, treatment of fractures, repair traumatic wounds including complicated suturing;

(h) Orthodontics - ADA dental procedure codes (D8000-D8999) representing orthodontic treatments and services; and

(i) Adjunctive General Services - ADA dental procedure codes (D9000-D9999) representing unclassified treatment, anesthesia, professional consultation, professional visits, drugs and miscellaneous.

4506.9 Only procedure codes listed in Subsection 4506.8 that are included on the D.C. Medicaid Fee for Service schedule as covered benefits shall be reimbursed by the Medicaid program. The D.C. Medicaid Fee for Service schedule is available online at http://www.dc-medicaid.com.

4506.10 An FQHC that furnishes comprehensive dental services that qualify as an encounter to Medicaid beneficiaries pursuant to a contract with a managed care entity, as defined in Section 1932(a)(1)(B) of the Social Security Act, where the payment (including a PMPM payment) from such entity is less than the amount the FQHC would be entitled to receive under this section will be eligible to receive a wrap-around supplemental payment processed and paid by DHCF. The wrap-around supplemental payment shall be made at least every four (4) months and reconciled at least annually. Payments related to yearly reconciliations will be made in accordance with the two-year payment requirement at 42 CFR § 447.45 and 45 CFR § 95, Subpart A.

4506.11 The amount of the wrap-around supplemental payment shall equal the difference between the payment received from the managed care entity as determined on a per encounter basis and the FQHC APM rate calculated receive pursuant to this section. In cases where an FQHC has a capitation payment arrangement with an MCO under which it receives a PMPM payment for certain services, the amount payable to the FQHC shall be offset by the capitation payment, but in no case will

the payment be less than the APM rate the FQHC would be entitled to receive on a per encounter basis. The FQHC shall report their monthly capitation payment amount to DHCF. The FQHC shall report the aggregate of all capitation payments received in the period covered by each wrap submission. This amount shall be offset against total amounts otherwise payable to the provider as a part of the annual reconciliation described in Subsection 4506.10.

4506.12 Reimbursement of comprehensive dental service encounters shall be limited to one encounter per day for each beneficiary. The FQHC shall document each encounter in the beneficiary's dental record.

4506.13 If an encounter comprises both a preventive and diagnostic service as described in Section 4505 and a comprehensive dental service, the FQHC shall bill the encounter as a comprehensive dental service.

4506.14 All comprehensive dental services shall be provided in accordance with the requirements, including any limitations, as set forth in Section 964 (Dental Services) of Title 29 DCMR.

4506.15 Each FQHC shall include the CDT code(s) that correspond to the specific services provided on each claim submitted for reimbursement with associated tooth number, quadrant, surface, and arch if applicable for the dental procedure.

4506.16 Each provider of comprehensive dental services, with the exception of children's fluoride varnish treatments, shall be a dentist or dental hygienist, working under the supervision of a dentist, who provide services consistent with the scope of practice authorized 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. & 2016 Supp.)), or consistent with the applicable professional practices act within the jurisdiction where services are provided.

4506.17 An FQHC, or an FQHC look-alike as determined by HRSA, which has been in operation for fewer than five (5) years at the time of audit will receive the lesser of the average APM rate calculated as of the first day of the District fiscal year for similar facilities pursuant to Subsection 4506.3 or the APM rate based on costs reported by the FQHC, or FQHC look-alike.

4507 PRIMARY CARE SERVICES

4507.1 Covered primary care services provided by the FQHC shall be limited to the following services:

(a) Health services related to family medicine, internal medicine, pediatrics, obstetrics (excluding services related to birth and delivery), and gynecology which include but are not limited to:

(1) Health management services and treatment for illness, injuries or chronic conditions (examples of chronic conditions include diabetes, high blood pressure, etc.) including but not limited to health education and self-management training;

(2) Services provided pursuant to the Early and Periodic Screening, Diagnostic and Treatment benefit for Medicaid eligible children under the age of twenty-one (21);

(3) Preventive fluoride varnish for children, provided the service is furnished during a well-child visit by a physician or pediatrician who is acting within the scope of practice authorized pursuant to District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2016 Supp.)) ("HORA").

(4) Preventive and diagnostic services, including but not limited to the following:

(i) Prenatal and postpartum care rendered at an FQHC, excluding labor and delivery;

(ii) Lactation consultation, education and support services if provided by a certified nurse mid-wife licensed in accordance with HORA and certified by the International Board of Lactation Consultant Examiners (IBLCE) or a registered lactation consultant certified by IBLCE;

(iii) Physical exams;

(iv) Family planning services;

(v) Screenings and assessments, including but not limited to, visual acuity and hearings screenings, and nutritional assessments and referrals;

(vi) Risk assessments and initial counseling regarding risks for clinical services;

(vii) PAP smears, breast exams and mammography referrals when provided as part of an office visit; and

(viii) Preventive health education.

4507.2 Primary care services set forth in this Subsection 4507.1(a) shall be delivered by

the following health care professionals who are licensed in accordance with HORA:

(a) A physician;

(b) An Advanced Practiced Registered Nurse (APRN);

(c) A physician assistant working under the supervision of physician; or

(d) A nurse-mid-wife.

4508 BEHAVIORAL HEALTH SERVICES

4508.1 Covered behavioral health services provided by an FQHC shall be limited to ambulatory mental health and substance abuse evaluation, treatment and management services identified by specific Current Procedural Terminology (CPT) codes. Such codes include psychiatric diagnosis, health and behavioral health assessment and treatment, individual and family therapy, and pharmacologic management. DHCF shall issue a transmittal to the FQHCs which shall include the specific CPT codes including any billing requirements for covered behavioral health services.

4508.2 Covered behavioral health services set forth in this section shall be delivered by the following health care professionals who shall be licensed in accordance with the HORA and certified by the Department of Behavioral Health when required by District Law:

(a) A physician, including a psychiatrist;

(b) An APRN;

(c) A psychologist;

(d) A licensed independent clinical social worker;

(e) A licensed independent social worker (LISW);

(f) A graduate social worker, working under the supervision of an LISW;

(g) A licensed professional counselor;

(h) A certified addiction counselor;

(i) A licensed marriage and family therapist; and

(j) A licensed psychologist associate, working under the supervision of a

psychologist or psychiatrist.

4509 CHANGE IN THE SCOPE OF SERVICES

4509.1 An FQHC may apply for an adjustment to its PPS rate or its APM rate (in any of the following four (4) service categories: (1) primary care; (2) behavioral health, (3) preventive and diagnostic dental services; and (4) comprehensive dental services) during any fiscal year after the effective date of the corresponding SPA, based upon a change in the scope of the services provided by the FQHC subject to the requirements set forth in the section.

4509.2 For services furnished on or after the effective date of these rules, a change in the scope of services shall only relate to services furnished on or after the effective date of the corresponding SPA and shall consist of a change in the type, intensity duration or amount of service as described below:

(a) Type: for FQHCs adopting either the PPS or APM payment rate, the addition of a new service not previously provided by the FQHC must be consistent with the services described in Section 4505 – 4508 in accordance with Section 1905(a)(2) of the Social Security Act;

(b) Intensity: for FQHCs adopting the either the PPS or APM payment rate, a change in quantity or quality of a service demonstrated by an increase or decrease in the total quantity of labor and materials consumed by an individual patient during an average encounter or a change in the types of patients served;

(c) Duration: for FQHCs adopting the either the PPS or APM payment rate, a change in the average length of time it takes FQHC providers to complete an average patient visit due to changing circumstances such as demographic shifts or the introduction of disease management programs;

(d) Amount: for FQHCs adopting either the PPS or APM payment rate, an increase or decrease in the amount of services that an average patient receives in a Medicaid-covered visit such as additional outreach or case management services or improvements to technology or facilities that result in better services to the FQHC's patients.

4509.3 A change in the cost of a service, in and of itself, is not considered a change in the scope of services.

4509.4 A change in the scope of services shall not be based on a change in the number of encounters, or a change in the number of staff that furnish the existing service.

4509.5 DHCF shall review the costs related to the change in the scope of services. Rate changes based on a change in the scope of services provided by an FQHC shall be

evaluated in accordance with the Medicare reasonable cost principles set forth in 42 CFR Chapter IV, Sub Chapter B, Part 413 and 45 CFR Part 75 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards.

4509.6 The adjustment to the PPS rate shall only be granted if the change in scope of services results in at least a five percent (5%) increase or decrease in the FQHC's allowable costs in the core service category for the fiscal year in which the change in scope of service became effective. The PPS rate adjustment for a change in scope shall be determined as the current PPS rate multiplied by the percentage change in the allowable cost attributable to the change in scope. The percentage change shall be calculated as follows:

(a) The total allowable cost including the change in scope for a twelve (12) month period, minus the total allowable cost stated in the FQHC's prior year's cost report;

(b) Divided by the total allowable cost stated in the FQHC's prior year's cost report; and

(c) Multiplied by one hundred percent (100%).

4509.7 Subject to the limitation set forth in Subsection 4509.8, the adjustment to the APM rate shall be determined by dividing the total allowable cost plus the incremental allowable cost attributable to a change in the scope, by the total number of encounters including the encounters affected by the scope change during the corresponding time period.

4509.8 The adjustment to the APM rate shall only be granted if the change in scope of services results in at least a five percent (5%) increase or decrease in the FQHC's allowable costs in the core service category for the fiscal year in which the change in scope of service became effective. This percentage shall be calculated by comparing the FQHC's APM rate at the beginning of the fiscal year in question with the cost per encounter as calculated by a completed Medicaid cost report using data from the same fiscal year.

4509.9 For services furnished on or after the effective date of the corresponding SPA, an FQHC shall submit a written notification to DHCF within ninety (90) days after a change of the scope of service, and the FQHC shall file a cost report demonstrating the increase in cost per encounter no later than 90 days after the close of one year of operation in which the scope change occurred. The FQHC shall submit documentation in support of the request, including the HRSA approved Scope of Project documenting the need for the change.

4509.10 DHCF shall provide a written notice of its determination to the FQHC within one hundred eighty (180) days of receiving all information related to the request

described in Subsections 4509.9.

4509.11 If approved, the PPS or APM rate calculated pursuant to Sections 4502 or 4503 - 4506 shall be adjusted to reflect the adjustment for the change in the scope of service. The adjustment shall be effective on the first day of the first full month after DHCF has approved the request. There shall be no retroactive adjustment.

4509.12 DHCF shall review or audit the subsequently filed annual cost report to verify the costs that have a changed scope. Based upon that review DHCF may adjust the rate in accordance with the requirements set forth in this section.

4510 ALLOWABLE COSTS

4510.1 The standards established in this section are to provide guidance in determining whether certain cost items will be recognized as allowable costs incurred by a FQHC in furnishing primary care, behavioral health, diagnostic and preventive dental services, and comprehensive dental services regardless of the applicable payment methodology. In the absence or specific instructions or guidelines, each FQHC shall follow the Medicare reasonable cost principles set forth in 45 CFR § 75 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards and 42 CFR § 413 Principles of Reasonable Cost Reimbursement and instructions set forth in the Medicare Provider Reimbursement Manual.

4510.2 Allowable costs, to the extent they are reasonable, necessary and related to patient care shall include but are not limited to the following:

(a) Compensation for the services rendered by each health care professional listed in Subsections 4507.2, 4508.2, 4505.15 and 4506.16 and other supporting health care professionals including but not limited to registered nurses, licensed practical nurses, nurse aides, medical assistants, physician's assistants, technicians, etc.;

(b) Compensation for services for supervising health care professionals described in Subsections 4507.2, 4508.2, 4505.15 and 4506.16;

(c) Costs of services and supplies incident to the provision of services as described in (f) of this subsection;

(d) Administrative and capital costs that are incurred in furnishing primary care, behavioral health services, diagnostic and preventive dental services, and comprehensive dental services, including clinic administration, subject to the limitation set forth in this section;

(e) Enabling services that support an individual's management of his or her health and social service needs or improve the FQHC's ability to treat the

individual, including:

(1) Health education and promotion services including assisting the individual in developing a self-management plan, executing the plan through self-monitoring and management skills, educating the individual on accessing care in appropriate settings and making healthy lifestyle and wellness choices; connecting the individual to peer and/or recovery supports including self-help and advocacy groups; and providing support for improving an individual's social network. These services shall be provided by health educators, with or without specific degrees in this area, family planning specialists, HIV specialists, or other professionals who provide information about health conditions and guidance about appropriate use of health services;

(2) Translation and interpretation services during an encounter at the FQHC. These services are provided by staff whose full time or dedicated time is devoted to translation and/or interpretation services or by an outside licensed translation and interpretation service provider. Any portion of the time of a physician, nurse, medical assistant, or other support and administrative staff who provides interpretation or translation during the course of his or her other billable activities shall not be included;

(3) Referrals to providers of medical services (including specialty referral when medically indicated) and other health-related services (including substance abuse and mental health services). Such services shall not be reimbursed separately as enabling services where such referrals are provided during the course of other billable treatment activities;

(4) Eligibility assistance services designed to assist individuals in establishing eligibility for and gaining access to Federal, State and District programs that provide or financially support the provision of medical related services;

(5) Health literacy;

(6) Outreach services to identify potential patients and clients and/or facilitate access or referral of potential health center patients to available health center services, including reminders for upcoming events, brochures and social services;

(7) Care coordination, which consists of services designed to organize person-centered care activities and information sharing among those involved in the clinical and social aspects of an individual's

care to achieve safer and more effective healthcare and improved health outcomes. These services shall be provided by individuals trained as, and with specific titles of care coordinators, case managers, referral coordinators, or other titles such as nurses, social workers, and other professional staff who are specifically allocated to care coordination during assigned hours but not when these services are an integral part of their other duties such as providing direct patient care;

(8) Staff cost related to quality improvement, data analytics, and compliance; and

(9) Training for health care professionals for the provision of health care services.~~.~~

(f) Incidental services and supplies that are integral, although incidental, to the diagnostic or treatment components of the services described in Subsections 4505.7, 4506.8, 4507.1(a), and 4508.1 which shall include but are not limited to the following:

(1) Lactation consultation, education and support services that are provided by health care professionals described in Subsection 4507.1(4)(ii);

(2) Medical services ordinarily rendered by an FQHC staff person such as taking patient history, blood pressure measurement or temperatures, and changing dressings;

(3) Medical supplies, equipment or other disposable products such as gauze, bandages, and wrist braces;

(4) Administration of drugs or medication treatments, including administration of contraceptive treatments, that are delivered during a primary care visit, not including the cost of the drugs and medications;

(5) Immunizations;

(6) Electrocardiograms;

(7) Office-based laboratory screenings or tests performed by FQHC employees in conjunction with an encounter, which shall not include lab work performed by an external laboratory or x-ray provider. These services include but are not limited to stool testing for occult blood, dipstick urinalysis, cholesterol screening, and tuberculosis testing for high-risk beneficiaries; and

(8) Hardware and software systems, including implementation services, used to facilitate patient record-keeping and related services to support implementation.

4510.3 For the purposes of determining allowable and reasonable costs in the purchase of goods and services from a related party, each FQHC shall identify all related parties.

4510.4 A related party is any individual, organization or entity who currently or within the previous five (5) years has had a business relationship with the owner or operator of an FQHC, either directly or indirectly, or is related by marriage of birth to the owner or operator of the FQHC, or who has a relationship arising from common ownership or control.

4510.5 The cost claimed on the cost report for services, facilities and supplies furnished by a related party shall not exceed the lower of:

(a) The cost incurred by the related party; or

(b) The price of comparable services, facilities, or supplies generally available.

4510.6 Administrative and capital costs shall be allocated and included in determining the total allowable costs for primary care services and behavioral health services.

4510.7 Administrative and general overhead costs shall consist of overhead facility costs as described in Subsection 4510.8 and administrative costs as described in Subsection 4510.9.

4510.8 Capital and facility costs shall include but not be limited to:

(a) Rent;

(b) Insurance;

(c) Interest on mortgages or loans;

(d) Utilities;

(e) Depreciation on buildings;

(f) Depreciation on equipment;

(g) Maintenance, including janitorial services;

(h) Building security services; and

(i) Real estate and property taxes.

4510.9 Administrative costs shall include but not be limited to:

(a) Administrative Salaries (*i.e.*, salary expenditures related to the administrative work of a FQHC);

(b) Fringe benefits and payroll taxes of personnel described in paragraph (a) of this subsection;

(c) Depreciation on office equipment;

(d) Office supplies;

(e) Legal expenses;

(f) Accounting expenses;

(g) Training costs of administrative personnel for the provision of health care services;

(h) Telephone expense; and

(i) Hardware and software, including implementation costs, not related to patient record keeping.

4510.10 Administrative costs shall be subject to a ceiling of twenty percent (20%) as described in Sections 4503, 4504, 4505 and 4506. Costs in excess of the ceiling shall not be included in allowable costs.

4511 EXCLUSIONS FROM ALLOWABLE COSTS

4511.1 The costs that shall be excluded from allowable costs for purposes of calculating the APM rate shall include, but not be limited to, the following:

(a) Cost of services that are outside the scope of services covered under Section 1905(a)(2) of the Social Security Act and described in Sections 4505 - 4508;

(b) Graduate Medical Education costs; and

(c) Expenses incurred by the FQHC that are unrelated to the delivery of primary care, behavioral health and dental services as defined in Sections 4505 - 4508, which shall include but are not limited to the following:

(1) Staff educational costs, including student loan reimbursements, except for training and staff development, required to enhance job performance;

(2) Marketing and public relations expenses;

(3) Community services that are provided as part of a large scale effort, such as a mass scale community wide immunization program or any other community wide service

(4) Environmental activities;

(5) Research;

(6) Transportation costs except as provided for in Section 4510;

(7) Indirect costs allocated to unallowable direct health service costs;

(8) Entertainment including costs for office parties and other social functions, retirement gifts, meals, and lodging;

(9) Board of Director fees;

(10) Federal, state and local income taxes;

(11) Excise taxes;

(12) All costs related to physicians and other professional's private practices;

(13) Donations, services and goods and space, except for those that are allowable pursuant to the Office of Management and Budget Circular No. A-122 and the Medicare Provider Reimbursement Manual;

(14) Fines and penalties;

(15) Bad debts, including losses arising from uncollectible accounts receivable and other claims, related collection and legal costs;

(16) Advertising, except for recruitment of personnel, procurement of goods and services, and disposal of medical equipment and supplies;

(17) Contributions to a contingency reserve or any similar provision

made for an event, the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of the event taking place;

(18) Over-funding of contributions to self-insurance funds that do not represent payments based on current liabilities;

(19) Fundraising expenses;

(20) Goodwill;

(21) Political contributions, lobbying expenses or other related expenses;

(22) Costs attributable to the use of a vehicle or other company equipment for personal use;

(23) Other personal expenses not related to patient care for the core services; and

(24) Charitable contributions.

4511.2 Costs reimbursed or otherwise paid for by locally funded grants or other locally funded sources, shall be offset against expenses in determining allowable cost. Such offset does not apply to local grants funded with federal dollars.

4511.3 An FQHC shall identify each grant by name and funding source in the supplemental data submitted with the cost report.

4511.4 Revenues related to the following categories shall be offset against expense.

(a) Investment Income: Investment income on restricted and unrestricted funds which are commingled with other funds must be applied together against, but should not exceed, the total interest expense included in allowable costs;

(b) Refunds and rebates for expenses;

(c) Rental income for building and office space;

(d) Related organization transactions pursuant to 42 CFR § 413.17;

(e) Sale of drugs to other than patient; and

(f) Vending Machines.

4511.5 Enabling services described in Subsection 4510.2 shall not include any services that may be or are included as a part of a patient encounter, administrative, facility or other reimbursable cost described in these rules. The costs of enabling services shall be reasonable as determined in accordance with the Medicare reasonable cost principles set forth in 42 CFR § 413.

4512 REIMBURSEMENT FOR NEW PROVIDERS

4512.1 Each new provider seeking Medicaid reimbursement as an FQHC shall meet all of the requirements set forth in Section 4500.

4512.2 Reimbursement for services furnished by a new provider shall be determined in accordance the PPS methodology set forth in this section.

4512.3 The PPS rate for services furnished during the first year of operation shall be calculated as of the first day of the District's fiscal year in which the FQHC commences operations, and shall be equal to the average of the PPS rates paid to other FQHCs located in the same geographical area with a similar caseload.

4512.4 After the first year of operation, the FQHC shall submit a cost report to DHCF. DHCF shall audit the cost report in accordance with the standards set forth in Sections 4510 and 4511 and establish a PPS for each of the following four categories:

(a) Primary care services covered under Section 1905(a)(2) of the Social Security Act as set forth in Section 4507;

(b) Behavioral health services covered under Section 1905(a)(2) of the Social Security Act as set forth in Section 4508;

(c) Preventive and diagnostic dental services covered under Section 1905(a)(2) of the Social Security Act as set forth in Subsection 4505.7; and

(d) Comprehensive dental services covered under Section 1905(a)(2) of the Social Security Act as set forth in Subsection 4506.7.

4512.5 The PPS shall be calculated for each category described in Subsections 4512.4 (a) through 4512.4(d) by taking the sum of the FQHC's audited allowable cost for the applicable category, including related administrative and capital costs, and dividing it by the total number of eligible encounters for that category.

4512.6 The PPS rate described in Subsection 4512.5 shall remain in effect until all provider rates are rebased in accordance with Section 4516. After rebasing the FQHC shall be have the option of electing an APM rate in accordance with the procedures set forth in Section 4501.

4512.7 In addition to the PPS rate described in this section, the FQHC shall be entitled to receive a supplemental wrap-around payment as described in Subsections 4502.6 through 4502.7.

4512.8 Each new FQHC provider seeking Medicaid reimbursement shall:

(a) Obtain a separate National Provider Identification number; and

(b) Be screened and enrolled in the Medicaid program pursuant to the requirements set forth in Chapter 94 of Title 29 DCMR.

4512.9 Each new FQHC shall only seek Medicaid reimbursement for services provided consistent with the services described in Sections 4505 – 4508 in accordance with Section 1905(a)(2) of the Social Security Act.

4512.10 If an FQHC discontinues operations, either as a facility or at one of its sites, the FQHC shall notify DHCF in writing at least ninety days (90) prior to discontinuing services.

4512.11 The new provider will be allowed one encounter on the same day for each of the categories described in Subsection 4512.4(a), (b), and either (c) or (d), consistent with the requirements set forth under Subsections 4505.12 and 4506.13.

4513 REIMBURSEMENT FOR OUT OF STATE PROVIDERS

4513.1 A FQHC located outside of the District of Columbia that seeks reimbursement for services furnished to District of Columbia Medicaid beneficiaries shall comply with the requirements set forth under Subsection 4500.2 and shall be reimbursed at the PPS rate, as determined by the State Medicaid Program in the state in which the FQHC is geographically located..

4513.2 For Medicaid beneficiaries that are enrolled out of state, the FQHC shall seek reimbursement from the state in which the beneficiary is enrolled. The FQHC shall not seek reimbursement from DHCF.

4514 MANDATORY REPORTING REQUIREMENTS

4514.1 Each FQHC shall report to DHCF, annually, on the following two (2) measure sets:

(a) HRSA UDS "Quality of Care" and "Health Outcomes and Disparities" measures which may be located at the HRSA Bureau of Primary Care website at https://www.bphc.hrsa.gov/datareporting/reporting/index.html; and

(b) The performance measures set forth in the table below:

FQHC Performance Measures				
Measure Number/ Name	**Measurement Domain**	**NQF #**	**Steward**	**Description**
1.Extended After Hours	Patient-Centered Access	N/A	DHCF	FQHC offers extended hours beyond the traditional 8am-5pm business hours.
2. 24/7 Access Policy	Patient-Centered Access	N/A	DHCF	Make access to care available 24/7. At a minimum, 24/7 access includes the availability of clinical services and advice at times that assure accessibility and meet the needs of the population to be served, and access to clinical telephonic advice when the FQHC is closed. When the FQHC is closed, 24/7 access includes the provision of telephone access to an individual with qualification and training (consistent with licensing requirements in the District) to exercise professional judgment in assessing a FQHC patient's need for emergency medical care, and the ability to direct a patient on how to seek emergency care. A patient's need for emergency care might arise from an emergent physical, oral, behavioral and/or other health need. If the patient's needs are not immediate, the individual responding to the patient via the FQHC's telephone access line shall also have the capacity to refer patients to a physician or to a licensed or certified independent practitioner that delivers health care services within the FQHC or outside the FQHC, if needed, for further assessment and future care.
3. Adults' Access to Preventive/ Ambulatory Health Services	Patient-Centered Access	N/A	NCQA	The percentage of members 20 years and older who had an ambulatory or preventive care visit. **Numerator:** Number of ambulatory or preventive care visits during the measurement year **Denominator:** Members age twenty (20) years and older as of December 31 of the measurement year
4. Follow-up After Hospital Discharge	Transitions of Care	N/A	Minnesota Community Measurement	Percentage of patients with selected clinical conditions (heart failure, pneumonia, ischemic vascular disease and Chronic obstructive pulmonary disease) that have follow-up telephonic/ electronic contact from the FQHC within three (3) calendar days of discharge or a follow-up face-to-face visit with a health care provider (physician, physician assistant, nurse practitioner, nurse, care-coordinator) within seven (7) calendar days of hospital discharge.

5. Follow-up After Hospitalization for Mental Illness	Transitions of Care	0576	NCQA	For discharges of patients age six (6) and older who were hospitalized for treatment of selected mental health disorders, the percentage that had an outpatient visit, an intensive outpatient encounter, or partial hospitalization with a mental health practitioner. Two rates are reported: • The percentage of discharges for which the patient received follow-up within thirty (30) calendar days of discharge. • The percentage of discharges for which the patient received follow-up within seven (7) calendar days of discharge.
6. Timely Transmission of Transition Record	Transitions of Care	0648	American Medical Association-Physician Consortium for Performance Improvement	The percentage of patients, regardless of age, discharged from an inpatient facility (e.g., hospital inpatient or observation, skilled nursing facility, or rehabilitation facility) to their home or any other site of care for whom a transition record was transmitted to the facility or primary physician or other health care professional designated for follow-up care within twenty-four (24) hours of discharge.
7. Plan All-Cause Readmission	Utilization	1768	NCQA	For FQHC patients eighteen (18) years of age and older, the number of acute inpatient stays during the measurement year that were followed by an acute readmission for any diagnosis within thirty (30) calendar days and the predicted probability of an acute readmission. Data is reported in the following categories: 1. Count of Index Hospital Stays (denominator) 2. Count of thirty (30)-Day Readmissions (numerator) 3. Average adjusted Probability of Readmission
8. Potentially Preventable Hospitalization	Utilization	N/A	AHRQ	Percentage of inpatient admissions among FQHC participants for specific ambulatory care conditions that may have been prevented through appropriate outpatient care.
9. Low-Acuity Non-Emergent Emergency Department Visits	Utilization	N/A	DHCF	Percentage of avoidable low-acuity non-emergent ED visits.

4514.2 DHCF will notify FQHCs of the performance measures, measure specifications, and any changes through transmittals issued to the FQHCs no later than ninety (90) calendar days prior to October 1st each year.

4514.3 The measurement year for measures outlined in Subsection 4514.1(b) shall begin October 1, 2017 of and end on September 30, 2018, repeating annually, unless otherwise specified by DHCF.

4514.4 For measures described in Subsection 4514.1(a), each FQHC shall submit measures to DHCF once HRSA has approved the FQHC's final report. The final

report must be sent to DHCF no later than September 1st of each year, beginning September 1, 2017.

4515 PERFORMANCE PAYMENT

4515.1 Beginning October 1, 2017, each FQHC that elects the APM rate and meets the standards outlined in Subsection 4515.2 may be eligible to participate in the FQHC performance payment program.

4515.2 To participate in the performance payment program, a FQHC must have elected the APM rate and must submit the following to DHCF by September 1, 2018 and annually thereafter:

(a) Letter of Intent to participate in the performance payment program;

(b) Most current HRSA-approved quality improvement plan and any annual updates. In subsequent years, if the FQHC has not updated the HRSA-approved plan, then the FQHC shall provide DHCF with written notification that there have been no changes to the quality improvement plan; and

(c) Annual performance data reporting measures described in Subsection 4514.1(a).

4515.3 DHCF shall notify the FQHC if all requirements have been met no later than fifteen (15) business days after the receipt of the required materials.

4515.4 The performance payment program's baseline year will be the first year in which FQHC performance is measured to benchmark improvement in future years. The baseline year for FQHCs that elect to participate in the performance payment program shall begin October 1, 2017 and end on September 30, 2018. For FQHCs that elect to participate in the performance payment program after the initial baseline year, their first baseline year will begin on October 1st of the first year that an FQHC elects to participate in the performance program and end on September 30th.

4515.5 The measurement year (MY) is any year following an FQHC meeting the participation requirements described in Subsection 4515.2 and the completion of the baseline year; the first MY under the FQHC performance payment program will begin on October 1, 2018.

4515.6 Assessments and benchmarks will be based on comparing data collected in the baseline year to data collected during the first measurement year. During subsequent years, benchmarks will be based on performance during the prior measurement year.

4515.7 FQHCs shall be assessed based on either the attainment or the improvement of a defined threshold. If a FQHC did not attain its goal, then DHCF shall assess whether the FQHC improved from the previous measurement year. The following guidelines are set forth below:

(a) For measures #3 through 9, as described in Subsection 4514.1(b), a FQHC must achieve above the seventy-fifth (75^{th}) percentile from the previous measurement year;

(b) For measures #1 and 2, as described in Subsection 4514.1(b), the improvement benchmark will only be assessed on attainment of the goal. Specifically, whether the FQHC has provided DHCF with documentation demonstrating they have met the specifications outlined in the measures;

(c) For measures # 3 through 9 as described in Subsection 4514.1(b), where improvement can be measured, the improvement benchmark will be a statistically significant improvement in the performance of a measure as compared to the prior year's performance. A statistically significant improvement has a probability of 0.05 that the improvement was not due to random error. DHCF shall perform the appropriate statistical analysis (*e.g.*, t-test) to determine that the performance between measurement years is a result that cannot be attributed to chance.

4515.8 DHCF shall provide written notification of the attainment and individualized improvement thresholds to each participating FQHC no later than one hundred and eighty (180) calendar days after the conclusion of the previous MY after all performance measures are received and validated.

4515.9 A FQHC may opt to aggregate its beneficiary population with another FQHC's population for the purposes of calculating attainment of a performance measure or improvement on any of the required measures described in Subsection 4514.1(b) subject to the following terms and conditions:

(a) Each FQHC must notify DHCF of their selection of the aggregation option no later than September 1^{st} prior to the baseline or new measurement year;

(b) FQHCs opting to aggregate their populations together must do so for calculation of all measures during a given baseline or measurement year;

(c) Each FQHC shall report data that is identifiable for the FQHC's individual performance, along with the aggregated data;

(d) A FQHC shall elect the option to aggregate annually and may change their selection, including opting against pooling or opting to pool with a different FQHC, on an annual basis; and

(e) When a FQHC has opted to aggregate beneficiaries, performance is measured for the aggregated FQHCs throughout the duration of the performance period unless one of the aggregated entities withdraws from the FQHC program during the performance period. If one of the FQHCs that has opted to aggregate beneficiaries withdraws before the performance period is complete, the remaining FQHC's performance will be measured based on the remaining FQHC's beneficiaries.

4515.10 For MY2019, beginning on October 1, 2018, the amount of the performance bonus funding pool available for payment shall be the difference between all of the District's FQHCs' uncapped administrative cost and the District's FQHCs' capped administrative cost reflected in 2013 audited cost reports.

4515.11 For MY2020 and future years, the amount of the performance bonus funding pool shall be the amount available in the previous year pool, adjusted annually by the percentage increase in the Medicare Economic Index, established in accordance with Section 1842(i)(3) of the Social Security Act.

4515.12 DHCF shall notify the FQHCs of the performance bonus funding pool amount no later than ninety (90) calendar days prior to October 1, 2018, and annually thereafter ninety (90) calendar days before October 1st.

4515.13 The available funds in the annual performance bonus funding pool will be allocated to each participating FQHC that qualifies for a performance award as described in Subsection 4515.14.

4515.14 A participating FQHC's performance payment shall be the FQHC's maximum annual bonus payment as described in Subsection 4515.15, multiplied by the FQHC's annual performance percentage using the methodology described in Subsection 4515.17.

4515.15 Each participating FQHC's maximum annual bonus payment shall be the FQHC's market share determined in accordance with Subsection 4515.16, multiplied by the annual performance bonus funding pool, plus any additional allocation calculated pursuant to Subsection 4515.16(c).

4515.16 The market share shall be calculated as follows:

(a) In cases where there are no statistical outliers, the market share for a participating FQHC shall be the number of the FQHC's unique Medicaid beneficiaries that received primary care services from the FQHC during the baseline or previous measurement year, divided by the total number of Medicaid beneficiaries who received primary care services from the participating FQHCs during the baseline or previous measurement year;

(b) In cases where there is a statistical outlier, the market share calculation

shall be determined as follows:

(1) DHCF shall apply a cap for FQHCs whose market share is considered a statistical outlier. A statistical outlier is any FQHC that has a market share less than the lower bound or exceeding the upper bound. The upper-bound and lower-bound outlier shall be determined in the following manner:

(i) Calculate the quartiles of the number of unique Medicaid beneficiaries that received primary care services from the FQHC. The quartiles are the three (3) points that divide the data set into four (4) equal groups, each group comprising a quarter (1/4) of the data. The first quartile is defined as the middle number, otherwise known as the median, between the smallest number and the median of the data set. The second quartile is the median of the data. The third quartile is the middle value between the median and the highest value of the data set;

(ii) Calculate the interquartile range (IQR) by subtracting the first quartile from the third quartile;

(iii) Multiply the IQR by one point five (1.5) to obtain the IQR factor;

(iv) Add the third quartile to the IQR factor to calculate the upper bound; and

(v) Subtract the IQR factor from first quartile to calculate the lower bound.

(2) If an FQHC is a statistical outlier because its total number of beneficiaries exceeds the upper bound, the FQHC's market share will be the median of the upper bound number and the FQHC's actual number of unique Medicaid beneficiaries that received primary care services in the baseline or previous measurement year divided by the total number of Medicaid beneficiaries who received primary care services from the participating FQHCs during the baseline or previous measurement year;

(3) If an FQHC is a statistical outlier because its number of beneficiaries is less than the lower bound, the outlier FQHC's market share will be the lower bound number, divided by the total number of Medicaid beneficiaries who received primary care services from the participating FQHCs during the baseline or previous measurement year; and

(4) For FQHCs that are not statistical outliers participating during a measurement year when there are statistical outliers, the non-outlier FQHC's market share shall be calculated in same manner as described in subparagraph (a); and

(c) If there is an upper bound outlier, and there are remaining performance payment pool after all funds have been disseminated according to market share, the remaining additional funds shall be proportionally allocated to the non-outlier FQHCs based on the number of that FQHCs primary care beneficiaries divided by the total number of non-outlier FQHC beneficiaries.

4515.17 To determine the FQHC's annual performance percentage for each year, DHCF shall score each participating FQHC's performance in three measurement domains. This scoring will be determined as follows:

(a) A maximum of one hundred (100) points will be awarded to each FQHC across the three (3) measurement domains (*i.e.*, patient-centered care access (measures 1-3), transitions of care (measures 4-6), and utilization (measures 7-9) as described in Subsection 4514.1(b).

(b) Each measure in the domain is assigned points by dividing the total points by the number of measures in each domain. Points for each domain for the first three (3) MYs are described in the table set forth in Subsection 4515.17(c). Future point distribution for measurement attainment or improvement will be provided by DHCF to FQHCs by a transmittal on an annual basis ninety (90) calendar days before October 1.

(c)

FQHC Performance Measure Point Distribution Methodology			
	MY 2019	**MY 2020**	**MY 2021**
Total Patient-Centered Access Domain Points *(allowed points per measure)*	20 *(10)*	15 *(7.5)*	10 *(5)*
Total Clinical Process Domain Points	30 *(7.5)*	25 *(6.25)*	20 *(5)*
Total Utilization Domain Points	50 *(16.67)*	60 *(20)*	70 *(23.3)*
Total	**100**	**100**	**100**

(d) Points for each measure shall be awarded in cases where an FQHC meets

either the attainment or improvement benchmark based on the prior measurement year's performance as described below:

(1) An FQHC shall receive the allowed points per measure as described in Subsection 4515.17(c) if they submit documentation for the Extended Hours and 24/7 Access measures (*e.g.*, ten (10) points in MY2019 for each of these measures);

(2) An FQHC shall receive points if they have met or exceeded the seventy-fifth (75th) percentile attainment benchmark.

(3) An FQHC performing below the attainment benchmark may be able to receive the allowed points per measure as described in Subsection 4515.17(c) for each measure if it has met its improvement threshold described in Subsection 4515.7(c).

(4) If an FQHC neither attains nor improves performance on a given measure, zero points will be awarded for that measure.

(e) The annual performance percentage for each qualifying FQHC shall be calculated using the following methodology:

(1) Sum points awarded for each measure in the domain to determine the domain totals;

(2) Sum domain totals to determine total performance points;

(3) Divide total performance points by the maximum allowed points to determine the annual performance percentage.

4515.18 If participating FQHCs have aggregated beneficiaries together for determination of performance, the award percentage for the aggregated entities shall be applied to each FQHC's maximum bonus amount to determine the FQHC's performance award individually.

4515.19 Beginning with MY2019, and annually thereafter, performance payments shall be calculated and distributed no later than 180 calendar days after the conclusion of each measurement year once all performance measures are received and have been validated.

4516 REBASING FOR APM

4516.1 No later than January 1, 2018 and every three (3) years thereafter, the cost and financial data used to determine the APM rate shall be updated based upon audited cost reports that reflect costs that are two (2) years prior to the base year and in accordance with the methodology set forth in Sections 4503, 4504, 4505,

and 4506.

4517 COST REPORTING AND RECORD MAINTENANCE

4517.1 Each FQHC shall submit to DHCF a Medicaid cost report, prepared based on the accrual basis of accounting, in accordance with Generally Accepted Accounting Principles. In addition, FQHCs are required to submit their audited financial statements and any supplemental statements as required by DHCF no later than one hundred and fifty days (150) days after the end of each FQHC's fiscal year, unless DHCF grants an extension or the FQHC discontinues participation in the Medicaid program as a FQHC. In the absence of audited financial statements, the FQHC may submit unaudited financial statements prepared by the FQHC.

4517.2 Each FQHC shall also submit to DHCF its FQHC Medicare cost report that is filed with its respective Medicare fiscal intermediary, if submission of the Medicare cost report is required by the federal Centers for Medicare and Medicaid Services.

4517.3 Each FQHC shall maintain adequate financial records and statistical data for proper determination of allowable costs and in support of the costs reflected on each line of the cost report. The financial records shall include the FQHC's accounting and related records including the general ledger and books of original entry, all transactions documents, statistical data, lease and rental agreements and any other original documents which pertain to the determination of costs.

4517.4 Each FQHC shall maintain the records pertaining to each cost report for a period of not less than ten (10) years after filing of the cost report. If the records relate to a cost reporting period under audit or appeal, records shall be retained until the audit or appeal is completed.

4517.5 DHCF reserves the right to audit each FQHC's Medicaid cost reports and financial reports at any time. DHCF may review or audit the cost reports to determine allowable costs in the base rate calculation or any rate adjustment as set forth in these rules.

4517.6 If a provider's cost report has not been submitted to DHCF within hundred and fifty (150) days after the end of the FQHC's fiscal year as set forth in Subsection 4517.1, or within the deadline granted pursuant to an extension, DHCF reserves the right not to adjust the FQHC's APM rate or PPS rate for services as described in Subsections 4502.3, 4503.7, 4504.8, 4505.4 and 4506.4.

4517.7 Each FQHC shall submit to DHCF a copy of the annual HRSA Uniform Data System (UDS) report within thirty (30) calendar days of the filing.

4518 ACCESS TO RECORDS

4518.1 Each FQHC 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.

4519 APPEALS

4519.1 For appeals of DHCF Payment Rate Calculations, Scope of Service Adjustments or Audit Adjustments for FQHCs the following applies:

(a) At the conclusion of any required audit, payment rate or scope of service adjustment, the FQHC shall receive a notice that includes a description of each audit finding, payment rate or scope of service adjustment and the reason for any adjustment to allowable costs or to the payment rate;

(b) An FQHC may request an administrative review of payment rate calculations, scope of service adjustments or audit adjustments. The FQHC may request administrative review within thirty (30) calendar days of receiving the Notice of Audit Findings by sending a written request for administrative review to the Office of Rates, Reimbursement and Financial Analysis, DHCF;

(c) The written request for administrative review shall identify the specific audit adjustment, payment rate calculation, or scope of service adjustment to be reviewed, and include an explanation of why the FQHC believes the adjustment or calculation to be in error, the requested relief, and supporting documentation;

(d) DHCF shall mail a formal response to the FQHC no later than sixty (60) calendar days from the date of receipt of the written request for administrative review;

(e) Within thirty (30) calendar days of receipt of DHCF's written determination relative to the administrative review, the FQHC may appeal the determination by filing a written request for appeal with the Office of Administrative Hearings (OAH);

(f) The filing of an appeal with OAH shall not stay DHCF's action to adjust the FQHCs payment rate;

(g) Resolution of payment rate, scope of service adjustment, or audit adjustment in favor of an FQHC shall be applied consistent with the process as described below:

(1) The resolution of audit findings in favor of an FQHC will be applied retroactively to the date the initial adjustment was to have

taken effect;

(2) The resolution of scope of service adjustments in favor of an FQHC shall be prospective only, beginning the first day of the month following resolution of the scope of services adjustment; and

(3) The resolution of payment rate adjustments shall be retroactive to the date when DHCF received a completed request for administrative review.

4519.2 For FQHC appeals of DHCF decisions on fee-for-service claims the following applies:

(a) An FQHC may request a formal review of a decision made on a fee-for-service claim. To be eligible for a formal review, the FQHC must make the request within three-hundred and sixty-five (365) calendar days of receiving notice of the decision;

(b) The written request for formal review shall include an explanation of the problem, the requested relief, supporting documentation and meet any additional standards DHCF or its designee may require. Written requests for formal review must be sent to the addresses provided in the DC MMIS Provider Billing Manual;

(c) DHCF or its designee shall render a written decision on a request for a formal review within forty-five (45) calendar days of a completed request for review; and

(d) Nothing in this rule waives or modifies the requirements for the timely filing of Medicaid provider claims set forth in 29 DCMR §§ 900, *et seq*.

4519.3 For FQHC appeals of MCO decisions on claims for reimbursement the following applies:

(a) Effective July 1, 2017, for dates of services after April 1, 2017, an FQHC may request administrative reconsideration from DHCF in order to challenge an MCO's denial, nonpayment or underpayment of a claim. To be eligible for administrative reconsideration, the FQHC shall:

(1) Exhaust the MCO appeal process for the MCO that issued the denial, nonpayment or underpayment; and

(2) Receive a final written notice of determination (WND) from the MCO, or provide documentation that the timeframe for the MCO to render a final WND has expired without decision; and

(b) Requests for administrative reconsideration shall be made to DHCF by mail, email, fax, or in person to DHCF's Appeals Coordinator within thirty (30) calendar days of the date of the final WND from the MCO. If no final WND was provided, the request shall be made within thirty (30) calendar days of the date that the MCO was due to render its final WND. Requests for administrative reconsideration shall include the following minimum information and documentation:

(1) MCO name;

(2) MCO ID;

(3) A copy of the final WND indicating that the FQHC has exhausted all available appeal opportunities with the MCO, or documentation indicating the deadline for the MCO to render a final WND has expired;

(4) An original fee-for-service equivalent claim for reimbursement which shall include:

(i) Date of Service;

(ii) Healthcare Common Procedure Coding System/Current Procedural Terminology code;

(iii) Payment amount at issue;

(iv) Medicaid ID of the enrollee; and

(v) Name and Date of Birth of enrollee; and

(5) A written statement by the FQHC describing why the MCO's decision should not be upheld, including any supporting documentation; and

(c) DHCF will notify the MCO when a FQHC request for administrative reconsideration has been filed to allow the MCO the opportunity to share supporting documentation;

(d) DHCF reserves the right to request additional information and/or supporting documentation from the FQHC and/or the MCO, as appropriate, to assist in its determination. Failure to respond to agency

requests for additional information and/or supporting documentation within the timeframe provided will not prevent DHCF from rendering a written decision;

(e) DHCF shall render a written decision within forty-five (45) calendar days of receiving a complete request for administrative reconsideration. If new information is provided to DHCF that warrants an extension in the amount of time it will take the agency to render a decision, the agency reserves the right to extend its review period by no more than ten (10) calendar days. The FQHC shall be notified if such an extension is required;

(f) The written decision shall constitute the final determination on the subject claim. The written decision by DHCF shall include the following minimum information:

(1) Basis for decision; and

(2) Supporting documentation or findings, if appropriate; and

(g) If DHCF determines that the decision of the MCO was improper, then DHCF will direct the MCO to make proper payment to the provider no later than thirty (30) calendar days of its written decision. Once payment is made, the FQHC can follow protocol in making a request to DHCF for wrap payment;

(h) If DHCF determines that the decision of the MCO was proper, but that the FQHC is still due reimbursement or payment, DHCF shall make the appropriate payment no later than thirty (30) calendar days of its written decision;

(i) If DHCF determines that the decision of the MCO was proper and the FQHC is not due reimbursement or payment, DHCF shall deny reimbursement; and

(j) Nothing in this rule waives or modifies the requirements for the timely filing of Medicaid provider claims set forth in 29 DCMR §§ 900, *et seq.*

4599 DEFINITIONS

4599.1 For purposes of this chapter, the following terms shall have the meanings ascribed:

Alternative Payment Methodology - A reimbursement model other than a Prospective Payment System Rate for services furnished by an FQHC which meets the requirements set forth in Section 1902(bb)(6) of the Social Security Act.

Capitation payment - A payment an MCO makes periodically to an FQHC on behalf of a beneficiary enrolled with the FQHC pursuant to a contract between the MCO and FQHC. In exchange for the payment, the FQHC agrees to provide or arrange for the provision of the service(s) covered under the contract regardless of whether the particular beneficiary receives services during the covered period.

Encounter - A face-to-face visit between a Medicaid beneficiary and a qualified FQHC health care professional as described in Subsections 4507.2, 4508.2, 4505.15 and 4506.16, who exercises independent judgment when providing services for a primary care, behavioral health service or dental service as described under the State Plan in accordance Section 1905(a)(2) of the Social Security Act. An encounter may also include a visit between a Medicaid beneficiary receiving healthcare services and a provider via telemedicine in accordance with District requirements.

FQHC look-alike - A private, charitable, tax-exempt non-profit organization or public entity that is approved by the federal Centers for Medicaid and Medicare Services and authorized to provide Federally Qualified Health Center Services.

New Provider – An FQHC that enrolls in the District's Medicaid Program after the effective date of the corresponding SPA or after the date that the rates are rebased.

Per Member Per Month (PMPM) payments – A single payment per month by an MCO to an FQHC to cover multiple visits.

Prospective Payment System Rate – The rate paid for services furnished in a particular fiscal year that is not dependent on actual cost experience during the same year in which the rate is in effect.

Single course of treatment – A process or sequence of services that are furnished at the same time or at the same visit.

Comments on these rules should be submitted in writing to Claudia Schlosberg, J.D., Senior Deputy/State Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4th Street, N.W., Suite 900, Washington D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2017-226
October 2, 2017

SUBJECT: Appointments — Board of Medicine

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) (2016 Repl.), and pursuant to section 203 of the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986, D.C. Law 6-99; D.C. Official Code § 3-1202.03 (2016 Repl. and 2017 Supp.), and 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 (2016 Repl.), it is hereby **ORDERED** that:

1. **ARCHIE RICH,** pursuant to the Board of Medicine Archie Rich Confirmation Resolution of 2017 effective May 29, 2017, PR22-0192, is appointed as a consumer member of the Board of Medicine, replacing Treasure Johnson, for a term to end August 4, 2019.

2. **JOSHUA WIND,** pursuant to the Board of Medicine Joshua Wind Confirmation Resolution of 2017, effective May 29, 2017, PR22-0191, is appointed as a physician licensed to practice in the District member of the Board of Medicine, replacing Brendan Furlong, to serve the remainder of an unexpired term ending August 4, 2017, and for a new term to end August 4, 2020.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to May 29, 2017.

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 2017-227
October 2, 2017

SUBJECT: Reappointments — Board of Optometry

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) (2016 Repl.), and pursuant to section 207 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986, D.C. Law 6-99; D.C. Official Code § 3-1202.07 (2016 Repl.), which established the Board of Optometry, and 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 (2016 Repl.), it is hereby **ORDERED** that:

1. **DAVID REED,** pursuant to the Board of Optometry David Reed Confirmation Resolution of 2017, effective July 1, 2017, PR22-0298 is reappointed as an optometrist licensed in the District member of the Board of Optometry, for a term to end March 12, 2019.

2. **LISA JOHNSON,** pursuant to the Board of Optometry Lisa Johnson Confirmation Resolution of 2017, effective June 17, 2017, PR22-0291, is reappointed as an optometrist licensed in the District member of the Board of Optometry, for a term to end March 12, 2020.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to the date of confirmation.

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 2017-228
October 2, 2017

SUBJECT: Reappointments — Board of Pharmacy

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) (2016 Repl.), pursuant to section 208 of the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986, D.C. Law 6-99, D.C. Official Code § 3-1202.08 (2016 Repl.), and 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 (2016 Repl.), it is hereby **ORDERED** that:

1. **ALAN STEVEN FRIEDMAN,** pursuant to the Board of Pharmacy Alan Steven Friedman Confirmation Resolution of 2017, effective May 1, 2017, PR22-0145 is reappointed as a pharmacist licensed in the District member of the Board of Pharmacy, for a term to end March 12, 2020.

2. **TAMARA MCCANTS,** pursuant to the Board of Pharmacy Tamara McCants Confirmation Resolution of 2017, effective May 1, 2017, PR22-0146 is reappointed as a pharmacist licensed in the District member of the Board of Pharmacy, for a term to end March 12, 2020.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to May 1, 2017.

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 2017-229
October 2, 2017

SUBJECT: Appointment — Board of Podiatry

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) (2016 Repl.), pursuant to section 210 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986, D.C. Law 6-99; D.C. Official Code § 3-1202.10 (2016 Repl.), which established the Board of Podiatry, and 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 (2016 Repl.), it is hereby **ORDERED** that:

1. **MICHANGELO SCRUGGS,** pursuant to the Board of Podiatry Michangelo Scruggs Confirmation Resolution of 2017, effective April 8, 2017, PR22-0120, is appointed as a podiatrist licensed in the District member of the Board of Podiatry, replacing Stuart Sibel, to serve the remainder of an unexpired term ending April 16, 2017, and for a new term to end April 16, 2020.

2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to April 8, 2017.

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 2017-230
October 2, 2017

SUBJECT: Appointment - Board of Real Estate Appraisers

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) (2016 Repl.), pursuant to the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999, D.C. Law 12-261; D.C. Official Code § 47-2853.06(g) (2012 Repl.), and 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 (2016 Repl.), it is hereby **ORDERED** that:

1. **ANDREW SULLIVAN**, pursuant to the Board of Real Estate Appraisers Andrew Sullivan Confirmation Resolution of 2016, effective February 25, 2017, PR22-0061, is appointed as a licensed real estate appraiser member of the Board of Real Estate Appraisers, replacing Trinity Lovell Jennings, for a term ending June 26, 2017, and for a full term to end June 26, 2020.

2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to February 25, 2017.

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 2017-231
October 2, 2017

SUBJECT: Appointment — Board of Respiratory Care

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) (2016 Repl.), pursuant to section 214 of the District of Columbia Health Occupations Revision Act of 1985, effective March 14, 1995, D.C. Law 10-203; D.C. Official Code § 3-1202.14 (2016 Repl.), and 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 (2016 Repl.), it is hereby **ORDERED** that:

1. **BETTY AKPAN** pursuant to the Board of Respiratory Care Betty Akpan Confirmation Resolution of 2017, effective May 15, 2017, PR22-0168, is appointed as a respiratory therapist licensed in the District member of the Board of Respiratory Care, replacing Jean Williams, for a term ending July 17, 2019.

2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to May 15, 2017.

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 2017-232
October 2, 2017

SUBJECT: Reappointments — Board of Social Work

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) (2016 Repl.), pursuant to section 212 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986, D.C. Law 6-99, D.C. Official Code § 3-1202.12 (2016 Repl.), and 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 (2016 Repl.), it is hereby **ORDERED** that:

1. **VELVA SPRIGGS,** pursuant to the Board of Social Work Velva Spriggs Confirmation Resolution of 2017, effective May 1, 2017, PR22-0141, is reappointed as an independent social worker licensed in the District member of the Board of Social Work, for a term to end March 3, 2020.

2. **SELERYA MOORE,** pursuant to the Board of Social Work Selerya Moore Confirmation Resolution of 2017, effective May 1, 2017, PR22-0140, is reappointed as a consumer member of the District of Columbia Board of Social Work, for a term to end March 3, 2020.

3. **EFFECTIVE DATE:** This Order shall be effective *nun pro tunc* to May 1, 2017.

MURIEL BOWSER
MAYOR

ATTEST:
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

D.C. CRIMINAL CODE REFORM COMMISSION

NOTICE OF PUBLIC MEETING

WEDNESDAY, OCTOBER 4, 2017 AT 3:00 PM
441 4TH STREET N.W., ROOM 1112, WASHINGTON, D.C., 20001

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, October 4, 2017 at 3pm. The meeting will be held in Room 1112 of the Citywide Conference Center on the 11th Floor of 441 Fourth St., N.W., Washington, DC. The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, http://ccrc.dc.gov/page/ccrc-meetings. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or richard.schmechel@dc.gov.

MEETING AGENDA

I. Welcome and Announcements.

II. Discussion of Property Offenses:
- (A) First Draft of Report #8 Recommendations for Property Offense Definitions, Aggregation, Multiple Convictions
- (B) First Draft of Report #9 Recommendations for Theft and Damage to Property Offenses
- (C) First Draft of Report #10 Recommendations for Fraud and Stolen Property Offenses
- (D) First Draft of Report #11 Recommendations for Extortion, Trespass, and Burglary Offenses
- (E) Advisory Group Memo #12 Property Offense Supplementary Materials.

III. Adjournment.

D.C. BILINGUAL PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

D.C. Bilingual Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for vendors to provide the following services for SY17.18:

- Fundraising and Grant Writing Services

Proposal Submission

A Portable Document Format (pdf) election version of your proposal must be received by the school no later than **4:00 p.m. EST on Wednesday, October 18, 2017.** Proposals should be emailed to bids@dcbilingual.org

No phone call submission or late responses please. Interviews, samples, demonstrations will be scheduled at our request after the review of the proposals only.

E.L. HAYNES PUBLIC CHARTER SCHOOL

NOTICE OF EXTENSION OF REQUEST FOR PROPOSALS

Bathroom Renovation Services

E.L. Haynes Public Charter School ("ELH") is seeking proposals from qualified vendors to provide bathroom renovation services for our six in-classroom pre-kindergarten and kindergarten bathrooms.

The contract will be assigned to a successful bidder who can provide the parts and service to complete these tasks.

Proposals are due via email to Kristin Yochum no later than 5:00 PM on Friday, October 13, 2017. We will notify the final vendor of selection and schedule work to be completed. The RFP with bidding requirements can be obtained by contacting:

Kristin Yochum
E.L. Haynes Public Charter School
Email: kyochum@elhaynes.org

Flooring Products and Services

E.L. Haynes Public Charter School ("ELH") is seeking proposals from qualified vendors to provide and install marmoleum and/or VCT flooring for areas in the basement, second, and third floors of our high school, located at 4501 Kansas Ave, NW.

The contract will be assigned to a successful bidder who can provide the parts and service to complete these tasks.

Proposals are due via email to Kristin Yochum no later than 5:00 PM on Friday, October 13, 2017. We will notify the final vendor of selection and schedule work to be completed. The RFP with bidding requirements can be obtained by contacting:

Kristin Yochum
E.L. Haynes Public Charter School
Email: kyochum@elhaynes.org

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY (NOFA)

ACCESS TO QUALITY CHILD CARE EXPANSION GRANT

Request for Application (RFA) Release Date: November 1, 2017 by 12:00 p.m.

The Office of the State Superintendent of Education (OSSE) is soliciting grant applications for the Access to Quality Child Care Expansion Grant. The goal of the Access to Quality Child Care Expansion Grant is to increase the supply of child care services for infants and toddlers in the District by adding a total of 1,000 new infant and toddler slots to DC's infant and toddler child care supply by Sept. 2020, with the goal of an average of 300 new seats in 2018, 2019 and 2020. OSSE's Division of Early Learning (DEL) is soliciting applications from organizations interested in (1) developing and implementing a sub-granting mechanism for enabling child development providers to improve the supply of such child care services and (2) providing technical assistance for the same purpose.

The grant is supported through District of Columbia local funds as part of a strategic citywide effort to expand access to child care through the Access to Quality Child Care Fund, available here: Section 4103 of the Fiscal Year 2018 Budget Support Act of 2017.

Eligibility: OSSE/DEL will accept applications from eligible applicants. Eligible applicants must be non-profit organizations but are not required to provide direct child care services to infants and toddlers. Additionally, eligible applicants must have a proven track record of success in providing financing and investment approaches and technical assistance in child development facility financing and development and specifically in grant-making related to child development facilities. Applicants are encouraged to seek and propose bold and creative solutions.

Available Funding for Award: The total funding available for this award period is approximately $9,000,000. Grant funds will be made available over the three year period of the grant, in accordance with the grantee's work plan and budget as approved by OSSE/DEL. OSSE/DEL anticipates issuing one award from this funding opportunity. The period for the grant will be three-years, ending on September 30, 2020, contingent upon availability of funds. Each budget period will be one year, with the first period ending September 30, 2018.

OSSE maintains the right to adjust the grant award and amount based on funding availability. Successful applicants may be awarded amounts less than requested.

OSSE/DEL will make the funds available through a competitive process to identify nonprofit organizations with experience in the child care field that are interested in implementing the Access to Quality Child Care Expansion grant. Applications that meet all eligibility and application requirements will be evaluated, scored, and rated by an OSSE/DEL designated review panel.

OSSE/DEL will use external peer reviewers to review and score the applications received in response to the request for applications. External peer reviewers may include employees of the District of Columbia government who are not employed by OSSE. An external peer reviewer is an expert in the field or the subject matter. The final decision to fund applicants rests solely with OSSE/DEL. After reviewing the recommendations of the review panel and any other relevant information, OSSE/DEL shall decide which applicant to fund.

For additional information regarding this grant competition, please contact:

Tara Dewan-Czarnecki
Program Manager
Division of Early Learning
Office of the State Superintendent of Education
Phone: (202) 741-7637
Tara.Dewan-Czarnecki@dc.gov

The RFA will be released November 1, 2017 at 12:00 p.m. through OSSE's Enterprise Grants Management System. The online system and training videos may be accessed by visiting http://grants.osse.dc.gov.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY (NOFA)

FISCAL YEAR (FY18)

DC Career Academy Network (DC CAN) Grant

Request for Applications (RFA) Release Date: October 20, 2017 at 12:00 p.m.

The District of Columbia Office of the State Superintendent of Education (OSSE) is soliciting grant applications to increase the number of academies within the DC Career Academy Network (DC CAN) pursuant to Postsecondary and Career Grant-Making Authority Amendment Act of 2017 (D.C. Act 22-0130, Section 4052) (enacted July 31, 2017). The DC CAN vision is to create one cohesive network of career academies within all high schools in the District of Columbia. Its mission is to reshape the District's workforce by effectively preparing students for college and careers through the use of the NAF educational design. The purpose of this grant is to provide seed money to support the establishment of up to two additional academies within the DC CAN: one finance academy and one information technology academy. Before enrolling students, the DC CAN academy must engage in a structured year of planning. The year of planning process involves activities, technical assistance, and supports to align resources and programs prior to implementation. This grant shall be supplemental to federal, local or other funds received by a school for career and technical education.

Eligibility:

The application shall be open to all public and public charter high schools located in the District of Columbia that seek to establish a DC CAN academy within finance or information technology.

To be eligible, all schools must first be interviewed by NAF and receive a letter indicating that the school meets year-of-planning standards. Each LEA must then apply on a school's behalf for the DC CAN fund.

The NAF application process for a determination of whether the school meets year of planning standards is as follows:

- School applicants will utilize the NAF Academy Application Center at http://mis.naf.org/public/applications/ . (there you will: (1) register for a MyNAF account to log in; (2) select "Academy Applications"; and (3) select "Apply" and complete the online application)
- The full application includes an interest survey which must be completed by the school principal and must be accompanied by 3 – 5 letters of support from

businesses, higher education, or individuals who are currently engaged in the industry theme.

- NAF staff will review each application and schedule a "Formal Qualified" interview.
- A final determination of whether the school meets year of planning standards will be made within 24 hours of the interview.

Available Funding for Award: The total available funding for this grant is approximately $560,000 through this RFA. If funding is available, OSSE will award continuation grant funds to support all academies that continue to meet the terms and conditions of the grant. Continuation grant funds may be used to support the staffing positions that were agreed upon under initial award. After two years of funding, any additional continuation funds may only be used to support academy activities. Each LEA, however, must sustain the existing OSSE-sponsored position(s) in the third year and onward as a condition of any continued DC CAN funding.

Award Period: The duration of this grant is for a period from January 1, 2018 through September 30, 2018.

A review panel or panels will be convened to review, score, and rank each application for a competitive grant. The review panel(s) will be composed of external, neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. Each application will be scored against a rubric and applications will have multiple reviewers to ensure accurate scoring. Upon completion of its review, the panel(s) shall make recommendations for awards based on the scoring rubric(s). OSSE will make all final award decisions.

The RFA and all supporting documents will be available on October 20, 2017, by 12:00 p.m. at http://grants.osse.dc.gov. To receive more information or for a copy of this RFA, please contact:

Simone García
Director of Career Education Development
Office of the State Superintendent of Education
810 First St. NE, Second Floor
Telephone: (202) 727-4312
Email: Simone.Garcia@dc.gov

DISTRICT OF COLUMBIA
BOARD OF ELECTIONS

Certification of Filling a Vacancy
In Advisory Neighborhood Commission

Pursuant to D.C. Official Code §1-309.06(d)(6)(D), If there is only one person qualified to fill the vacancy within the affected single-member district, the vacancy shall be deemed filled by the qualified person, the Board hereby certifies that the vacancy has been filled in the following single-member district by the individual listed below:

Jerrold Johnson
Single-Member District 1B02

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 an air quality permit (No. 6213-R2) to GTS Auto Service and Body Work to operate one automotive paint spray booth at the facility located at 2310 18th Place NE, Washington DC 20018. The contact person for the facility is John DeSousa at (202) 462-0486.

Emissions Estimate:

AQD estimates that the potential to emit volatile organic compounds (VOC) from the automotive paint spray booth will not exceed 3.12 tons per year.

The proposed emission limits are as follows:

a. No chemical strippers containing methylene chloride (MeCl) shall be used for paint stripping at the facility. [20 DCMR 201.1]

b. The Permittee shall not use or apply to a motor vehicle, mobile equipment, or associated parts and components, an automotive coating with a VOC regulatory content calculated in accordance with the methods specified in this permit that exceeds the VOC content requirements of Table I below. [20 DCMR 718.3]

Table I. Allowable VOC Content in Automotive Coatings for Motor Vehicle and Mobile Equipment Non-Assembly Line Refinishing and Recoating

Coating Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)
Adhesion promoter	4.5	540
Automotive pretreatment coating	5.5	660
Automotive primer	2.1	250
Clear coating	2.1	250
Color coating, including metallic/iridescent color coating	3.5	420
Multicolor coating	5.7	680
Other automotive coating type	2.1	250
Single-stage coating, including single-stage metallic/iridescent coating	2.8	340
Temporary protective coating	0.50	60
Truck bed liner coating	1.7	200
Underbody coating	3.6	430
Uniform finish coating	4.5	540

*VOC regulatory limit as applied = weight of VOC per volume of coating (prepared to manufacturer's recommended maximum VOC content, minus water and non-VOC solvents)

c. Each cleaning solvent present at the facility shall not exceed a VOC content of twenty-five (25) grams per liter (twenty-one one-hundredths (0.21) pound per gallon), calculated in accordance with the methods specified in this permit, except for [20 DCMR 718.4]:

1. Cleaning solvent used as bug and tar remover if the VOC content of the cleaning solvent does not exceed three hundred fifty (350) grams per liter (two and nine-tenths (2.9) pounds per gallon), where usage of cleaning solvent used as bug and tar remover is limited as follows:

A. Twenty (20) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with four hundred (400) gallons or more of coating usage during the preceding twelve (12) calendar months;

B. Fifteen (15) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with one hundred fifty (150) gallons or more of coating usage during the preceding twelve (12) calendar months; or

C. Ten (10) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with less than one hundred fifty (150) gallons of coating usage during the preceding twelve (12) calendar months;

2. Cleaning solvents used to clean plastic parts just prior to coating or VOC-containing materials for the removal of wax and grease provided that non-aerosol, hand-held spray bottles are used with a maximum cleaning solvent VOC content of seven hundred eighty (780) grams per liter and the total volume of the cleaning solvent does not exceed twenty (20) gallons per consecutive twelve-month (12) period per automotive refinishing facility;

3. Aerosol cleaning solvents if one hundred sixty (160) ounces or less are used per day per automotive refinishing facility; or

4. Cleaning solvent with a VOC content no greater than three hundred fifty (350) grams per liter may be used at a volume equal to two-and-one-half percent (2.5%) of the preceding calendar year's annual coating usage up to a maximum of fifteen (15) gallons per calendar year of cleaning solvent.

d. The Permittee may not possess either of the following [20 DCMR 718.9]:

1. An automotive coating that is not in compliance with Condition (b) (relating to coating VOC content limits); and

2. A cleaning solvent that does not meet the requirements of Condition (c) (relating to cleaning solvent VOC content limits).

e. 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]

f. Visible emissions shall not be emitted into the outdoor atmosphere from the paint booth. [20 DCMR 201.1, 20 DCMR 606, and 20 DCMR 903.1]

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

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

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

Stephen S. Ours, P.E.
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 comments or hearing requests submitted after November 6, 2017 will be accepted.

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

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 No. 6843 to The Louis DC Residential LLC to operate one (1) 300 kWe emergency generator set powered by a 463 hp diesel-fired engine at 1920 14th Street NW, Washington DC 20009. The contact person for the facility is Dennis Houston, Building Engineer, at (571) 420-0510.

Emissions:

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

	Maximum Annual Emissions
Pollutant	**(tons/yr)**
Particulate Matter (PM) (Total)[1]	0.03
Sulfur Dioxide (SO2)	0.24
Nitrogen Oxides (NOx)	0.79
Volatile Organic Compounds (VOC)	0.02
Carbon Monoxide (CO)	0.19

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

a. Emissions from the generator set shall not exceed those found in the following table as measured using the procedures set forth in 40 CFR 89, Subpart E for NMHC, NOx, and CO and 40 CFR 89.112(c) for PM [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.112(a)-(c)]:

Pollutant Emission Limits (g/kW-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 set, 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]

Note that 20 DCMR 606 is subject to an EPA-issued call for a State Implementation Plan (SIP) revision (known as a "SIP call") requiring the District to revise 20 DCMR 606. See "State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown

and Malfunction", 80 Fed. Reg. 33840 (June 12, 2015). It is likely that this federal action will result in changes to the requirements of 20 DCMR 606. Any such changes, once finalized in the DCMR, will supersede the language of Condition (b) as stated above.

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

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

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

Stephen S. Ours, P.E.
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 comments or hearing requests submitted after November 6, 2017 will be accepted.

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

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

SIGNIFICANT PERMIT MODIFICATION TO AIR QUALITY TITLE V OPERATING PERMIT AND GENERAL PERMIT FOR VIRGINIA ELECTRIC AND POWER CO. DBA DOMINION VIRGINIA POWER AT JOINT BASE MYER-HENDERSON HALL

Notice is hereby given that Virginia Electric and Power Co. dba Dominion Virginia Power has applied for a Title V air quality permit significant modification pursuant to the requirements of Title 20 of the District of Columbia Municipal Regulations, Chapters 2 and 3 (20 DCMR Chapters 2 and 3). The modification will add a thirteenth diesel-fired emergency generator set to the previously issued permit to operate twelve (12) diesel fired emergency generators at Joint Base Myer-Henderson Hall (Fort Lesley J. McNair), located at 4th and P Streets SW, Washington DC. The new emergency generator set consists of a 400 kWe generator powered by a 619 hp diesel-fired engine. The contact person for the applicant is Mr. Andy Gates, at (804) 273-2950.

The following table shows the impact of the addition of the new generator set to the facility's potential to emit air pollutants:

FACILITY WIDE EMISSIONS SUMMARY [TONS PER YEAR]			
Criteria Pollutants	**Potential Emissions Before Additional Generator Set**	**Potential Emissions of Additional Generator Set**	**Total New Potential Emissions of the Facility**
Sulfur Dioxide (SO_2)	0.03	0.001	0.031
Oxides of Nitrogen (NO_x)	51.77	0.64	52.41
Total Particulate Matter (PM Total)	0.44	0.02	0.46
Volatile Organic Compounds (VOC)	0.84	0.03	0.87
Carbon Monoxide (CO)	5.21	0.45	5.66

With the potential to emit approximately 52.41 tons per year of NO_x, the source has the potential to emit greater than the District's major source threshold of 25 tons per year of NO_x. Additionally, these units constitute a support facility for Joint Base Myer-Henderson Hall, which is a separately permitted major source. Therefore, the facility is classified as a major source of air pollution and is subject to 20 DCMR Chapter 3 and must obtain an operating permit under that regulation.

The Department of Energy and Environment (DOEE) has reviewed the permit application and related documents and has made a preliminary determination that the applicant meets all applicable air quality requirements promulgated by the U.S. Environmental Protection Agency (EPA) and the District. Therefore, draft permit #043-A1 has been prepared.

The application, the draft permit, and all other materials submitted by the applicant [except those entitled to confidential treatment under 20 DCMR 301.1(c)] considered in making this preliminary determination are available for public review during normal business hours at the offices of the Department of Energy and Environment, 1200 First Street NE, 5th Floor, Washington DC 20002. Copies of the draft permit and related fact sheet are available at https://doee.dc.gov/service/public-notices-hearings.

A public hearing on this permitting action will not be held unless DOEE has received a request for such a hearing within 30 days of the publication of this notice. Interested parties may also submit written comments on the permitting action.

Comments on the draft 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 comments or hearing requests submitted after November 6, 2017 will be accepted.

For more information, please contact Emily Chimiak at (202) 535-2273 or emily.chimiak@dc.gov.

DEPARTMENT OF FORENSIC SCIENCES

NOTICE OF PUBLIC MEETING

Science Advisory Board Meeting
Friday, October 20, 2017
9:00 a.m.
Draft Agenda

On Friday, October 20, 2017, the Department of Forensic Sciences will be hosting the Science Advisory Board Meeting via Web-Based Conferencing (WebEx). The meeting will commence at 9:00 a.m. Any questions should be directed to Herb Thomas, 202-727-8267. Mr. Thomas can also be reached at Herbert.Thomas@dc.gov.

Roll Call, Review of Minutes from last meeting, Approval of Minutes

Quality Update – Brittany Graham

Public Health Lab Update – Dr. Anthony Tran

Old Business, New Business

Closing and adjournment

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF FOR-HIRE VEHICLES

NOTICE OF FOR-HIRE VEHICLES ADVISORY COUNCIL MEETING

The Department of For-Hire Vehicles will hold a For-Hire Vehicles Advisory Council Meeting on Wednesday, October 18, 2017 at 10:00 am. The meeting will be held at 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 For-Hire Vehicles Advisory Council Meeting on the DFHV website at www.dfhv.dc.gov.

Members of the public are invited to participate in the Public Comment Period. You may present a statement to the Council on any issue of concern; the Council 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 Council. To register, please call 202-645-6002 no later than 3:00 p.m. on October 17, 2017. 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 Advisory Council Recorder no later than the time they are called to the podium.**

DRAFT AGENDA

I. Call to Order

II. Advisory Council Communication

III. Advisory Council Action Items

IV. Government Communications and Presentations

V. General Counsel's Report

VI. Staff Reports

VII. Public Comment Period

VIII. Adjournment

FRIENDSHIP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Friendship Public Charter School is seeking bids from prospective vendors to provide;

- Compensation Design Consulting Services for a multi-campus Charter School network
- Temporary Staffing Firm Services to assist in recruiting short and long term substitute teacher placements
- Online Curriculum Services for 9th through 12th grade that align with Common Core Standards
- Marching Band Uniforms and supplies
- Catering for Friendship Schools 2017 Staff Holiday Celebration

The competitive Request for Proposal can be found on FPCS website at http://www.friendshipschools.org/procurement. Proposals are due no later than 4:00 P.M., EST, Tuesday, October 3rd, 2017. No proposals will be accepted after the deadline. Questions can be addressed to ProcurementInquiry@friendshipschools.org.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Pharmacy hereby gives notice pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) of the cancellation of its regularly scheduled monthly meetings for October 2017.

Thursday, October 5, 2017, the District of Columbia Board of Pharmacy meeting has been cancelled. The Department of Health will be closed on October 5, 2017 for a mandatory All Hands Meeting for all DOH employees.

The Board of Pharmacy meets at 899 North Capitol Street, NE, 2nd Floor, Washington, D.C. 20002. The agendas for all open (public) session meetings will be posted at least one business day before the meeting on the Board of Ethics and Government Accountability website at http://www.bega-dc.gov/board-commission/meetings. This website may also be accessed through a link on the DOH website, www.doh.dc.gov.

OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT

THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

INCLUSIONARY ZONING PROGRAM REVISED 2017 MAXIMUM INCOME, RENT AND PURCHASE PRICE SCHEDULE

This Revised 2017 Maximum Income, Rent and Purchase Price Schedule is published pursuant to the Inclusionary Zoning Implementation Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-275; D.C. Official Code § 6-1041.01 *et seq*.) (as amended, the "Act") and the Inclusionary Zoning Regulations codified in Chapter 10 of Title 11-C and Chapter 22 of Title 14 of the DCMR. The Revised Schedule is effective upon publication in the D.C. Register.

The price schedule is being revised for four reasons:

1. Due to changes in the Inclusionary Zoning Implementation Regulations, published as Emergency Rulemaking on September 1, 2017 (64 D.C.R. 8722), the minimum income limits are being revised to allow for households to spend up to fifty (50%) of income on housing costs in order to take advantage of the available Inclusionary Units.

2. An error was discovered in the description of the homeowner association fees assumption used to calculate the Maximum Purchase Price in the price schedule published in the D.C. Register on July 21, 2017. The single-family homeowner association fees are estimated at thirteen cents ($0.13) per square foot per month, but the original 2017 price schedule inadvertently stated that these fees are estimated at eleven cents ($0.11) per square foot per month. The originally published maximum allowable purchase prices were calculated using the thirteen cents ($0.13) per square foot per month assumption.

3. This revised schedule includes maximum and minimum income levels for households of 6, 7 and 8 persons.

4. This revised schedule includes the 30%, 100%, and 120% MFI maximum and minimum income levels and maximum rent and purchase price amounts, which are often used in residential developments that include Affordable Dwelling Units (ADUs). With respect to ADUs with Affordable Housing Covenants executed prior to the publication of this revised schedule, all figures provided here are for guidance only. ADU developers, property managers, and/or sales agents must consult the particular affordability requirements of the property imposed by the existing Affordable Housing Covenants to determine the applicable requirements.

Maximum Household Income Limits, rents and purchase prices are based on the Washington Metropolitan Statistical Area 2017 Median Family Income (MFI), previously referred to as Area

Median Income (AMI) of $110,300 for a household of four, as published by the U.S. Department of Housing and Urban Development on April 14, 2017. The limits are adjusted for household size in this schedule. For further information, please contact Gene Bulmash, Inclusionary Zoning Program Manager, Department of Housing and Community Development, 1800 Martin Luther King Jr. Avenue, SE, Washington, DC 20020 or gene.bulmash@dc.gov.

	Maximum Household Income ($s)					
Household Size	**30% of MFI**	**50% of MFI**	**60% of MFI**	**80% of MFI**	**100% of MFI**	**120% of MFI**
1	23,150	38,600	46,350	61,750	77,200	92,650
2	26,450	44,100	52,950	70,600	88,250	105,900
3	29,800	49,650	59,550	79,400	99,250	119,100
4	33,100	55,150	66,200	88,250	110,300	132,350
5	36,400	60,650	72,800	97,050	121,350	145,600
6	39,700	66,200	79,400	105,900	132,350	158,850
7	43,000	71,700	86,050	114,700	143,400	172,050
8	46,350	77,200	92,650	123,550	154,400	185,300

	Recommended Minimum Household Income, based on Housing Costs not exceeding 38% of the Household Income ($s)					
Unit Size	**30% of MFI**	**50% of MFI**	**60% of MFI**	**80% of MFI**	**100% of MFI**	**120% of MFI**
Studio	18,300	30,650	36,650	48,650	60,950	73,250
1 bedroom	19,600	32,550	39,150	52,400	65,350	78,300
2 bedroom	23,700	39,150	47,050	62,850	78,300	94,100
3 bedroom	27,450	45,800	54,950	73,250	91,600	109,600
4 bedroom	31,250	52,400	62,850	83,700	104,550	125,350

	Minimum Household Income, based on Housing Costs not exceeding 50% of the Household Income ($s)					
Unit Size	**30% of MFI**	**50% of MFI**	**60% of MFI**	**80% of MFI**	**100% of MFI**	**120% of MFI**
Studio	13,900	23,300	27,850	36,950	46,300	55,700
1 bedroom	14,900	24,700	29,750	39,850	49,700	59,500
2 bedroom	18,000	29,750	35,750	47,750	59,500	71,500
3 bedroom	20,900	34,800	41,750	55,700	69,600	83,300
4 bedroom	23,750	39,850	47,750	63,600	79,450	95,300

Note: Minimum Incomes are only applicable for rental Inclusionary Units and are not applicable if a household has rental assistance, such as a rent voucher or subsidy.

Multi-Family Developments

Bed-rooms	Est. Utilities ($s)	Est. Condo Fees ($s)	50% of MFI Units		60% of MFI Units		80% of MFI Units	
			Max. Rent ($s)	Max. Purchase Price ($s)	Max. Rent ($s)	Max. Purchase Price ($s)	Max. Rent ($s)	Max. Purchase Price ($s)
Studio	111 - 160	331	970	109,800	1,160	140,700	1,540	202,500
1	169 - 241	394	1,030	110,700	1,240	143,800	1,660	210,100
2	226 - 322	583	1,240	113,600	1,490	153,300	1,990	232,800
3	285 - 404	662	1,450	134,100	1,740	180,400	2,320	273,100
4	342 - 484	693	1,660	162,200	1,990	215,100	2,650	321,100

Bed-rooms	Est. Utilities ($s)	Est. Condo Fees ($s)	30% of MFI Units		100% of MFI Units		120% of MFI Units	
			Max. Rent ($s)	Max. Purchase Price ($s)	Max. Rent ($s)	Max. Purchase Price ($s)	Max. Rent ($s)	Max. Purchase Price ($s)
Studio	111 - 160	331	580	48,000	1,930	264,300	2,320	326,100
1	169 - 241	394	620	44,500	2,070	276,300	2,480	342,500
2	226 - 322	583	750	34,100	2,480	312,200	2,980	391,700
3	285 - 404	662	870	41,400	2,900	365,900	3,470	458,600
4	342 - 484	693	990	56,200	3,310	427,000	3,970	533,000

Single-Family Developments

			50% of MFI Units		60% of MFI Units		80% of MFI Units	
Bed-rooms	Est. Utilities ($s)	Est. Condo Fees ($s)	Max. Rent ($s)	Max. Purchase Price ($s)	Max. Rent ($s)	Max. Purchase Price ($s)	Max. Rent ($s)	Max. Purchase Price ($s)
2	269 - 426	143	1,240	164,800	1,490	204,500	1,990	284,000
3	336 - 529	169	1,450	192,100	1,740	238,500	2,320	331,200
4	401 - 629	195	1,660	211,500	1,990	264,400	2,650	370,400

			30% of MFI Units		100% of MFI Units		120% of MFI Units	
Bed-rooms	Est. Utilities ($s)	Est. Condo Fees ($s)	Max. Rent ($s)	Max. Purchase Price ($s)	Max. Rent ($s)	Max. Purchase Price ($s)	Max. Rent ($s)	Max. Purchase Price ($s)
2	269 - 426	143	750	85,300	2,480	363,400	2,980	442,900
3	336 - 529	169	870	99,400	2,900	423,900	3,470	516,600
4	401 - 629	195	990	105,500	3,310	476,300	3,970	582,300

The Maximum Allowable Purchase Price or Rent is calculated based on a household at the benchmark income spending no more than thirty percent (30%) of its income toward housing cost.

Maximum Allowable Rent is equal to the rent published minus any utility expenses paid by the tenant for water, sewer, electricity, natural gas, trash, and any other fees required in order to occupy the Inclusionary Unit, including, but not limited to, mandatory amenity fees or administrative fees.. Utilities are estimated above, and the range is based on the difference between gas or electric heat. Actual costs to be deducted for each utility are itemized in Schedule 1 below.

An Inclusionary Development Owner may lower the rents or prices to achieve a larger marketing band of incomes for marketing purposes to assure occupancy.

Maximum Allowable Purchase Prices use the following assumptions:

1. A conventional thirty (30) year, fixed-rate, fully amortizing mortgage at the national average mortgage rate as published by the Federal Housing Finance Agency at www.fhfa.gov (4.24% as of May 5, 2017) plus a one and a half percent (1.5%) cushion to protect for future interest rate increases and a five percent (5%) down payment.

2. Real estate property taxes are assessed based on the control price at the current real estate tax rate of $0.85 per $100 of valuation and a homestead deduction of $72,450.

3. Condominium fees are estimated at sixty-three cents ($0.63) per square foot per month applied to the assumed unit square footages. Single-Family homeowner association fees are estimated at thirteen ($0.13) cents per square foot per month applied to the assumed unit square footages. Estimated unit sizes are:

	Multi-Family Inclusionary Development				**Single-Family Inclusionary Development**		
Bed-rooms	Studio	1	2	3	2	3	4
Unit Size	525	625	925	1,050	1,100	1,300	1,500
Hazard Insurance	Included in Condominium Fee				120	130	190

NOTE 1. If the actual homeowner association/condominium fee for a specific Inclusionary Unit is more than ten percent (10%) higher than the fees assumed in this Schedule, then DHCD may use the actual fees to determine the Maximum Purchase Price for the Inclusionary Unit.

NOTE 2. If the condominium fees for any given Inclusionary Unit do not include hazard insurance, then DHCD may add the actual or estimated insurance costs to determine the Maximum Purchase Price for the Inclusionary Unit.

NOTE 3. For unit types or target MFI not listed above, contact DHCD Housing Regulation Administration.

NOTE 4. Maximum and Minimum Incomes are rounded to the nearest 50, Maximum Rents are rounded to the nearest 10 and Maximum Purchase Prices are rounded to the nearest 100. Incomes within one percent (1%) of the Maximum and Minimum Household Incomes will be considered by DHCD.

NOTE 5. More information on Inclusionary Zoning is available at www.dhcd.dc.gov

Schedule 1: Estimated Utilities per Unit Type

The following utility estimates are produced by the District of Columbia Housing Authority. The estimates shall be deducted from the maximum allowable rent if the tenant pays all or a portion of the required utilities. Only deduct from the rent the utility for which the tenant is responsible. For example, an 80% of MFI one-bedroom apartment for which the tenant pays electricity and not water and sewer will have a maximum rent of $1,480 ($1,660 maximum allowable rent minus $180 estimated electricity cost).

Multi-family Developments

Unit type	Electricity	Gas	Water	Sewer	Total
Electric heat, hot water, and cooking					
Studio	130	N/A	13	17	160
1-bedroom	180	N/A	26	35	241
2-bedroom	231	N/A	39	52	322
3-bedroom	282	N/A	52	70	404
4-bedroom	332	N/A	65	87	484
Gas heat, hot water, and cooking					
Studio	36	45	13	17	111
1-bedroom	48	60	26	35	169
2-bedroom	60	76	39	52	226
3-bedroom	72	91	52	70	285
4-bedroom	84	106	65	87	342

Single-family Developments

Unit type	Electricity	Gas	Water	Sewer	Total
Electric heat, hot water, and cooking					
2-bedroom	335	N/A	39	52	426
3-bedroom	407	N/A	52	70	529
4-bedroom	477	N/A	65	87	629
Gas heat, hot water, and cooking					
2-bedroom	72	106	39	52	269
3-bedroom	86	128	52	70	336
4-bedroom	101	149	65	87	401

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD

NOTIFICATION OF 2018 BOARD MEETINGS

The District of Columbia Public Charter School Board ("DC PCSB") hereby gives notice, of DC PCSB's intent to hold a public meeting at 6:30pm on the following dates:

Monday, January 22, 2018

Monday, February 26, 2018

Monday, March 19, 2018

Monday, April 23, 2018

Monday, May 21, 2018

Monday, June 18, 2018

Monday, July 16, 2018

Monday, August 20, 2018 (tentative)

Monday, September 17, 2018

Monday, October 15, 2018

Monday, November 19, 2018

Monday, December 17, 2018

For questions, please call 202-328-2660. An agenda for each meeting will be posted 48 business hours in advance of the meetings on www.dcpcsb.org. The location for all meetings is currently to be determined.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

PUBLIC NOTICE

FORMAL CASE NO. 1129, IN THE MATTER OF THE PUBLIC SERVICE COMMISSION'S INVESTIGATION INTO DEFAULT GAS SERVICE PROVIDED BY WASHINGTON GAS LIGHT COMPANY THROUGH THE PURCHASE GAS CHARGE IN THE DISTRICT OF COLUMBIA

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice that, on September 6, 2017, Silver Point Consulting LLC ("Silver Point") filed the public and confidential versions of its Management Audit Report of the Natural Gas Purchasing Processes and Policies of Washington Gas Light Company ("WGL" or "the Company") for Task 1 of the audit of the Purchase Gas Charge ("PGC").[1] Comments and reply comments are due within 30 and 45 days from the date of publication of this Notice in the *D.C. Register*, respectively.

2. By Order No. 17826, the Commission opened an investigation into the default gas service provided by WGL through the PGC in an effort to take a more in-depth review of the rates being charged for the natural gas supply service to default customers in the District of Columbia to ensure that the rates are just and reasonable.[2] In subsequent orders, the Commission determined that the audit would be accomplished in two (2) parts and established Task 1 as a Management Audit and Task 2 as an Agreed-Upon Procedures Audit ("AUP").[3] The overall objectives for the management audit were to determine: (a) whether the Company's purchasing policies and processes are sufficient to meet its natural gas supply requirements for default supply; (b) whether the Company's procurement planning is sufficient to ensure reliable supply for the default supply program at optimal prices that are fair, just, and reasonable; (c) whether the Company reviews its existing and potential supply plan for improvements and for consistency with its long-term strategic supply plan, and assess the effectiveness of that review process; (d) how the Company's natural gas purchasing process compares to the best practices of other natural gas distribution companies in the region; and (e) whether the Company's asset management is reasonable and whether changes are required.[4]

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[1] *Formal Case No. 1129, In the Matter of the Public Service Commission's Investigation Into Default Gas Service Provided by Washington Gas Light Company Through the Purchase Gas Charge in the District of Columbia ("Formal Case No. 1129")*, Management Audit of the Natural Gas Purchasing Processes and Policies of Washington Gas Light Company -- Final Report, filed September 6, 2017 ("Final Report").

[2] *Formal Case No. 1129*, Order No. 17826, rel. March 12, 2015, at ¶5 ("Order No. 17826").

[3] *See Formal Case No. 1129*, Order No. 17878, rel. May 13, 2015 (Order No. 17878"), as modified by *Formal Case No. 1129*, Order No. 17951, rel. August 28, 2015 ("Order No. 17951").

[4] *Formal Case No. 1129*, Order No. 18640, rel. December 16, 2016 ("Order No. 18640").

3. On December 16, 2016, the Commission selected Silverpoint to perform the Management Audit and directed that a final report be filed upon completion of the audit.[5] On September 6, 2017, Silverpoint filed a Final Audit Report for the Commission's review and consideration. Silver Point's audit included: (a) a review of WGL's Energy Acquisition group (staff and experience levels); (b) an assessment of the Company's load forecasting, including development of demand and design day forecasting; (c) an evaluation of WGL's capacity resource planning; (d) an evaluation of WGL's natural gas planning and procurement activities; and (e) a review of WGL's asset optimization program and revenue sharing mechanism. To make the record complete, the Commission is seeking comments from interested persons before making any formal decisions on the Management Audit. Comments shall be filed within 30 days from the date of publication of this Notice in the *D.C. Register* and reply comments 15 days thereafter.

4. All parties who have signed a confidentiality agreement and are interested in commenting on the confidential version of the Management Audit as well as other persons interested in commenting on the public version of the Management Audit may submit written comments and reply comments no later than 30 and 45 days from the date of publication of this Notice in the *D.C. Register*, respectively. Comments are to be addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, NW, Suite 800, Washington, DC 20005. Copies of the Management Audit may be obtained by visiting the Commission's website at www.dcpsc.org. Once at the website, open the "eDocket" tab, click on "Search database" and input "FC 1129" as the case number and "25" as the item number for the public version of the audit report. Copies may also be purchased at cost by contacting the Commission Secretary at (202) 626-5150 or PSC-CommissionSecretary@dc.gov.

[5] Order No. 18640 at ¶¶1 and 7.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

PUBLIC NOTICE

FORMAL CASE NO. 1139, IN THE MATTER OF THE APPLICATION OF THE POTOMAC ELECTRIC POWER COMPANY FOR AUTHORITY TO INCREASE EXISTING RETAIL RATES AND CHARGES FOR ELECTRIC DISTRIBUTION SERVICE

1. By this Public Notice, the Public Service Commission of the District of Columbia ("Commission") invites interested parties to comment on the Potomac Electric Power Company ("Pepco") District of Columbia 2016 Depreciation Study ("Depreciation Study").[1] Comments are due within 45 days of the date of publication of this Notice in the *D.C. Register* and reply comments are due 20 days thereafter.

2. Depreciation is the method companies use to recover the original cost of their investment.[2] Annual depreciation rates are developed based upon the remaining book value of the assets placed in service, amounts received as gross salvage and expenses incurred for the cost of removal.[3] D.C. Code § 34-1115 requires the Commission to ascertain and determine the proper and adequate rates of depreciation of the several classes of property of each public utility and to make changes in such rates of depreciation from time to time as it may find to be necessary.[4] The Commission last looked at Pepco's depreciation rates in *Formal Case 1103*, where the Company filed a depreciation study as a part of its application to increase rates. In *Formal Case No. 1139*, Order No. 18846, the Commission directed:

> Pepco to prepare and file a new depreciation study at least 90 days before the filing of its next distribution rate case. Pepco's new depreciation study should include net salvage depreciation rates using the current approved net salvage depreciation rate methodology. Pepco must provide an updated discount rate with appropriate Handy-Whitman Indices, supported by testimony along with supporting workpapers that explain the assumptions on which Pepco's witnesses

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1 *Formal Case No. 1139, In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service* ("*Formal Case No. 1139*"), Potomac Electric Power Company ("Pepco") District of Columbia 2016 Depreciation Study, filed September 18, 2017 ("Depreciation Study).

2 *See* Black's Law Dictionary at 473 (8th Ed. 2004). (Depreciation is a decline in an asset's value because of use, wear, or obsolescence).

3 *See e.g.*, Maryland Public Service Commission *Case No. 9096, In the Matter of the Application of Baltimore Gas and Electric Company for Approval of Changes in Depreciation Rates*, Proposed Order of Hearing Examiner, rel. February 26, 2008.

4 D.C. Code §34-1115 (2010); *see also* 15 DCMR § 200.3(e) (any rate application must include a statement showing the amount of depreciation reserve of the utility's jurisdictional property).

> base their judgments. Pepco is not constrained from also recommending and supporting a different methodology on the calculation of the net savage depreciation rate; however, that recommendation should be in addition to providing net salvage depreciation rates using the Commission's current approved net salvage rate methodology.[5]

3. On September 18, 2017, Pepco filed the Depreciation Study, which "employs the Commission's current approved net salvage rate methodology but also recommends the use of the traditional method for calculation of the net salvage rate."[6] The Study recommends the Commission increase the overall depreciation from a composite rate of 2.76 percent to a composite rate of 3.30 percent.[7] Pepco represents that the current depreciation rates provide for an annual depreciation expense of $87,650,180 based on December 31, 2016, investments; however, under the proposed depreciation rates, the depreciation expense would rise to $104,811,177 based on December 31, 2016, investments, an expense increase of $17,160,997. Of the 26 accounts and subaccounts included in this Depreciation Study, Pepco recommends rate reductions for 4 accounts and rate increases for 15 accounts.[8]

4. The proposed changes using the "traditional method" for calculating net salvage are as follows:

	Depreciation Rate			**Expense**		
Function	Current	Proposed	Difference	Current	Proposed	Difference
A	B	C	D = C - B	E	F	G = F - E
Distribution Plant	2.75%	3.29%	0.54%	$83,705,138	$100,057,183	$16,352,045
General Plant	4.05%	4.17%	0.12%	$5,680,837	$5,858,957	$178,120
Amortization Adj.				($1,735,795)	($1,104,963)	$630,832
Total	2.76%	3.30%	0.54%	$87,650,180	$104,811,177	$17,160,997
Based off of Witness Allis's Table 1: Comparison of Existing and Proposed Depreciation Rates and Accruals						

5 *Formal Case No. 1139*, Order No. 18846, ¶ 335, rel. July 25, 2017.

6 *Formal Case No. 1139*, Deprecation Study at 1.

7 Pepco Witness Allis Direct at 7, Table 1 and Exhibit NWA-3.

8 Pepco Exhibit NWA-3.

5. The filing also includes "variations"[9] of the current present value net salvage method as follows:

	Accrual Rate			Annualized Accrual		
Function	Handy Whitman	2.5% Inflation	"Corrected" for Age	Handy Whitman	2.5% Inflation	"Corrected" for Age
A	B	C	D	E	F	G
Distribution Plant	2.82%	2.91%	3.87%	$87,711,967	$88,566,971	$117,689,240
General Plant	4.08%	4.09%	4.18%	$5,733,522	$5,743,495	$5,867,993
Amortization Adj.				$(1,104,963)	$(1,104,963)	$(1,104,963)
Total	2.84%	2.93%	3.85%	$90,340,525	$93,205,503	$122,452,270
Source: Table 2 on Page VI-7 of Pepco's filed 2016 Depreciation Study						

6. To aid the Commission in its review of Pepco's Depreciation Study, the Commission invites interested parties to submit comments on the method, techniques, procedures, and conclusions reached by Pepco. New depreciation rates can be implemented only through a rate proceeding; therefore, Pepco's depreciation rates, if approved, will be implemented after the next Pepco rate case. As discussed in the Depreciation Study, Pepco indicates that it may file a rate case application in approximately 60 days, from September 18, 2017.[10]

7. Any party interested in commenting on Pepco's Depreciation Study may do so within 45 days of the date of publication of this Notice in the *D.C. Register* and reply comments are due 20 days thereafter. Comments are to be addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington D.C., 20005. Copies of Pepco's Depreciation Study may be obtained by visiting the Commission's website at www.dcpsc.org. Once at the website, open the "eDocket" tab, click on "Search database" and input "FC 1139" as the case number and "302" as the item number. Copies of Pepco's Depreciation Study may also be purchased, at cost, by contacting the Commission Secretary at (202) 626-5150 or PSC-CommissionSecretary@dc.gov.

[9] Pepco Witness Allis Direct at 43:19-20.

[10] *See Formal Case No. 1139*, Depreciation Study at 1.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED ISSUANCE OF STOCK OR EVIDENCES OF INDEBTEDNESS

FORMAL CASE NO. 1147, IN THE MATTER OF THE APPLICATION OF POTOMAC ELECTRIC POWER COMPANY FOR A CERTIFICATE OF AUTHORITY TO ISSUE DEBT SECURITIES

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to D.C. Code §§ 2-505, 34-502 and 34-503 (2001), that it intends, in not less than 30 days from the date of publication of this Notice in the *D.C. Register*, to take final action on the Application of Potomac Electric Power Company ("Pepco" or "Company") for a certificate authorizing the Company to issue and sell up to $600 million of long-term secured and unsecured debt securities.[1]

2. In its Application, filed on September 21, 2017, Pepco requests authority to issue up to $600 million of long-term secured and unsecured debt securities for a three-year period.[2] The Company states that it plans to use the proceeds from the financing for six primary purposes: (1) to refund maturing long-term debt; (2) for redemptions; (3) to refund outstanding securities of the Company, should future market conditions make refinancings feasible; (4) to refund short-term debt incurred to finance utility construction and operations on a temporary basis; (5) to fund ongoing capital requirements of the Company; and (6) for other general corporate purposes.[3] Pepco further states that the precise timing and types of financing selected will depend on factors such as prevailing and anticipated market conditions, the cost and volume of the Company's anticipated and outstanding short-term debt, the costs of the Company's outstanding securities, and capital structure considerations.[4] Pepco seeks expedited review of its Application under the Commission's expedited review process in Chapter 35 of the Commission's rules (15 DCMR §§ 3500-3505 (2000)).[5]

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1 *Formal Case No. 1147, In the Matter of the Application of Potomac Electric Power Company for a Certificate of Authority Authorizing It to Issue Debt Securities* ("*Formal Case No. 1147*"), Potomac Electric Power Company's Application for Authority to Issue Debt Securities, filed Sept. 21, 2017 ("Pepco's Application").

2 Pepco's Application at 6.

3 Pepco's Application at 2.

4 Pepco's Application at 2.

5 Pepco's Application at 1. *See also,* 15 DCMR § 3501.1, describing the Commission's expedited review process: "An application for authority to issue or amend tariffs or issue stock or evidences of indebtedness that are payable in more than one year shall be approved by the Commission within thirty days after the publication date in the D.C. Register, provided that: (1) no objection is filed within thirty (30) days after the date of publication; and (2) the Commission does not order additional time for review of the application."

3. Pepco's Application and supporting documentation are on file with the Commission and may be reviewed at the Office of the Commission Secretary, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday, or may be viewed on the Commission's website by visiting www.dcpsc.org. and, under the "eDocket System" tab, selecting "Search Current Dockets" and typing "FC 1147" in the field labeled "Select Case Number" and "1" as the field labeled "item number." Copies of the Application are available, upon request, at a per-page reproduction fee.

4. Any person desiring to comment on the Application or object to the expedited handling of the Application shall file written comments or objections stating the reasons for the objections no later than 30 days from the date of publication of this Notice in the *D.C. Register* addressed to Brinda Westbrook-Sedgwick, Commission Secretary, at the address listed in the preceding paragraph. Any responses to comments or objections shall be filed within 35 days from the date of publication of this Notice in the *D.C. Register*. Once the comment period expires, the Commission will take final action. Persons with questions regarding this Notice should call (202) 626-5150.

D.C. SENTENCING COMMISSION

2017-2018 MEETING SCHEDULE

The Commission meetings for the D.C. Sentencing Commission are held in open session on the ***third Tuesday of every month***. (unless otherwise noted)

All meetings are held at 441 4th Street, N.W., Suite 430S, Washington, D.C. A notice will be published in the *D.C. Register* and posted on the agency website at http://sentencing.dc.gov for each meeting.

The meeting dates for 2017-2018 are:

Sept. 19, 2017	5:00-6:30pm
Oct. 17, 2017	5:00-6:30pm
Dec. 12, 2017	5:00-6:30pm
Jan. 16, 2018	5:00-6:30pm
Feb. 20, 2018	5:00-6:30pm
Mar. 20, 2018	5:00-6:30pm
Apr. 17, 2018	5:00-6:30pm
May 15, 2018	5:00-6:30pm
June 19, 2018	5:00-6:30pm
July 17, 2018	5:00-6:30pm

*Meeting schedule is subject to change. Inquiries concerning the meeting may be addressed to Mia Hebb, Staff Assistant, at (202) 727-8822 or Mia.Hebb@dc.gov.

SUSTAINABLE FUTURES PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Facilities Partner Round 2

Sustainable Futures PCS is still seeking a qualified partner to help us secure a long-term facility. Proposals are due no later than Friday, October 13, 2017. Questions are due by October 6. The complete RFP can be obtained by emailing lbryant@sfpcsdc.org . Please indicate 'Facilities Partner RFP' in the subject line.

WASHINGTON GLOBAL PUBLIC CHARTER SCHOOL

INVITATION FOR BID

Food Service Management Services

Washington Global Public Charter School is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2017-2018 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on **October 6, 2017** from **Vika Jordan on 571-235-4195 or bids@washingtonglobal.org**:

Proposals will be accepted at 1611 Connecticut Ave NW, Washington, DC 20009 on **November 2, 2017**, not later than **3 PM.**

All bids not addressing all areas as outlined in the IFB will not be considered.

WASHINGTON LEADERSHIP ACADEMY PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Interim Education Placement Services

WLA is seeking proposals for an educational setting and/or program other than the student's current placement that enables the student to continue to receive educational services according to his or her Individualized Education Plan and current WLA's current curriculum.

Please include the following in your RFP:

- Rate/hour/service
- Qualifications of service providers
- Licensed Special Education Teacher
- References of other DC charter schools

Deadline for Proposals: Friday, October 13

WASHINGTON LEADERSHIP ACADEMY PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Special Education Services

WLA is seeking proposals for occupational, behavioral service, and speech therapy services for high school students with identified disabilities. Services take place at WLA's campus on a weekly basis.

Please include the following in your RFP:

- Rate/hour/service
- Qualifications of service providers.
- Licenses
- References of other DC charter schools

Deadline for Proposals: Friday, October 13

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Environmental Quality and Operations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Operations Committee will be holding a meeting on Thursday, October 19, 2017 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

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

DRAFT AGENDA

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Order No. 16334-A of Bright Beginnings, pursuant to 11 DCMR Subtitle Y § 703.4, for a modification of consequence of BZA Order No. 16334, requesting a change in the conditions to permit an increase in the number of staff, extending the hours of operation, and expanding the operating space of an existing child development center in the RF-1 Zone at premises 128 M Street N.W. (Square 557, Lot 849).

The original application (No. 16334) was pursuant to 11 DCMR 3108.1[1], for a special exception under the provisions of Section 205 to establish a child development center for 98 children and 30 staff, on the first floor of an existing structure in an R-4 District at premises 128 M Street, NW (Square 557, Lot 849).

HEARING DATE (Case No. 16334):	April 15, 1998
DECISION DATE (Case No. 16334):	April 15, 1998
ORDER ISSUANCE DATE (16334):	May 1, 1998
MODIFICATON DECISION DATES:	November 16 and December 21, 2016; February 15 and September 13, 2017

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE

BACKGROUND

On April 15, 1998, in Application No. 16334, the Board of Zoning Adjustment ("Board" or "BZA") approved the request by the Department of Housing and Community Development on behalf of Bright Beginnings, Inc. (the "Applicant") for a special exception under the provisions of § 205 in the 1958 Zoning Regulations to establish a child development center for 98 children and 30 staff, on the first floor of an existing structure in an R-4 District (now RF-1) at premises 128 M Street, N.W. (Square 557, Lot 849). The approval was under the 1958 Zoning Regulations then in effect. In the original case, the Advisory Neighborhood Commission ("ANC"), ANC 2C (now ANC 6E), submitted a report in support of the application.

The Board issued Order No. 16334 on May 1, 1998. (Exhibit 3 of the record for Case No. 16334-A.) The approval in Case No. 16334 was subject to three conditions, namely:

1. The operating hours of the center shall be between 7:00 a.m. and 7:00 p.m., Monday through Friday;

[1] The original application was filed under the Zoning Regulations (Title 11, DCMR) which were then in effect (the "1958 Zoning Regulations) but which were repealed on September 6, 2016 and replaced with new text ("the 2016 Regulations"). Also, all of the zone district names have been changed in the 2016 Zoning Regulations, in this case from the R-4 to the RF-1 Zone. The repeal of the 1958 Regulations and change of zone district name has no effect on the validity of the Board's decision in Application No. 16334 or the validity of this order.

2. The center shall not exceed more than 98 children and 30 staff members, or otherwise as indicated by the Department of Human Services;

3. Any proposed alteration of the building shall be carried out in compliance with Historic Preservation Review Board requirements.

MOTION FOR MODIFICATION OF CONSEQUENCE

On October 18, 2016, the Applicant submitted a request for a minor modification to the conditions approved by the Board in Order No. 16334 (the "Order"). (Exhibits 1-4.) Pursuant to 11 DCMR Subtitle Y § 703, the Applicant is requesting to revise the approved conditions to expand the hours of operation by four and ½ hours; increase staff from 30 to 60; and expand the child development space from Suite 150 to Suites 150, 300, 320, and 325. (Exhibit 4.)

In the Order, the Board approved the requested special exception relief to establish a child development center for 98 children and 30 staff, on the first floor of an existing structure in an R-4 District (now RF-1) at premises 128 M Street, N.W. (Square 557, Lot 849). The application was granted subject to the three conditions noted above.

The Applicant is requesting approval to change the approved conditions, to expand the hours of operation from 7:00 a.m. to 7:00 p.m. to 7:00 a.m. to 11:30 p.m., Monday through Friday; increase staff from 30 to 60; and expand the child development space from Suite 150 to Suites 150, 300, 320, and 325. With the exception of the amendments requested in this application, the Applicant will continue to operate the center in accordance with the original Board approval. (Exhibit 4.)

Preliminary Matters

The modification application was initially placed on the Board's Public Meeting agenda for November 16, 2016, at which meeting the Board first determined that under the 2016 Zoning Regulations, the request was for a modification of consequence, not a minor modification.

The Office of Planning ("OP") in its initial report of November 4, 2016 noted that for this request to be considered a minor modification, it would have had to be reviewed within two years of the original order approval, which this application did not meet. (Exhibit 4.) OP also noted that while it was "generally supportive" of the requested modifications in the Order, it had requested additional information from the Applicant to allow it to complete its evaluation. (Exhibit 6.)

The Board requested that the Applicant submit the information OP had requested in its initial report and meet with the affected ANC. The Board next placed the matter on the decision agenda for December 21, 2016. Thereafter, the Applicant submitted several requests for postponement of the Board's decision (Exhibits 8-12) and the matter was postponed from the meetings of

February 25 and May 31, 2017. The Applicant submitted the requested supplemental information under Exhibits 13 and 13A-C. Ultimately, it was placed on the meeting agenda and approved on September 13, 2107.

The Merits of the Request for the Modification of Consequence

The Applicant's request complies with 11 DCMR Subtitle Y § 703.4, which defines a modification of consequence as a "proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board."

In the application herein, the Applicant is requesting a modification of consequence to the Order because with this modification, the Applicant is requesting to revise the approved conditions to expand the hours of operation by four and ½ hours; to double the staff; and expand the child development space by an additional 3,644 square feet. (Exhibits 4 and 6.) Other than these revisions to the approved conditions, the Center will remain as approved by the Board. (Exhibits 4 and 6.)

The Applicant explained that the revisions to the conditions in the original approval will allow the Applicant to continue operating the existing approved special exception use as a child care center and better serve its children and families. Unlike a traditional child care facility, the children attending the Applicant's center are exclusively from low-to-no income backgrounds and most come from families without a permanent home. Currently, the center serves 98 children. The Applicant's educational, therapeutic, health and family support services prepare the children for kindergarten and help transition families out of homelessness. The Applicant noted that the use is permitted in the RF-1 zone and there will be no external changes to the building.

The Applicant indicated that while it has made great strides in providing needed child care to at-risk families since the approval of the original case, it now is requesting amendments to that approval to allow it to continue to provide the necessary child care and improve the delivery of these services. The Applicant noted that it feels it needs to exceed the minimum Federal and District child-to-teacher ratios to adequately meet the needs of this population of children and families. The Applicant stated that it is the only organization in the District focused specifically on providing services to homeless children and their families and thus fills an extraordinary and increasing need in the community. Having additional staff would allow the children and families to receive the individualized attention they require in accordance with the center's mission. Also, the increase in staff takes into consideration the expanded hours of operation. The Applicant serves families who are on the road to stability and self-sufficiency and who have non-traditional working, educational, or training hours, these families require child care after regular business hours and at times after 7:00 p.m. Consequently, in furtherance of its mission, the Applicant tries to support these endeavors by providing child care later in the evening. Thus, it is requesting to expand its hours Monday through Friday to 11:30 p.m. Also, the Applicant explained that the existing lower level area, Suite 150, contains seven classrooms, social service and therapy areas

that total 7,053 square feet and the upper level, Suites 300, 320, and 325, contain an additional 3,644 square feet, for a total area of 10,697 square feet to be occupied by the Applicant. (See, Exhibit 13A.) The additional space on the third floor includes offices and rooms for supportive services for the children and their families, including a parent resource center and a mental health and disabilities center, which includes occupational, physical, speech and language assistance. The Applicant's submissions describe how it continues to meet the criteria for special exceptions for daytime care uses. (Exhibit 13.)

Pursuant to Subtitle Y §§ 703.8-703.9, the request for a modification of consequence shall be served on all other parties to the original application and those parties are allowed to submit comments within ten days after the request has been filed with the Office of Zoning and served on all parties. The Applicant provided proper and timely notice of the request for modification of consequence to Advisory Neighborhood Commission ("ANC") 6E, the only other party to Application No. 16334. ANC 6E submitted a report, dated July 17, 2017, that indicated that the ANC, at a properly noticed and fully quorumed public meeting on July 5, 2017, voted 5-0-0 to support the Modification of Consequence request. The ANC raised no issues or concerns in its report and indicated that it believed that the requested modifications will have no negative impacts. (Exhibit 16.)

The Applicant also served its request on OP. As mentioned above, OP first submitted a report on November 4, 2016, and while supportive of the request, OP asked for additional information from the Applicant. After reviewing the Applicant's supplemental information (Exhibits 13 and 13A-C), OP submitted a supplemental report on September 1, 2017 recommending the Board approve the modification requested by the Applicant. (Exhibit 14.) DDOT submitted a report indicating it had no objection to the modification. Also, the Office of the Superintendent of Education ("OSSE") submitted a report recommending approval of the modification application. (Exhibit 17.)

On September 13, 2017, the Board deliberated on the modification request and approved the request.

As directed by 11 DCMR Subtitle Y § 703.4, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a modification of consequence. Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a modification of consequence to the conditions approved in Case No. 16334, the Applicant has met its burden of proof under 11 DCMR Subtitle Y § 703, that the proposed modification has not changed any material facts upon which the Board based its decision on the underlying application that would undermine its approval.

As noted, the only parties to the case were the ANC and the Applicant. Accordingly, a decision by the Board to grant request would not be adverse to any party and therefore an order containing full finding of facts and conclusions of law need not be issued pursuant to D.C. Official Code § 2-509(c) (2012 Repl.). Therefore, pursuant to 11 DCMR Subtitle Y § 101.9, the

Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application for modification of consequence of the Board's approval in Application No. 16334 is hereby **GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The operation hours of the center shall be between 7:00 a.m. and 11:30 p.m., Monday through Friday.

2. The center shall not exceed 98 children and 60 staff members, or otherwise as indicated by the Office of the State Superintendent of Education (OSSE).

3. The child development center shall be shall be located in Suites 150, 300, 320, and 325 of the Perry School Community Service Center.

4. Any proposed alteration of the building shall be carried out in compliance with Historic Preservation Review Board requirements.

In all other respects, Order No. 16334 remains unchanged.

VOTE ON ORIGINAL APPLICATION ON MAY 1, 1998: 4-0
(Betty King, Maurice Foushee, Jerrily Kress, and Sheila Cross Reid to grant.)

VOTE ON MODIFICATION OF CONSEQUENCE ON SEPTEMBER 13, 2017: 4-0-1
(Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, and Michael G. Turnbull (by absentee ballot) to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: September 22, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19316 of Dilan Investment LLC, pursuant to 11 DCMR § 3104.1[1], for a special exception from the residential development requirements under § 353 to construct a 12-unit apartment building in the R-5-A District at premises 1904 Irving Street, N.E. (Square 4207, Lot 15).

HEARING DATES: July 6, 2016, July 19, 2016, and September 27, 2016[2]
DECISION DATE: September 27, 2016

DECISION AND ORDER

An application was submitted on April 29, 2016 by Toye Bello for Dilan Investment, LLC ("Applicant"), the owner of the property that is the subject of the application, seeking a special exception under § 353 of the Zoning Regulations to allow a 12-unit apartment house in the R-5-A zone at 1904 Irving Street, N.E. (Square 4207, Lot 15.) A public hearing was held on July 19, 2016, after which additional information was requested from the Applicant and the Office of Planning. On September 27, 2016, having received the additional information request and deliberating upon the matter, the Board voted to approve the application for the reasons stated below.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated May 15, 2016, the Office of Zoning provided notice of the application to the Office of Planning ("OP"); the District Department of Transportation ("DDOT"); the Department of Housing and Community Development; the District of Columbia State Board of Education; the Councilmember for Ward 5; Elissa Silverman, Councilmember, At-Large; David Grosso, Councilmember, At-Large; Anita Bonds, Councilmember, At-Large; Vincent Orange, Councilmember, At-Large; Advisory Neighborhood Commission ("ANC") 5C, the ANC in which the subject property is located; and

[1] Except when otherwise noted through a citation to a subtitle, this and all other references in this Order to provisions contained in Title 11 DCMR, are to provisions that were in effect on the date this Application was filed with the Board of Zoning Adjustment ("the 1958 Regulations"), but which were repealed as of September 6, 2016 and replaced by new text. Also all zone districts described in this order were renamed as of that date. The repeal and replacement of the 1958 Regulations and the renaming of the zone districts has no effect on the validity of the Board's decision or the validity of this order.

[2] The application was originally scheduled for public hearing on July 6, 2016. At the request of the Applicant, the hearing was postponed to July 19, 2016, then continued by the Board to September 27, 2016.

Single Member District/ANC 5C07. Pursuant to 11 DCMR § 3112.14, on May 18, 2016, the Office of Zoning mailed letters providing notice of the hearing to the Applicant, ANC 5C, and the owners of all property within 200 feet of the subject property. Notice was published in the May 20, 2016 edition of the *D.C. Register* at 63 DCR 7637.

Party Status. The Applicant and ANC 5C were automatically parties in this proceeding. Felicia Abney-Barber submitted a request for party status on June 3, 2016. She was granted party in opposition status at the public hearing on July 19, 2016. Ms. Abney-Barber testified that she opposed the project due to its close proximity to her home, the potential devaluation of her property, the placement of the trash dumpster, the negative impacts on light and air, and construction noise. By letter dated September 6, 2016, Ms. Abney-Barber stated that the Applicant had assuaged her concerns and that she was abandoning her status in opposition to the project. She ultimately expressed support for the application.

Applicant's Case. The Applicant and Jehan Mehemtoglu, representing Dilan Investments, and Mike Norton, an architect, provided testimony and evidence describing the Applicant's plans to construct a 12-unit apartment house at the subject property, which is now a detached dwelling.

OP Report. By memorandum dated July 12, 2016, OP initially recommended denial of the application. OP did not support the building design as currently proposed, but had several discussions with the Applicant regarding modifications that should be made to the building elevations of the proposed apartment house, which "are essential to maintaining the existing neighborhood character." OP recommended modifications to the facades that would ensure that the proposed project would enhance the existing character, including the use of higher quality building materials, such as brick, in place of siding or EIFS. OP also requested additional articulation around windows and doors to add depth to the otherwise flat elevations, and a cornice that wraps around the top of the building. Although the Applicant has indicated that revised building elevations would be submitted to the record, none were filed at the time the OP Report was due. OP noted that if the Applicant provided elevations responding to concerns noted in the report, OP would reconsider the recommendation.

After the July 19, 2016 public hearing, the Applicant, on September 6, 2016, submitted updated plans and elevations. (Exhibits 53 and 56.). Through a supplemental report dated September 16, 2016, OP indicated that the submissions were responsive to its concerns. (Exhibit 58.) OP noted that

> the revised elevations indicate that brick will be used on all sides of the building, and details have been provided above all windows and doors. In addition, a cornice has been wrapped around the building above the first floor as well as at the top of the structure. A revised site plan also shows the location of a trash enclosure across from parking spaces numbers ten and eleven in the rear yard.

Id. In light of these improvements to the design OP recommended approval of the application.

DDOT Report. By memorandum dated June 29, 2016, the District Department of Transportation indicated no objection to the application, subject to the condition that the Applicant "provide the four long-term bicycle spaces required by 11-C DCMR § 802.1 in a location that is secure, easily accessible, and protected from weather elements." According to DDOT, the planned apartment house would have no adverse impacts on travel conditions of the District's transportation network.

ANC Report. By report dated July 1, 2016, ANC 5C indicated that, at a regular public meeting, held June 15, 2016 with a quorum present, the ANC voted 6-0-0 to oppose the application. According to the ANC, its opposition reflected neighbors' objections to a "large, massive building [that] would create more unsafe and dark areas." The ANC report also expressed concern over the "loss of open space, trees, [and] pervious area."

FINDINGS OF FACT

The Subject Property

1. The subject property is located in the Fort Saratoga and Ellaston Terrace neighborhood in the Northeast quadrant of the District (Square 4207, Lot 15). The lot is rectangular shaped and comprises 8,603 square feet in lot area, with 50 feet of frontage along Irving Street. The rear of the lot is approximately 50 feet wide and abuts a 15-foot wide public alley.

2. The subject property is currently improved as a one-family detached dwelling and a detached garage with access from the alley.

3. The subject property is zoned R-5-A.

4. To the north of the site are existing detached dwellings; to the south is an existing gas station, detached dwellings, and apartment houses; to the east are existing detached dwellings; and to the west are existing apartment houses and a detached dwelling. The subject property is located amongst a mixture of walk-up garden apartments, flats, and row dwellings. The surrounding neighborhood is predominantly residential, consisting of detached dwellings and apartment houses, consistent with the current R-5-A District. Neighborhood-servicing commercial uses are present south of Irving Street, along Rhode Island Avenue.

5. The Applicant proposes to demolish the one-family dwelling at the subject property and construct a new three-story, 12-unit apartment house. Twelve parking spaces would be provided, accessible from the public alley, and a trash enclosure would be located in the rear yard.

6. After development of the Applicant's project, the subject property will have a lot occupancy of 30 percent, a floor area ratio of .9, and a rear yard of 82 feet. Building height will be 28.5 feet, and there will be two side yards of eight feet.

7. In response to OP's concern that the original design was not in keeping with the existing neighborhood character, the Applicant submitted a revised site plan. The apartment house will be constructed using brick wall on all sides of the building, and there will be details provided above all windows and doors. In addition, a cornice will be wrapped around the building above the first floor as well as at the top of the structure.

8. Although five trees will be removed, the project will include four new trees along the property between the multifamily buildings and eight new evergreen screening trees along the east property to help screen the proposed building from the adjacent one-family dwelling. Landscaping will be maintained along Irving Street that will include a shrub foundation along the building, and native perennial grasses and flowers up to the sidewalk wrapping around the west property line and continuing to the rear of the property.

9. The sun study submitted into the record at Exhibit 35 indicates that at no time during the year will the building's shadow reach adjacent properties.

10. The subject property is zoned R-5-A, a general Residence District designed to permit flexibility of design by permitting, in a single district, all types of urban residential development that conform to the height, density, and area requirements established for the districts, as well as institutional and semi-public buildings compatible with adjoining residential uses. (11 DCMR § 350.1.) The R-5-A district permits a low height and density. (11 DCMR § 350.2.)

11. The planned apartment house will satisfy applicable zoning requirements with respect to height, floor area ratio, side and rear yards, and parking.

CONCLUSIONS OF LAW AND OPINION

The Applicant requests a special exception under § 353 of the Zoning Regulations to allow a 12-unit apartment house in the R-5-A zone at 1904 Irving Street, N.E. (Square 4207, Lot 15). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2008) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* 11 DCMR § 3104.1.) The Board's discretion in reviewing an application for a special exception under § 353 is limited to a determination of whether an applicant has complied with the requirements of §§ 353 and 3104.1 of the Zoning Regulations. If an applicant meets its burden, the Board ordinarily must grant the application. *See, e.g., Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973); *Washington Ethical Society v. District of Columbia Bd. of Zoning Adjustment*, 421 A.2d 14, 18-19 (D.C. 1980); *First Baptist Church of Washington v. District of Columbia Bd. of Zoning*

Adjustment, 432 A.2d 695, 698 (D.C. 1981); *Gladden* v. *District of Columbia Bd. of Zoning Adjustment*, 659 A.2d 249, 255 (D.C. 1995).

Pursuant to § 353, all new residential developments in an R-5-A district, except those comprising only one-family detached and semi-detached dwellings, are subject to review by the Board as a special exception. (11 DCMR § 353.1.) Consistent with the requirements of § 353, the application was referred to the District of Columbia State Board of Education for comment and recommendation as to the adequacy of existing and planned area schools to accommodate the numbers of students that could be expected to reside in the project; to the Departments of Transportation and Housing and Community Development for comment and recommendation as to the adequacy of public streets, recreation, and other services to accommodate the residents of the project, and the relationship of the proposed project to public plans and projects; and to the Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the future residents of the project and the surrounding neighborhood. The Office of Planning ultimately recommended approval of the Applicant because the project's re-design made it compatible with the neighborhood and DDOT found that the planned apartment house would have no adverse impacts on travel conditions of the District's transportation network. In addition, DDOT recommended that the Board make its approval subject to the condition that the four long-term bicycle spaces required by 11-C DCMR § 802.1 be provided in a location that is secure, easily accessible, and protected from weather elements. The Board accepts this recommendation. No other agency reports were received.

Also as required by § 353, the Applicant submitted documents illustrating the proposed apartment house, including a site plan, typical floor plans, and landscaping plan.

Based on the findings of fact, the Board concurs with the Applicant and the Office of Planning that the requested special exception to allow a 12-unit apartment house satisfies the requirements of §§ 353 and 3104.1. The planned apartment house will satisfy zoning requirements with respect to use, height, floor area ratio, side and rear yards, and parking. The Board does not find that the planned design of the building would create adverse impacts on the use of neighboring property, including on the light and air available to neighboring properties, or have an objectionable impact on the character of the surrounding neighborhood. The planned apartment house will be consistent with the surrounding neighborhood character, which is predominantly residential, consisting of detached dwellings and apartment houses, consistent with the R-5-A District. The apartment house will be located on the site with adequate setbacks in the front, side, and rear yards, and sun study shows that no shadow from the building will reach adjacent properties. Further, the Applicant will maintain and improve certain aspects of the existing parcel, including the landscaping and available off-street parking. And as noted by DDOT, the use will have no adverse traffic impacts.

The Board is required to give "great weight" to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2012 Repl.).) In this case, as discussed above, the Board concurs with OP's final recommendation that the application should be approved.

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.).) In this case, ANC 5C voted to oppose the application based on the community's objections to a "large massive building [that] would create more unsafe and dark areas, [and] loss of open space, trees, [and] pervious area." For the reasons stated above, the Board does not find the ANC's advice persuasive. As compared to the existing structure on the subject property, the apartment house would be set back a much greater distance. No "dark areas" will result because the project will include adequate lighting and security cameras around the property that will be maintained by its owner. Moreover, the Applicant's landscaping plan more than compensates for the loss of trees and other greenery due to construction of the apartment house.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for a special exception under § 353 of the Zoning Regulations to allow a 12-unit apartment house in the R-5-A zone at 1904 Irving Street, N.E. Accordingly, it is **ORDERED** that the application is **GRANTED** and, **PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 53 AND 56 – UPDATED ARCHITECTURAL PLANS AND ELEVATIONS,** and **SUBJECT** to the following **CONDITION**:

1. The four long-term bicycle spaces required by 11-C DCMR § 802.1 shall be provided in a location that is secure, easily accessible, and protected from weather elements.

VOTE: 3-0-2 (Marnique Y. Heath, Anita Butani-D'Souza, and Michael G. Turnbull to APPROVE; Frederick L. Hill and Jeffrey L. Hinkle not participating).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of Board members approved the issuance of this order.

FINAL DATE OF ORDER: September 25, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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 SUBTITLE A § 303, 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 CONDITION 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. 19554 of Robert and Susan Burnett, as amended[1], pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 from the side yard requirements of Subtitle D § 307.1 (for both the northern and southern side yards), to construct a rear deck addition to an existing one-family dwelling in the R-1-B Zone at premises 5186 Fulton Street N.W. (Square 1419, Lot 839).

HEARING DATE: September 20, 2017
DECISION DATE: September 20, 2017

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 (original) and 15 (revised).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 3D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3D, which is automatically a party to this application. The ANC submitted a timely report that indicated that at a regularly scheduled, properly noticed public meeting on July 5, 2017, at which a quorum was present, the ANC voted 9-0-0 to support the application with one condition. The ANC raised a concern about the impact of the project on the adjacent neighbors and requested that the Applicant meet with the neighbors to discuss screening, noise, and light. (Exhibit 21.) The Board noted that the Applicant's meeting with the neighbors prior to the hearing and which resulted in the agreement in Exhibit 37 of the record satisfied the ANC's condition.

The Office of Planning ("OP") submitted a timely report dated September 8, 2017, recommending approval of the application. (Exhibit 39.) OP also provided testimony in support of the amended side yard relief on the northern side of the property.

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 40.)

[1] The Applicant amended the application at the hearing orally to clarify that relief is requested for both side yards. The caption reflects the relief as amended.

Three letters of support from neighbors, including both adjacent neighbors, were submitted to the record. (Exhibits 14, 17, and 34.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle D § 5201 from the side yard requirements of Subtitle D § 307.1 (for both the northern and southern side yards), to construct a rear deck addition to an existing one-family dwelling in the R-1-B Zone. The only parties to the case were the Applicant and the ANC. 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle D §§ 5201 and 307.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 18.**

VOTE: **3-0-2** (Carlton E. Hart, Peter A. Shapiro, and Lesylleé M. White 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: September 26, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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. 19562 of Clayton and Stuart Hall, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the rear yard requirements of Subtitle E § 205.4, to construct a two-story rear addition to an existing one-family dwelling in the RF-1 Zone at premises 1362 East Capitol Street N.E. (Square 1035, Lot 81).

HEARING DATE: September 20, 2017
DECISION DATE: September 20, 2017

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 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 recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 14, 2017, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 34.)

The Office of Planning ("OP") submitted a timely report, dated September 8, 2017, in support of the application. (Exhibit 31.) The District Department of Transportation ("DDOT") submitted a timely report, dated September 8, 2017, expressing no objection to the approval of the application. (Exhibit 32.)

Two letters of support for the application were submitted to the record from the adjacent neighbors. (Exhibits 12, 13.) The Capitol Hill Restoration Society submitted a letter in support of the application. (Exhibit 35.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X §

901.2, for a special exception under Subtitle E § 5201 from the rear yard requirements of Subtitle E § 205.4, to construct a two-story rear addition to an existing one-family dwelling in the RF-1 Zone. 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle E §§ 5201 and 205.4, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7 – ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: **3-0-2** (Carlton E. Hart, Lesylleé M. White, and Peter A. Shapiro 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: September 22, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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. 19563 of Christopher and Courtney Backemeyer, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story rear addition to an existing one-family dwelling in the RF-1 Zone at premises 1203 D Street N.E. (Square 1009, Lot 104).

HEARING DATE: September 20, 2017
DECISION DATE: September 20, 2017

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 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 recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 14, 2017, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 35.)

The Office of Planning ("OP") submitted a timely report, dated September 8, 2017, in support of the application. (Exhibit 31.) The District Department of Transportation ("DDOT") submitted a timely report, dated September 8, 2017, expressing no objection to the approval of the application. (Exhibit 32.)

Three letters of support for the application were submitted to the record from neighbors, including both adjacent owners. (Exhibits 13, 15, and 30.) The Capitol Hill Restoration Society submitted a letter in support of the application. (Exhibit 37.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of

Subtitle E § 304.1, to construct a two-story rear addition to an existing one-family dwelling in the RF-1 Zone. 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle E §§ 5201 and 304.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7 – ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: **3-0-2** (Carlton E. Hart, Lesylleé M. White, and Peter A. Shapiro 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: September 25, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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. 19565 of Ross and Sarah Kyle, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the rear yard requirements of Subtitle E § 205.4, and under Subtitle E § 5203.3 from the upper floor addition requirements of Subtitle E § 206, to construct a rear and third-story addition to an existing two-story one-family dwelling in the RF-1 Zone at premises 237 Warren Street N.E. (Square 1033, Lot 847).

HEARING DATE: September 20, 2017
DECISION DATE: September 20, 2017

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 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 recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 14, 2017, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 55.)

The Office of Planning ("OP") submitted a timely report, dated September 8, 2017, in support of the application. (Exhibit 46.) The District Department of Transportation ("DDOT") submitted a timely report, dated September 8, 2017, expressing no objection to the approval of the application. (Exhibit 49.)

Thirteen letters of support for the application were submitted to the record from neighbors (Exhibits 25, 26, 32-38, 42, 43, 45, and 51.) The Capitol Hill Restoration Society submitted a letter in opposition to the application. (Exhibit 56.) There was also a letter in opposition from the owner of 222 Warren Street, N.E. (Exhibit 31.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions under Subtitle E § 5201 from the rear yard requirements of Subtitle E § 205.4, and under Subtitle E § 5203.3 from the upper floor addition requirements of Subtitle E § 206, to construct a rear and third-story addition to an existing two-story one-family dwelling in the RF-1 Zone. 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle E §§ 5201, 205.4, 5203.3, and 206, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7 AS REVISED BY THE APPROVED PLANS AT EXHIBIT 39.**

VOTE: **3-0-2** (Carlton E. Hart, Peter A. Shapiro, and Lesylleé M. White 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: September 25, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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. 19579 of 22 Bryant St NW, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle U § 320.2, to convert an existing one-family dwelling into a three-unit apartment house in the RF-1 Zone at premises 22 Bryant Street N.W. (Square 3124, Lot 110).

HEARING DATE: September 20, 2017
DECISION DATE: September 20, 2017

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 4 (original) and 10 (revised).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 5E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. The ANC submitted a timely report that indicated that at a regularly scheduled, properly noticed public meeting on September 19, 2017, at which a quorum was present, the ANC voted 9-0-1 to support the application.[1] (Exhibit 45.)

The Office of Planning ("OP") submitted a timely report dated September 8, 2017, recommending approval of the application with two conditions: that the stairwells and decks use painted metal or wood and that the Applicant provide signed chimney agreements with both adjacent neighbors by the time of the BZA hearing. (Exhibit 37.) At the hearing both OP and the Applicant testified and confirmed that the conditions will be met (See, Exhibits 40 and 41); therefore, the Board declined to adopt the conditions as part of the order.

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 38.)

[1] The ANC requested a postponement of the hearing (Exhibit 30) and the request was denied by the Board by a vote of 3-0-2 on the basis that the request was moot. The request had been made to allow the ANC sufficient time to consider the application and the ANC was able to do so on September 19, 2017, as evidenced by their report in support of the application submitted to the record. (See, Exhibit 45.)

Four letters of support for the application were submitted to the record by neighbors, including the adjacent neighbors to the property (Exhibit 44), and by the Bloomingdale Civic Association (Exhibit 46). A letter from the resident of 36 Bryant Street, N.W. generally opposing the project was submitted to the record. (Exhibit 47.) At the hearing, the Applicant responded to the letter and testified that he was not an outside developer, and noted that he and his family lived in the nearby neighborhood.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle U § 320.2, to convert an existing one-family dwelling into a three-unit apartment house in the RF-1 Zone. The only parties to the case were the Applicant and the ANC. 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle U § 320.2, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7.**

VOTE: **3-0-2** (Lesylleé M. White, Carlton E. Hart, and Peter A. Shapiro 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: September 26, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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
441 4TH STREET, N.W.
SUITE 200-SOUTH
WASHINGTON, D.C. 20001

PUBLIC NOTICE OF CLOSED MEETINGS FOR OCTOBER, 2017

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), on June 28, 2017, the Board of Zoning Adjustment voted 4-0-1, to hold *closed meetings telephonically* ***on Mondays, October 2nd, October 16th, October 23th, and Tuesday, October 10th,*** beginning at 3:00 p.m. for the purpose of obtaining legal advice from counsel and/or to deliberate upon, but not voting on the cases scheduled to be publicly heard or decided by the Board on the day after each such closed meeting, as those cases are identified on the Board's meeting and hearing agendas for October 4th, October 11th, October 18th and October 25th.

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

Frederick L. Hill, Chairperson, Carlton E. Hart, Vice-Chairperson,
Lesylleé M. White, Board Member, one seat vacant, and a Member of the Zoning Commission.
Clifford W. Moy, Secretary of the Board of Zoning Adjustment
Sara A. Bardin, Director, Office of Zoning.

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Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
Metropolitan Police Department,	
Petitioner,	PERB Case No. 17-A-06
v.	Opinion No. 1635
Fraternal Order of Police/Metropolitan Police Department Labor Committee (on behalf of Duane Fowler),	
Respondent.	

DECISION AND ORDER

Petitioner Metropolitan Police Department ("MPD") filed an arbitration review request appealing an Opinion and Award ("Award") that ordered the reinstatement of an employee MPD had terminated. MPD asserts that the Award on its face is contrary to law and public policy and submits that the decision of the arbitrator should be reversed.

Having reviewed the Award, the pleadings of the parties, the arbitration record submitted by the parties, and applicable law, the Board concludes that the Award on its face is not contrary to law and public policy. Therefore, the Board lacks the authority to grant the requested relief.

I. Statement of the Case

After MPD terminated the employment of Officer Duane Fowler ("Fowler"), the Fraternal Order of Police/Metropolitan Police Department Labor Committee ("FOP") requested arbitration. The parties submitted briefs to Arbitrator Roger P. Kaplan as well as the record of MPD's adverse action proceeding.

A. Award

1. Facts

The Arbitrator issued the Award on March 24, 2017. In the Award the Arbitrator relates facts drawn from the record of the adverse action proceeding. The case arose on June 13, 2009, when Fowler, while off duty, was arrested for soliciting prostitution from an undercover MPD

police officer. Fowler denied to the arresting officers that he had agreed to anything with the undercover police officer.[1]

On June 18, 2009, the U.S. Attorney's Office for the District of Columbia ("USAO") offered Fowler an opportunity to avoid trial on a charge of solicitation. The terms of the offer were that if Fowler would complete the diversion program and admit criminal responsibility for the solicitation charge, the USAO would enter a *nolle prosequi* with the court.[2]

On June 26, 2009, the USAO filed a criminal action for solicitation of prostitution in D.C. Superior Court. Fowler accepted the USAO's offer on June 28, 2009, and completed the diversion program on July 4, 2009. The USAO entered a *nolle prosequi* as agreed. The court dismissed the case July 16, 2009.[3]

After the case was dismissed, MPD's Internal Affairs Division prepared a report with findings regarding alleged misconduct by Fowler. In the course of preparing the report, Internal Affairs Division Agent Steven Chew interviewed Fowler on August 12, 2009. During the interview Fowler denied that he agreed to pay for sex with the undercover police officer. Agent Chew determined that this denial was untruthful because Fowler had admitted criminal responsibility for the solicitation charge.[4]

MPD issued a notice of proposed adverse action dated November 20, 2009. The notice contained two charges drawn from offenses listed in General Order 120.21. Charge 1 was conviction of a criminal offense or of any offense in which the member pleads guilty, is found guilty following a plea of *nolo contendere*, or "is deemed to have been involved in the commission of any act which would constitute a crime, whether or not a court record reflects a conviction."[5] The charge cited Fowler's arrest and admission of criminal responsibility as the specification for the offense. Charge 2 was willfully and knowingly making an untruthful statement. The specification was that Fowler denied to Agent Chew that he had agreed to exchange money for sex while knowing that he had accepted criminal responsibility for doing so.[6]

An MPD adverse action panel held a hearing on the charges. It sustained the charges and recommended that Fowler be terminated from his employment. The Director of Human Resources accepted the recommendation and issued a final notice of adverse action. The Chief of Police denied Fowler's appeal on July 13, 2010. FOP then took the case to arbitration.[7]

[1] Award 7-8.
[2] A *nolle prosequi* is an entry by a prosecutor upon the record that he will "no further prosecute" a criminal case. Black's Law Dictionary 857 (7th ed. 2000).
[3] Award 8.
[4] Award 9.
[5] Award 9-10; Request Ex. 2, Record of the Adverse Action Proceeding (hereafter "Record") at 2.
[6] Award 10.
[7] Award 11.

2. Issues

The Arbitrator found the issues before him to be:

> 1. Whether the Metropolitan Police Department violated the 90 day rule pursuant to D.C. Code § 5-1031.b with respect to Charge 1 (solicitation of prostitution)?
>
> 2. If not, was the evidence sufficient to support Charge 1?
>
> 3. Was the evidence sufficient to support Charge 2 (untruthful statement)?
>
> 4. Was termination an appropriate penalty for any proven charges?[8]

Because the Arbitrator found in favor of the union on Issues 1 and 3, he did not reach Issues 2 and 4.

The first issue concerns section 5-1031(a-1)(1) of the D.C. Official Code, which requires an adverse action to be commenced not more than 90 business days after MPD has notice of the act or omission in question. Section 5-1031(b) tolls the running of the 90 days during an investigation. The Award states, "The Union relied on District of Columbia Code Section 5-1031.b in support of its contention that the Employer failed to issue the November 20, 2009 Notice to Fowler within 90 days of June 18, 2009, the date the USAO offered Fowler the opportunity to enter the Program."[9] MPD argued that the criminal investigation was not concluded until the court dismissed the case July 16, 2009, and as a result the adverse action was commenced timely.

Noting that "[t]he Act itself does not set out when an ongoing investigation is no longer ongoing,"[10] the Arbitrator considered a case cited and relied upon by both parties, *District of Columbia v. D.C. Office of Employee Appeals and Robert L. Jordan* (hereafter "*Jordan*").[11] In that case, the D.C. Court of Appeals interpreted the phrase "conclusion of the criminal investigation" as used in section 1-617.1(b-1) of the D.C. Code, which the Arbitrator described as "an earlier similar statutory provision."[12] The Arbitrator stated that according to *Jordan,* "conclusion of a criminal investigation" must involve action taken by an entity with prosecutorial authority and that "action by the prosecutorial authority includes the review of evidence and the decision to charge an individual with a crime, or decide that charges should not be filed."[13] According to the Award, the court said that those two decisions by a prosecutorial authority mark the completion of a criminal investigation. This case involved a decision to file charges rather than a decision that charges should not be filed. Charging an individual with a

[8] Award 2-3.
[9] Award 11.
[10] Award 12.
[11] 883 A.2d 124 (D.C. 2004).
[12] Award 12.
[13] Award 12-13.

crime before completion of an investigation would disserve the defendant, the public, and the prosecutor, the Arbitrator opined.[14] Rejecting the two alternative dates proposed by the parties, the Arbitrator concluded that "the USAO completed its investigation before it filed the solicitation of prostitution charge on June 26, 2009."[15]

The Arbitrator found that the adverse action was commenced when MPD served Fowler with a notice of proposed adverse action. That service occurred approximately two weeks more than 90 calendar days after June 26, 2009. As a result, he concluded that the adverse action was not commenced within the time required by section 5-1031(a-1)(1).[16]

The Arbitrator added that no information was provided establishing that de minimis violations may be ignored, but even if a de minimis argument were available, it was unlikely that it could have prevailed in this case.[17] The Arbitrator dismissed Charge 1.

The final issue addressed by the Arbitrator was whether the evidence was sufficient to support Charge 2, willfully and knowingly making an untruthful statement. The statement in question was Fowler's denial to Agent Chew that he had agreed to have sex for money with an undercover police officer on June 13, 2009. Fowler's statement to Agent Chew was consistent with his statement to the arresting officers. But in MPD's view it was inconsistent with the acknowledgement of criminal responsibility that Fowler made as part of his agreement with the USAO.

The Arbitrator stated that "MPD misinterpreted the significance of Fowler's acknowledgement of criminal responsibility."[18] The Arbitrator said the acknowledgement was a way for Fowler to avoid trial and possible conviction. It was not an admission that Fowler no longer believed his version of the events of June 13, 2009, and it did not require him to stop believing his version. The Arbitrator also determined that the Fowler's statement to Agent Chew was not deceitful because Fowler knew that Agent Chew was already aware of Fowler's version as well as the undercover officer's version. For those reasons, the Arbitrator found that MPD did not have substantial evidence to sustain Charge 2.[19]

As a remedy, the Arbitrator awarded reinstatement of Fowler with back pay[20] "adjusted to offset any money earned by Fowler during the many years he has been away from the MPD."[21]

B. Arbitration Review Request

MPD timely filed an arbitration review request ("Request") in which it contends pursuant to section 1-605.02(6) of the D.C. Official Code that the Arbitrator's conclusions on both

[14] Award 15.
[15] Award 15.
[16] Award 15-17.
[17] Award 17, 17 n.4.
[18] Award 20.
[19] Award 22.
[20] Award 22, 26.
[21] Award 22 n.5.

charges are contrary to law and public policy.[22] The Request attached the Award, the record of the adverse action panel that was submitted to the Arbitrator,[23] and a D.C. Superior Court decision cited in the Request.

Regarding Charge 1, MPD argues that the Arbitrator's conclusion that MPD violated the 90-day rule is based on a clear misinterpretation of *Jordan* and is therefore contrary to law and public policy. Additionally, MPD suggests that the Arbitrator's interpretation is incompatible with the demands of the Fifth Amendment privilege against self-incrimination. Regarding Charge 2, MPD contends that the Award is contrary to law restricting credibility determinations to the finder of fact.

FOP timely filed an Opposition. Regarding Charge 1, FOP argues that the Arbitrator's interpretation of case law submitted to him was bargained for and must be upheld. It contends that the Arbitrator interpreted *Jordan* correctly while MPD does not. In addition, the Fifth Amendment privilege does not prevent MPD from bringing an adverse action while a criminal case is pending. Regarding Charge 2, FOP denies that the Arbitrator made a credibility determination. Rather, FOP argues, he interpreted the responsibility clause in an agreement Fowler signed. FOP characterizes MPD's argument as an evidentiary disagreement.

II. Discussion

A. Whether the Arbitrator's Conclusion that MPD Violated the 90-day Rule with Respect to Charge 1 (Solicitation of Prostitution) Was Contrary to Law and Public Policy

A petitioner must cite specific law and public policy in support of its claim that an arbitrator's award is contrary to law and public policy.[24] MPD cites section 5-1031(b) and argues that the Arbitrator misinterpreted it.[25]

Each party points to a different standard that the D.C. Court of Appeals has approved for reviewing an arbitrator's interpretation of a statute. The two standards are reconcilable and apply in different situations, as will be discussed below.

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[22] The Board has the power to "[c]onsider appeals from arbitration awards pursuant to a grievance procedure; provided, however, that such awards may be modified or set aside or remanded, in whole or in part, only if the arbitrator was without, or exceeded, his or her jurisdiction; the award on its face is contrary to law and public policy; or was procured by fraud, collusion, or other similar and unlawful means" D.C. Official Code § 1-605.02(6).

[23] The record attached to the Request contains the notice of proposed adverse action, the investigative report and its attachments, notifications of hearing dates, the request for hearing, documentation of waiver of the 55-day rule, the transcript of the adverse action hearing, exhibits admitted into evidence, correspondence submitted, the findings and recommendations of the adverse action panel, the final notice of adverse action, the appeal to the Chief of Police, the Chief of Police's response to the appeal (final agency action), and the request for arbitration.

[24] *FOP/MPD Labor Comm. (on behalf of Nieves-Campos) v. MPD*, 62 D.C. Reg. 2868, PERB Case No. 1495 at 5, PERB Case No. 14-A-11 (2014).

[25] Award 12.

1. Standard Advocated by FOP

FOP contends that MPD is bound by the Arbitrator's interpretation of the 90-day rule and of the *Jordan* case.[26] In support of its position, FOP quotes from the decision of the U.S. Court of Appeals for the D.C. Circuit in *American Postal Workers Union v. U.S. Postal Service*.[27]

In that case, the Postal Service agreed in its collective bargaining agreement with the union to comply with "applicable law." In the passage quoted by FOP, the court set forth the appropriate standard of review of arbitral statutory interpretation in that situation:

> When construction of the contract implicitly or directly requires an application of "external law," i.e., statutory or decisional law, the parties have necessarily bargained for the arbitrator's interpretation of the law and are bound by it. Since the arbitrator is the "contract reader," his interpretation of the law becomes part of the contract and thereby part of the private law governing the relationship between the parties to the contract. Thus, the parties may not seek relief from the courts for an alleged mistake of law by the arbitrator. They have agreed to be bound by the arbitrator's interpretation without regard to whether a judge would reach the same result if the matter were heard in court.[28]

Because the Postal Service had agreed to comply with "applicable law," the court held that the arbitrator "had the authority to consider legal rules, including the possible requirement of a *Miranda* warning, in construing the contract."[29]

In *Metropolitan Police Department v. Public Employee Relations Board*,[30] the D.C. Court of Appeals quoted the above passage from *American Postal Workers Union* as authority for deference to an arbitrator's interpretation of a *contract.* The parties bargained for the arbitrator's interpretation of the contract, the court said.[31] This Board, in turn, citing *Metropolitan Police Department v. Public Employee Relations Board*, acknowledged that just as it defers to an arbitrator's interpretation of the contract "the Board must also defer to the arbitrator's interpretation of external law incorporated into the contract."[32]

An example of incorporation of external law into a contract is found in *D.C. Fire and Emergency Medical Services v. D.C. Public Employee Relations Board*.[33]

> In this case, the parties' collective bargaining agreement seemed to require the arbitrator to interpret an external law—here, § 156 of

[26] Opp'n 11.
[27] 789 F.2d 1 (D.C. 1986).
[28] *Id.* at 6-7 (quoted in Opp'n at 8-9).
[29] *Id.* at 3.
[30] 901 A.2d 784, 789 (D.C. 2006).
[31] *Id.*
[32] *F.O.P./Dep't of Corr. Labor Comm. (on behalf of Lee) and D.C. Dep't of Corr.*, 59 D.C. Reg. 10952, Slip Op. No. 1324 at 5, PERB Case No. 10-A-16 (2010).
[33] 105 A.3d 992 (D.C. 2014).

> the D.C. Appropriations Act—in order to decide whether FEMS had breached Article 18, the CBA's overtime provision. That is because Article 18 utilized the phrase "as permitted by law" to qualify the overtime provision in question. By seeking the arbitrator's opinion on the validity of Article 18, then, the parties to arbitration were essentially asking the arbitrator whether § 156 was temporary or permanent law. [34]

However, the court expressed reservations about deferring to an arbitrator's interpretation of a statute even in this narrow situation: "At the same time, this court appreciates the dangers inherent in such an expansive view of the arbitration process. After all, PERB would not otherwise enjoy deference in interpreting . . . a statute that PERB does not administer[,] and FEMS's contention that parties 'may not skirt a legal prohibition by contracting for an arbitration award and then asking a court to defer to a resulting illegal award' is well-taken."[35]

The logic behind deference to an arbitrator's statutory interpretation under the circumstances discussed above is that arbitrators derive their authority from the parties' consent as expressed in their agreement to arbitrate.[36] Pursuant to their negotiated agreement, the parties authorize the arbitrator to interpret the agreement's provisions.[37] The arbitrator has the sole authority to interpret the contract.[38] The arbitrator maintains that authority even when "contract interpretation requires the arbitrator to interpret law that is incorporated by reference."[39]

In this case, however, FOP does not contend that interpretation of any part of the parties' collective bargaining agreement requires interpretation of section 5-1031(b) of the D.C. Official Code. The parties in their briefs and the Arbitrator in his Award discuss the statute alone, as an independent requirement separate and apart from the parties' collective bargaining agreement, which they do not refer to at all. The collective bargaining agreement is not even in the record the parties submitted to the Board. Thus, the Arbitrator's sole authority to interpret the collective bargaining agreement cannot be extended to encompass section 5-1031(b). The deferential standard of review advocated by FOP is inapplicable to the Arbitrator's interpretation of section 5-1031(b).

2. Standard Advocated by MPD

The U.S. Court of Appeals for the D.C. Circuit distinguished the deferential standard of review discussed above from the type of review that is appropriate when considering asserted conflicts between an arbitration award and the law:

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[34] *Id.* at 997 (D.C. 2014). *See also Sheet Metal Workers' Int'l Ass'n v. United Transp. Union*, 767 F. Supp. 2d 161, 176 (D.D.C. 2011) (finding that a contract incorporated external laws by providing that "the laws of the District of Columbia shall be deemed to govern the interpretation and performance of this Agreement").
[35] 105 A.3d at 997.
[36] *Washington Teachers' Union Local # 6 v. D.C. Pub. Sch.*, 77 A.3d 441, 446 (D.C. 2013).
[37] *MPD v. PERB*, 901 A.2d at 789; *D.C. Pub. Sch. v. AFSCME, Dist. Council 20, Local 2093 (on behalf of Hemsley)*, 31 D.C. Reg. 3020, Slip Op. No. 79 at 2, PERB Case No. 84-A-02 (1984).
[38] *FOP/MPD Labor Comm. v. MPD*, 63 D.C. Reg. 14055, Slip Op. No. 1592 at 13, PERB Case No. 11-E-02 (2016).
[39] *Electrolux Home Prods. v. United Auto., Aerospace, & Agric. Implement Workers*, 416 F.3d 848, 853 (8th Cir. 2005) (citing *Am. Postal Workers Union v. U.S. Postal Serv.*, 789 F.2d 1, 6 (D.C. 1986)).

> Although a court owes deference to the arbitrator's interpretation of the CBA, an arbitration award that is in "explicit conflict" with "other laws and legal precedents," *United Paperworkers Int'l Union v. Misco, Inc.*, 484 U.S. 29, 43 (1987) (internal quotation marks omitted); *see also Kaiser Steel Corp. v. Mullins*, 455 U.S. 72, 83-84 (1982), is unenforceable.[40]

MPD directs the Board's attention to a comparable standard of review approved by the D.C. Court of Appeals in *Fraternal Order of Police/Department of Corrections Labor Committee v. D.C. Public Employee Relations Board*.[41] In that case an arbitrator ordered the Department of Corrections to pay to certain terminated employees back pay in accordance with the Back Pay Act. The arbitrator stated that "in the absence of any citation to authority to allow offset of interim earnings against back pay due," he would not "direct such offset."[42] The Department of Corrections appealed to the Board, arguing that the Back Pay Act not only allowed but required offset. Noting that the Back Pay Act authorized payment of "an amount equal to all or any part of the pay . . . less any amounts earned by the employee through other employment," the Board held that with respect to offset of earnings the award "violates a specific law."[43] The Board reversed the portion of the award that disallowed offset for interim earnings.[44] In affirming the Board's decision and order, the court of appeals stated:

> As we read the PERB decision, it reflects the Board's interpretation that one circumstance in which an arbitrator's award "on its face is contrary to law and public policy" within the meaning of the CMPA (specifically, D.C. Code § 1–605.02(6)) is where, in arriving at the award, the arbitrator looks to an external law for guidance and purports to apply that law, but overlooks or ignores the law's express provisions. . . .
>
> [W]e are obligated to defer to the PERB's interpretation of the CMPA language unless the interpretation is plainly erroneous, a conclusion we are unable to reach here. As we ourselves have previously reasoned, the statutory reference to an award that "on its face is contrary to law and public policy" may include an award that was premised on "a misinterpretation of law by the arbitrator that was apparent 'on its face.'" *MPD* [*v. D.C. Public Employee Relations Board*], 901 A.2d [784,] 787–88 (italics omitted). That is precisely what the PERB found to exist here.[45]

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[40] *Am. Postal Workers Union v. U.S. Postal Serv.*, 550 F.3d 27, 32 (D.C. Cir. 2008).
[41] 973 A.2d 174 (D.C. 2009).
[42] *Id.* at 176.
[43] *D.C. Dep't of Corr. and F.O.P./Dep't of Corr. Labor Comm. (on behalf of Layne)*, 59 D.C. Reg. 3337, Slip Op. No. 820 at 11, PERB Case No. 05-A-02 (2006).
[44] *Id.* at 11-12.
[45] 973 A.2d at 177-78. *See also D.C. MPD v. FOP/MPD Labor Comm. (on behalf of Ray)*, 59 D.C. Reg. 12663, Slip Op. No. 1317 at 7, PERB Case Nos. 10-A-23 and 10-A-24 (2012) (citing and quoting case). The court acknowledged, in contrast, the deferential standard that applies "where an arbitrator is called upon actually to

That approach to an arbitrator's statutory interpretation can be seen in *Teamsters Local Union 1714 v. Public Employee Relations Board*,[46] in which the D.C. Court of Appeals reversed and remanded a ruling of the Board on an arbitration review request. It ordered the Board to interpret section 1-617.3 of the D.C. Code and implementing regulations in order to determine whether the 45-day time limit they establish for decisions on proposed adverse actions was directory or mandatory and to give a full exposition of its reasons. On remand the Board interpreted the statute to be directory and the regulations to be mandatory. As a result, the Board found contrary to law and public policy the arbitrator's conclusion that the union must establish harmful error if relief were to be had for noncompliance with the regulation.[47] Neither the court's opinion nor the Board's decision and order on remand ever suggested that the parties bargained for the arbitrator's interpretation of the law or the regulations.

As there has been no suggestion that construction of the parties' contract requires application of section 5-1031(b) or that it is otherwise incorporated into the contract, the applicable standard in this case is that MPD may establish the Award to be contrary to law and public policy by demonstrating a misinterpretation of law by the Arbitrator that is apparent on the face of the Award.

3. Alleged Misinterpretation of Section 5-1031(b)

In an effort to show that the Award is contrary to law and public policy under that standard, MPD argues that the Arbitrator's misinterpretation of section 5-1031(b) regarding when a criminal investigation concludes "led to his determination that Employer violated the 90-day rule."[48]

Section 5-1031(a-1) and (b) of the D.C. Official Code establishes when the 90-day period begins and when it is tolled:

> (a-1) (1) Except as provided in subsection (b) of this section, no corrective or adverse action against any sworn member or civilian employee of the Metropolitan Police Department shall be commenced more than 90 days, not including Saturdays, Sundays, or legal holidays, after the date that the Metropolitan Police Department had notice of the act or occurrence allegedly constituting cause.
>
> (2) For the purposes of paragraph (1) of this subsection, the Metropolitan Police Department has notice of the act or occurrence allegedly constituting cause on the date that the Metropolitan Police Department generates an internal investigation system tracking number for the act or occurrence.

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interpret the law." 973 A.2d at 177 n.3 (citing *D.C. MPD v. D.C. PERB*, 901 A.2d 784, 789 (D.C. 2006); *Am. Postal Workers Union v. U.S. Postal Serv.*, 789 F.2d 1, 2–3 (D.C.Cir.1986)).

[46] 579 A.2d 706 (D.C. 1990).

[47] *Teamsters Local Union No. 1714 (on behalf of Harrod) and D.C. Dep't of Corr.*, 38 D.C. Reg. 5080, Slip Op. No. 284, PERB Case No. 87-A-11 (1991).

[48] Request 12.

> (b) If the act or occurrence allegedly constituting cause is the subject of a criminal investigation by the Metropolitan Police Department or any law enforcement agency with jurisdiction within the United States, the Office of the United States Attorney for the District of Columbia, or the Office of the Attorney General, or is the subject of an investigation by the Office of the Inspector General, the Office of the District of Columbia Auditor, or the Office of Police Complaints, the 90-day period for commencing a corrective or adverse action under subsection (a) or (a-1) of this section shall be tolled until the conclusion of the investigation.

This statute provides that the 90-day period begins "on the date that the Metropolitan Police Department generates an internal investigation system tracking number for the act or occurrence."[49] The Award does not address when that occurred, but the record contains a Preliminary Report Form dated June 13, 2009, with an IS number on it.[50] The statute further provides that if certain entities conduct a related investigation, the 90-day period "shall be tolled until the conclusion of the investigation." The Arbitrator determined that the conclusion of the investigation occurred no later than June 26, 2009, when the USAO filed charges against Fowler.

The foundation of MPD's argument against that determination is that the Arbitrator misinterpreted the *Jordan* case. That case involved section 1-617.1(b-1) of the D.C. Code, a statute that the court said had since been repealed.[51] In pertinent part section 1-617.1(b-1) provided:

> (b–1) (1) Except as provided in paragraph (2) of this subsection, no corrective or adverse action shall be commenced pursuant to this section more than 45 days, not including Saturdays, Sundays, or legal holidays, after the date that the agency knew or should have known of the act or occurrence allegedly constituting cause, as that term is defined in subsection (d) of this section.
>
> (2) In the event that the act or occurrence allegedly constituting cause is the subject of an ongoing criminal investigation, the 45–day limit imposed by paragraph (1) of this subsection shall be tolled until the conclusion of the criminal investigation.

The facts of the case were that MPD requested the Inspector General to investigate fraudulent receipt of unemployment benefits by MPD's personnel director, Robert Jordan. The Inspector General issued a report on May 22, 1996. That report led to an affidavit for Jordan's arrest, which was signed July 18, 1996. Jordan was arrested August 8, 1996. On September 3, 1996, MPD issued to Jordan an advance notice of his removal. Jordan filed a petition for review of his removal with the Office of Employee Appeals ("OEA"). OEA held that the Inspector

[49] D.C. Official Code § 5-1031(a-1)(2).
[50] Record 382-83. The same IS number appears on subsequent disciplinary documents in Fowler's case.
[51] *Jordan*, 883 A.2d 124, 125 n.3 (D.C. 2005).

General's report of May 22, 1996, triggered the 45-day period. The notice was untimely served on Jordan more than 45 days later, OEA held. The D.C. Superior Court affirmed.

The D.C. Court of Appeals reversed the Superior Court and OEA on the ground that a "criminal investigation" could not have been concluded by the Inspector General:

> Upon a review of the plain language of the statute, we find that OEA and the Superior Court both erred in holding that the "conclusion of [the] criminal investigation" in this case occurred on May 22, 1996, when the Inspector General issued its report. . . . The natural meaning of the statutory language, however, is that the "conclusion of a criminal investigation" must involve action taken by an entity with prosecutorial authority—that is, the authority to review evidence, and to either charge an individual with commission of a criminal offense, or decide that charges should not be filed.
>
> In this case, the Inspector General, while performing an investigation into the possible occurrence of criminal activity, was not vested with the power to initiate a criminal prosecution against Jordan.[52]

The court found that "in this case the criminal investigation was *at least* ongoing at the time of the issuance of the arrest warrant on July 18, which would render the MPD's commencement of an adverse action within the forty-five day time period required by the statute."[53]

In the Award, the Arbitrator interpreted this case in a manner that MPD contests:

> The Court stated that "conclusion of a criminal investigation" must involve action taken by an entity with prosecutorial authority. According to the Court, action by the prosecutorial authority includes the review of evidence and the decision to charge an individual with a crime, or decide that charges should not be filed. . . .
>
> The Court . . . set forth two (2) ways to identify when a criminal investigation was completed. One (1) way was when the prosecutorial authority charged an individual with a crime. . . .
>
> The second way to identify when a criminal investigation was completed is to determine the date the prosecutorial authority decided not to file a charge.[54]

[52] *Id.* at 128.
[53] *Id.*
[54] Award 12-14.

MPD is correct that this is not what the court said. As MPD discusses in its Request, the court referred to the authority either to charge or not to charge an individual in order to describe what it meant by prosecutorial authority. The court explained the meaning of prosecutorial authority because OEA and the Superior Court used an action of an entity without prosecutorial authority to mark the end of a criminal investigation. In referring to the authority to charge or not to charge, the court was not setting forth the actions of a prosecutorial authority that identify when a criminal investigation is completed. The opinion does not reflect when either of those events occurred in the case. The opinion only went so far as to say that the investigation was ongoing at the time of a different event, the issuance of the arrest warrant.

Further, the inquiry the court made into what type of entity may conclude a criminal investigation need not even be made under section 5-1031. Unlike section 1-617.1(b-1)(2), section 5-1031(b) specifies the entities whose investigations toll the 90-day period. The entities are not all prosecutorial, and the investigations are not all criminal. First, section 5-1031(b) lists entities conducting criminal investigations: "a criminal investigation by the Metropolitan Police Department or any law enforcement agency with jurisdiction within the United States, the Office of the United States Attorney for the District of Columbia, or the Office of the Attorney General." Then it lists entities conducting non-criminal investigations: "an investigation by the Office of the Inspector General, the Office of the District of Columbia Auditor, or the Office of Police Complaints." If "an act allegedly constituting cause" is the subject of either type of investigation, then "the 90-day period for commencing a corrective or adverse action . . . shall be tolled until the conclusion of the investigation." Under section 5-1031(b) the period for commencing an action is tolled until "the conclusion of the investigation" rather than "the conclusion of the *criminal* investigation," which was the wording construed by *Jordan*.

While the holding of *Jordan* does not support the Arbitrator's conclusion and, as we said in another case regarding section 5-1031(b), "is not persuasive, as the [court's] decision governed a different statute than the one at issue,"[55] neither does it preclude the Arbitrator's conclusion. As FOP correctly asserts, nothing in *Jordan* or the statute states that the period of limitation "is tolled until the conclusion of the criminal case, i.e., [when] the case is dismissed."[56] A D.C. Superior Court decision cited by MPD, *McCain v. D.C. Office of Employee Appeals*,[57] does not support a contrary conclusion. According to that decision, the court of appeals in *Jordan* found that a criminal investigation ended when "final action" was taken by an entity with prosecutorial authority.[58] Claiming to be following the court of appeals' interpretation, the Superior Court found that "the 90-day rule started on the day of Ms. McCain's conviction, October 8, 2009, when the prosecutorial body's exercise of its discretionary authority ended."[59] FOP asserts that this case "is of very little value even as persuasive authority"[60] because the court confused the date of conviction with the date of sentencing (and gave two different dates for the

[55] *See D.C. MPD v. FOP/MPD Labor Comm. (on behalf of Sims)*, 60 D.C. Reg. 9201, Slip Op. No. 1390 at 9, PERB Case No. 12-A-07 (2013).
[56] Opp'n 9.
[57] No. 2015 CA 004589 (D.C. Super. Ct. Feb. 8, 2017), *appeal docketed*, No. 17-CV-0248 (D.C. Mar. 3, 2017).
[58] *Id.* at 8.
[59] *Id.* at 9.
[60] Opp'n 10 n.2.

latter) and because the case is on appeal.[61] FOP's point is well taken. It may be added that the court does not explain how or where *Jordan* said that an investigation ended with the prosecutor's "final action" and that in any event, as discussed, *Jordan* is not persuasive authority with respect to section 5-1031(b).

It is insufficient to show that the Arbitrator misinterpreted the precise holding of a case governing a different statute: MPD's burden is to show that the Arbitrator misinterpreted the law. There was another basis for the Arbitrator's interpretation of the law besides *Jordan*:

> We would all like to believe that the USAO, or any prosecutor, would not file a charge against anyone until the investigation into alleged criminal activity was completed. To charge without a full, fair and complete investigation would be a disservice to the individual charged, the public and the prosecutor's office. With the above in mind, it follows that the USAO completed its investigation before it filed the solicitation of prostitution charge on June 26, 2009.[62]

That conclusion is not premised upon a misinterpretation of section 5-1031(b) apparent on the face of the Award. The law does not require a conclusion that the investigation continued after the USAO filed charges against Fowler.

Proof of subsequent investigatory activity by the USAO, on the other hand, might compel such a conclusion. This is a factual question rather than a legal question. As the court in *Jordan* indicated, the point at which a given investigation ends depends upon the facts of the particular case, and the facts could evince an ongoing investigation.[63] The *ABA Standards on Prosecutorial Investigations* states two purposes of a criminal investigation. The first is to "develop sufficient factual information to enable the prosecutor to make a fair and objective determination of whether and what charges should be brought and to guard against prosecution of the innocent." And the second is "to develop legally admissible evidence sufficient to obtain and sustain a conviction of those who are guilty and warrant prosecution."[64] MPD argues that if a criminal investigation ends when charges are filed, there would be no need for discovery or the gathering of evidence for trial as law and public policy require.[65] However, MPD needed to do more than express that concept in the abstract. As the party attempting to toll a statute of limitations, MPD bears the burden of proving circumstances that would toll the statute,[66] i.e., that

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[61] *Id.*
[62] Award 15.
[63] 883 A.2d at 128 (Twice referring to "this case," the court said, "We need not decide if, in this case, the arrest warrant or the actual arrest marked the conclusion of a criminal investigation. In many circumstances, even an arrest would not mark the conclusion of a criminal investigation. It is clear, however, that in this case the criminal investigation was *at least* ongoing at the time of the issuance of the arrest warrant. . . .").
[64] *ABA Standards on Prosecutorial Investigations*, standard 1.2(c) (3d ed. 2014).
[65] Request 16.
[66] *Landers v. Milton*, 370 So. 2d 368, 370 (Fla. 1979). *See also Nat'l R.R. Passenger Corp. v. Krouse*, 627 A.2d 489, 498 (D.C. 1993); *Rasmussen v. Reed*, 505 S.W.2d 222, 225 (Ark. 1974); *D.C. MPD v. FOP/MPD Labor Comm. (on behalf of Johnson)*, 63 D.C. Reg. 12573, Slip Op. No. 1590 at 4 n.27, PERB Case No. 16-A-01 (2016) ("[T]he Arbitrator determined that MPD failed to produce evidence that it conducted a criminal investigation.")

the USAO continued to conduct an investigation in order to gather evidence or for some other purpose after filing charges. MPD does not suggest that it offered any evidence to that effect, and the Award and the record reflect that it did not.

In addition, MPD implies that the Arbitrator's interpretation will pose problems for MPD's internal investigations and adverse actions. Citing the Supreme Court cases of *Garrity v. New Jersey*[67] and *Gardner v. Broderick*,[68] MPD claims that without the tolling provision of section 5-1031(b) "MPD would be placed in a position where administrative investigations and the commencement of adverse actions against officers would not be possible without infringing upon officers' Fifth Amendment privilege against self-incrimination."[69] MPD goes on to assert that requiring officers "to answer questions about a criminal charge in an administrative matter, before the criminal case proceeded to trial" would infringe the officers' constitutional privilege against self-incrimination.[70]

Even if the privilege against self-incrimination created such a dilemma, that dilemma would not require the statute to be read as tolling the period of limitation until trial when the statute sets a different demarcation. But there is no dilemma. In the two Supreme Court cases MPD cited, policemen were required to testify about their alleged misconduct under threat of removal. In *Garrity* the Court held that the privilege against self-incrimination "prohibits use in subsequent criminal proceedings of statements obtained under threat of removal from office."[71] In *Gardner* the Court said that as long as an officer is not required to waive immunity with respect to use of his answers against him in a criminal proceeding, the privilege of self-incrimination does not bar dismissal of the officer for refusal to answer questions.[72] New York City's charter required termination of an officer or employee of the city who refused to waive immunity from prosecution on account of his testimony. The Court held that requirement to be unconstitutional.[73]

These cases do not prevent MPD from commencing adverse actions against officers before trial. If MPD questions an officer, it can either not compel the officer to answer or compel the officer to answer without requiring him to waive his immunity. These options are fully discussed in opinions of the U.S. District Court for the District of Columbia in *Evangelou v. District of Columbia*,[74] a case brought by a former MPD officer who alleged he was fired for

[67] 385 U.S. 493 (1968).
[68] 392 U.S. 273 (1968).
[69] Request 15.
[70] Request 16.
[71] 385 U.S. at 500.
[72] 392 U.S. at 276, 278.
[73] *Id.* at 279; *accord Lefkowitz v. Cunningham*, 431 U.S. 801, 806 (1977) (reaffirming holdings of *Garrity* and *Gardner* "that government cannot penalize assertion of the constitutional privilege against compelled self-incrimination by imposing sanctions to compel testimony which has not been immunized.")
[74] 901 F. Supp. 2d 159 (D.D.C. 2012) (granting in part and denying in part MPD's motion to dismiss), 63 F. Supp. 3d 96 (D.D.C. 2014) (granting MPD's motion for summary judgment), *aff'd*, 639 F. App'x 1 (D.C. Cir.), *cert. denied*, 137 S. Ct. 234 (2016).

exercising his Fifth Amendment rights. The court explained that "if the government chooses to demand an answer from its employee, then that answer is immunized automatically."[75]

FOP claims that MPD has utilized these options and routinely brought adverse actions against officers while their criminal cases were pending. In support of that claim FOP attached documents from a disciplinary action as exhibits. Because those exhibits were not part of the arbitration record, they have not been considered.[76]

FOP's exhibits are not needed to reach the conclusion that MPD's misapprehension of the privilege against self-incrimination reveals nothing about the meaning of section 5-1031(b). Neither MPD's argument based upon the Fifth Amendment nor its argument based upon *Jordan* establishes that a misinterpretation of section 5-1031(b) is apparent on the face of the Award's disposition of Charge 1. Thus, MPD has failed to show that the Award's disposition of Charge 1 is contrary to law and public policy.

B. Whether the Arbitrator's Conclusion that Charge 2 (Making an Untruthful Statement) Was Unsupported by Substantial Evidence Is Contrary to Law and Public Policy

MPD's position is that by concluding that Charge 2 was not supported by substantial evidence the Arbitrator failed to defer to the credibility determination of the trier of fact, which was the Adverse Action Panel. The Adverse Action Panel found that Fowler was not credible.[77] Further, in the agreement Fowler signed, he admitted that he had agreed to exchange money for sex.[78] "In essence," MPD asserts, "the arbitrator made a credibility determination as to Grievant, and found his testimony in the record to be credible regarding whether or not he in fact agreed to exchange money for sex. . . ."[79] That determination, MPD argues, is contrary to law and public policy requiring deference to the credibility determinations of a trier of fact.

MPD cites two cases in support of that proposition. In *Slater-El v. United States*,[80] the D.C. Court of Appeals stated that almost without exception a trier of fact's credibility determination is entitled to substantial deference.[81] In *Charles P. Young Co. v. D.C. Department of Employment Services*,[82] the court explained when this deference is due: "Traditionally, a hearing examiner's decision has been entitled to greater consideration if the examiner . . . has heard live testimony and observed the demeanor of the witnesses."[83] In that situation, "the examiner's personal observation of the demeanor and conduct of the witnesses is entitled to great weight."[84]

[75] 901 F. Supp. 2d at 165.
[76] *See* PERB R. 538.1(f), 538.4.
[77] Request 17 (citing Record 455-82).
[78] Request 18.
[79] Request 17.
[80] 142 A.3d 530 (D.C. 2016).
[81] *Id.* at 538.
[82] 681 A.2d 451 (D.C. 1996).
[83] *Id.* at 457.
[84] *Id.*

The Arbitrator focused exclusively on the credibility of Fowler's statement to Agent Chew denying the offense. The Arbitrator concluded that Fowler's earlier acknowledgement of criminal responsibility did not establish that Fowler was willfully untruthful in his interview with Agent Chew. The Adverse Action Panel did not hear or observe Fowler during that interview. The deference discussed in *Charles P. Young Co.* is inapplicable to this situation.

But there was live testimony before the Adverse Action Panel that led the Panel to conclude that Fowler was guilty of the charges against him. As MPD indicates, the Panel found Fowler's testimony before it to be "incredible"[85] and found that "Officer Fowler continued to make false statements throughout the hearing."[86] On the other hand, the Panel found the testimony of the undercover police officer to be credible.[87] The Arbitrator did not discuss these credibility determinations or the degree to which they might support Charge 2.

Nevertheless, a claim that an arbitrator ignored evidence amounts to a dispute over the weight and probative value that the arbitrator attributed to the evidence. Such determinations are within the arbitrator's domain.[88] Determining the weight of evidence is within an arbitrator's domain even if the arbitrator bases his or her review solely on the record of an adverse action panel.[89] The Award states that the parties agreed that the Arbitrator's review "should determine whether substantial evidence exists to support the MPD decision to terminate Fowler." MPD does not contend that performing that function is contrary to law or public policy. That being the case, MPD has not cited specific law and public policy compelling a different conclusion regarding Charge 2.

III. Conclusion

The petitioner has not shown that the Arbitrator's disposition of either of the two charges is contrary to law and public policy. Consequently, no statutory basis exists for setting aside the Award.

[85] Record 476-77.
[86] Record 481.
[87] Record 476.
[88] *D.C. Dep't of Pub. Works v. AFGE, Locals 872, 1975, & 2553*, 49 D.C. Reg. 1140, Slip Op. No. 438 at 5, PERB Case No. 95-A-08 (1995).
[89] *D.C. MPD v. FOP/MPD Labor Comm. (on behalf of Bell)*, 63 D.C. Reg. 12581, Slip Op. No. 1591 at 7, PERB Case No. 15-A-06 (2016).

ORDER

IT IS HEREBY ORDERED THAT:

1. The arbitration review request is denied. The Award is sustained.

2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Members Douglas Warshof, Barbara Somson, and Mary Anne Gibbons.

Washington, D.C.

August 17, 2017

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 17-A-06 is being transmitted via File & ServeXpress to the following parties on this the 25th day of August 2017.

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/s/ Sheryl V. Harrington
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Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	)	
Fraternal Order of Police/ Department of Youth Rehabilitation Services Labor Committee,	)	
Petitioner,	)	PERB Case No. 17-N-02
	)	Opinion No. 1636
v.	)	
Department of Youth Rehabilitation Services,	)	
Respondent.	)	

DECISION AND ORDER

I. Statement of the Case

On March 24, 2017, the Fraternal Order of Police/Department of Youth Rehabilitation Services Labor Committee ("Union") filed the instant Negotiability Appeal ("Appeal"). The Union and the Department of Youth Rehabilitation Services ("Department") are negotiating a successor collective bargaining agreement concerning non-compensation terms and conditions of employment.

The relevant facts are not in dispute. Pursuant to the parties' ground rules, the Union transmitted its opening proposals to the Department on January 13, 2017.[1] The Union submitted additional proposals on February 13, 2017.[2] On February 22, 2017, the Department sent the Union a letter declaring one of the Union's initial proposals and three of the Union's subsequent proposals non-negotiable and outside of the scope of bargaining.[3]

The Union timely filed the instant Appeal, asserting that each of the four proposals was negotiable. The Union argued that the Board should either find that its proposals are negotiable or direct the parties to file briefs in support of their positions.[4] In "Respondent's Answer to the

[1] Appeal at 2.
[2] Appeal at 2.
[3] Appeal at 2; Appeal, Exhibit C.
[4] Appeal at 9.

Negotiability Appeal" ("Answer") filed on April 13, 2017, the Department asserted the non-negotiability of the proposals and responded to arguments made by the Union in its Appeal.

On June 30, 2017, the Union filed Partial Withdraw of Negotiability Appeal, affirming that it had decided to voluntarily withdraw three of the four proposals that the Department maintained were non-negotiable.

The Union's Appeal (as amended by the Union's partial withdraw) and the Department's Answer are before the Board for disposition.

II. Discussion

There are three categories of collective bargaining subjects: (1) mandatory subjects over which parties must bargain; (2) permissive subjects over which the parties may bargain; and (3) illegal subjects over which the parties may not legally bargain.[5] Management rights are permissive subjects of bargaining.[6] Section 1-617.08(a) of the D.C. Official Code sets forth management rights and management retains the "sole rights" to undertake actions listed therein.[7] Matters that do not contravene section 1-617.08(a) or other provisions of the Comprehensive Merit Personnel Act ("CMPA") are negotiable.[8] Section 1-617.08(b) of the D.C. Official Code provides that the right to negotiate over terms and conditions of employment extends to all matters except those that are proscribed by the CMPA.[9]

Pursuant to section 1-605.02(5) of D.C. Official Code, the Board is authorized to make a determination in disputed cases as to whether a matter is within the scope of collective bargaining. The Board will separately consider the negotiability of each of the matters in a dispute.[10]

At issue is an unnumbered article regarding Essential/Emergency Employees.[11] The Union's proposal is set forth below. The portion of the proposal that the Board has determined is non-negotiable is underlined for clarity. The proposal is followed by: the Department's arguments in support of non-negotiability including comments found in the Answer as well as the Department's February 22, 2017 letter; the Union's arguments in support of negotiability from its Appeal; and the conclusion of the Board.

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[5] *D.C. Nurses Ass'n v. D.C. Dep't of Pub. Health*, 59 D.C. Reg. 10776, Slip Op. 1285 at 4, PERB Case No. 12-N-01 (2012) (*citing NLRB v. Wooster Div. of Borg-Warner Corp*., 356 U.S. 342 (1975)).
[6] *NAGE Local R3-06 v. D.C. Sewer & Water Auth.*, 60 D.C. Reg. 9194, Slip Op. No. 1389 at 4, 13-N-03 (2013); *D.C. Fire & Emergency Med Servs. Dep't and AFGE, Local 3721*, 54 D.C. Reg. 3167, Slip Op. 874 at 9, PERB Case No. 06-N-01 (2007).
[7] D.C. Official Code § 1-617.08(a).
[8] *Univ. of D.C. Faculty Ass'n v. Univ. of D.C.*, __ D.C. Reg. ____, Slip Op. 1617 at 2, PERB Case No. 16-N-01 (April 4, 2017).
[9] D.C. Official Code § 1-617.08(b).
[10] *Univ. of D.C. Faculty Ass'n*, Slip Op. 1617 at 2-3.
[11] Appeal at 6.

1. Essential/Emergency Employees

ARTICLE [ ] –ESSENTIAL/EMERGENCY EMPLOYEES

For members of the Union's bargaining unit whose positions have been formally designated as emergency or essential positions, the parties understand that such employees may be required to report to work during a declared emergency. It is further understood that a declared emergency exists only when the Mayor declares an emergency due to severe weather, natural or manmade disasters, and similar emergency circumstances. The parties agree that an inadequate staffing level does not constitute an emergency.

Department: The Department argues that the provision stating that "The parties agree that an inadequate staffing level does not constitute an emergency" infringes upon the Mayor's right to declare emergencies under section 7-2304 of the D.C. Official Code. The Department asserts that by giving the collective bargaining agreement the authority to determine what constitutes an emergency, the Union's proposed article directly contravenes section 7-2304. The Department disputes the Union's argument that the proposal is negotiable because it is not listed as a management right under the D.C. Official Code. The Department notes that in *Teamsters Local Union No. 639 v. District of Columbia Public Schools,*[12] the Board previously held that a proposal for a standard that directly contravenes a standard established by the D.C. Official Code is nonnegotiable.

Union: The Union's position is that the proposal is negotiable because the Mayor's right to declare emergencies under section 7-2304 is not a management right enumerated in section 1-617.08(a). The Union notes that pursuant to section 1-617.08(b) any matter not reserved as a management right is presumed to be negotiable.

Board: Although the Mayor's authority to determine the existence of an emergency is not a management right enumerated in section 1-617.08(a), the Board finds that the final sentence of the proposed article is non-negotiable.[13] As the Department asserts, the Board previously found non-negotiable a proposal that contravened the employee liability standard statutorily established under the D.C. Official Code.[14] Similarly here, the final sentence of the proposal attempts to undermine the Mayor's authority to determine the existence of a public emergency established by section 7-2304(a).[15] Therefore, this provision of the proposal is non-

[12] 38 D.C. Reg. 6693, Slip Op. 263, PERB Case Nos. 90-N-02, 90-N-03, 90-N-04 (1990).
[13] The Board has concerns over the entire proposal, as it appears to conflict with section 7-2304 of the D.C. Official Code. However, since the parties have not raised any issues with this proposal, with the exception of the final sentence, the Board will not address its concerns at this time.
[14] *Teamsters Local Union No. v. D.C. Pub. Sch.*, 38 D.C. Reg. 6693, Slip Op. 263 at 7, PERB Case Nos. 90-N-02, 90-N-03, 90-N-04 (1990).
[15] Section 7-2304(a) of the D.C. Official Code, in pertinent part, states: "(a) Upon reasonable apprehension of the existence of a public emergency and the determination by the Mayor that the issuance of an order is necessary for the immediate preservation of the public peace, health, safety, or welfare, and as a prerequisite to requesting

negotiable. With the exception of the final sentence, the proposal regarding Essential/Emergency Employees is negotiable.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent, Department of Youth Rehabilitation Services, is required to bargain upon request with respect to the proposals of Fraternal Order of Police/Department of Youth Rehabilitation Services Labor Committee concerning:
    a. Essential/Emergency Employees, with the exception of the final sentence: "The parties agree that an inadequate staffing level does not constitute an emergency."
2. Pursuant to Board Rule 559, this Decision and Order shall become final thirty (30) days after issuance unless a party files a motion for reconsideration or the Board reopens the case within fourteen (14) days after issuance of the Decision and Order.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By the unanimous vote of Board Members Mary Anne Gibbons, Barbara Somson, and Douglas Warshof.

August 17, 2017

Washington, D.C.

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emergency or major disaster assistance in accordance with the Disaster Relief Act of 1974 (42 U.S.C. § 5121) the Mayor may issue an emergency executive order."

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 17-N-02, Op. No. 1636 was sent by File and ServeXpress to the following parties on this the 25th day of August, 2017.

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Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
Metropolitan Police Department	
Petitioner,	PERB Case No. 17-A-04
and	Opinion No. 1637
Fraternal Order of Police/ Metropolitan Police Department Labor Committee (on behalf of Julius Allen and Japeth Taylor),	
Respondent.	

DECISION AND ORDER

I. Introduction

On January 3, 2017, the Metropolitan Police Department ("MPD") filed this Arbitration Review Request ("Request") pursuant to section 1-605.02(6) of the Comprehensive Merit Personnel Act of 1979 ("CMPA"), as amended, D.C. Official Code § 1-605.01. MPD seeks review of an arbitration award ("Award") granting an award of interest on back pay to the Fraternal Order of Police/Metropolitan Police Department Labor Committee ("Union") on behalf of Officers Julius Allen and Japeth Taylor ("Grievants"). The Arbitrator determined that MPD did not have cause to terminate the Grievants. Accordingly, the Arbitrator ordered MPD to rescind the disciplinary action against the Grievants, and to reinstate them with back pay and benefits, plus interest. MPD seeks review of the Arbitrator's interest award on the grounds that the Arbitrator exceeded his jurisdiction and that the Award is contrary to law and public policy.[1]

In accordance with section 1-605.02(6) of the CMPA, the Board is permitted to modify or set aside an arbitration award in only three narrow circumstances: (1) if an arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful

[1] Request at 2; *See* D.C. Official Code § 1-605.02(6).

means.[2] Having reviewed the Arbitrator's conclusions, the pleadings of the parties, and applicable law, the Board concludes that the Arbitrator did not exceed his jurisdiction and that the Award on its face is not contrary to law and public policy. Therefore, the Board lacks the authority to grant the requested Review.

II. Statement of the Case

The Grievants were officers with MPD.[3] Following events on September 29, 2009, during which the Grievants failed to make an arrest, the incident was referred to MPD's Internal Affairs Division.[4] In a Final Investigative Report, the Internal Affairs Division concluded that the Grievants failed to make an arrest in violation of MPD regulations.[5] The Internal Affairs Division also recommended that MPD charge the Grievants with Neglect of Duty and Untruthful Statements, and recommended termination.[6] On August 10, 2010, the MPD Adverse Action Panel ("Panel") conducted a hearing on the charges of misconduct.[7] The Panel issued Findings of Fact and Conclusions of Law that sustained the charges against the Grievants and recommended termination.[8] The Officers unsuccessfully appealed to Chief of Police Lanier, and the parties proceeded to arbitration. [9]

III. Arbitrator's Award

The Arbitrator concluded that MPD failed to prove cause for the Grievants' removal and determined that a 30-day suspension without pay would have been the appropriate penalty for the Grievants' misconduct.[10] Therefore, the Arbitrator ordered MPD to reinstate the Grievants with "any loss of pay or benefit they sustained since their terminations with interest payable at the appropriate level."[11]

IV. Discussion

The Board's authority to review an arbitration award is narrow. In accordance with D.C. Official Code § 1-605.02(6), the Board is permitted to modify or set aside an arbitration award in only three circumstances: (1) if an arbitrator was without, or exceeded his or her jurisdiction; (2)

[2] D.C. Code § 1-605.02(6).
[3] Award at 2.
[4] Award at 3.
[5] Award at 3.
[6] Award at 3.
[7] Award at 3.
[8] Award at 3.
[9] Award at 3.
[10] Award at 17.
[11] Award at 17.

if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means.[12]

The basis of MPD's Request is that the Arbitrator's award of interest on back pay exceeds the Arbitrator's jurisdiction and is contrary to law and public policy.

A. The Arbitrator's Award does not exceed his jurisdiction.

MPD states that the Arbitrator is prohibited from issuing an award that would modify or add to the collective bargaining agreement.[13] MPD contends that the Arbitrator was without jurisdiction to consider the issue of interest on back pay, as it was not requested by the parties.[14] MPD also argues that the parties' collective bargaining agreement does not contain a provision granting an Arbitrator authority to award back pay interest.[15]

The test the Board uses to determine whether an Arbitrator has exceeded his jurisdiction and was without authority to render an award is "whether the Award draws its essence from the collective bargaining agreement."[16] The arbitrator's authority to review the actions of MPD in the instant case constitutes an exercise of his equitable powers arising out of the parties' collective bargaining agreement. The Board has held that an arbitrator does not exceed his authority by exercising his equitable powers, unless these powers are expressly restricted by the parties' collective bargaining agreements.[17] Further, a collective bargaining agreement's prohibition against awards that add to, subtract from, or modify the collective bargaining agreement does not expressly limit the arbitrator's equitable powers.[18]

Here, MPD does not cite to any provisions of the collective bargaining agreement that restrict the Arbitrator's authority to determine an appropriate remedy in this case. The Board finds that MPD's argument is merely a disagreement with the Arbitrator's findings. The Board has repeatedly held that it will not overturn an arbitration award based simply upon the

[12] D.C. Code § 1-605.02(6).
[13] Request at 5.
[14] Request at 5.
[15] Request at 6.
[16] *DC Metro. Police Dep't and Fraternal Order of Police, Metro. Police Dep't Labor Comm., (on behalf of Jacobs)*, 60 DC Reg. 3060, Slip Op. 1366, PERB Case No. 12-A-04 (2013); *See Metro. Police Dep't and Fraternal Order of Police/Metro. Police Dep't Labor Comm. (on behalf of Johnson)*, 59 D.C. Reg. 3959, Slip Op. 925, PERB Case No. 08-A-01 (2012) (quoting *D.C. Pub. Schools v. AFSCME, Dist. Council 20*, 34 D.C. Reg. 3610, Slip Op. 156, PERB Case No. 86-A-05 (1987)). *See also Dobbs, Inc. v. Local No. 1614, Int'l Bhd. of Teamsters*, 813 F.2d 85 (6th Cir. 1987).
[17] *E.g., UDC v. AFSCME, Council 20, Local 2087*, 59 D.C. Reg. 15167, Slip Op. 1333, PERB Case No. 12-A-01 (2012); *Metro. Police Dep't v. Fraternal Order of Police/ Metro. Police Dep't Labor Comm.*, 59 D.C. Reg. 12709, Slip Op. 1327, PERB Case No. 06-A-05 (2012); *D.C. Metro. Police Dep't and FOP/MPD Labor Comm*., 47 D.C. Reg. 7217, Slip Op. 633, PERB Case No. 00-A-04 (2000).
[18] *Metro. Police Dep't v. Fraternal Order of Police/ Metro. Police Dep't Labor Comm.*, 59 D.C. Reg. 6787, Slip Op. No. 1133 at 8, PERB Case No. 09-A-12 (2011).

petitioning party's disagreement with the arbitrator's findings.[19] It is well settled that "[b]y agreeing to submit a matter to arbitration, the parties also agree to be bound by the Arbitrator's decision, which necessarily includes the … evidentiary findings and conclusions upon which his decision is based."[20] Therefore, MPD's disagreement with the Arbitrator's award of interest does not present a statutory ground for review.

B. The Arbitrator's Award is not contrary to law and public policy.

MPD asserts that section 6-B1149[21] of the D.C. Municipal Code governs the procedures for computing back pay and benefits in the District of Columbia, and within this provision, there is no authority that allows an award of interest on back pay for District of Columbia employees.[22]

To overturn an arbitration award on the grounds that the award is contrary to law and public policy, the petitioning party has the burden to specify "applicable law and definite public policy that mandates that the Arbitrator arrive at a different result."[23] Citing to the D.C. Court of Appeals, the Board has stated that it must "not be led astray by our own (or anyone else's) concept of 'public policy' no matter how tempting such a course might be in any particular factual setting."[24] In the present case, MPD asserts the Award is on its face contrary to law and public policy. However, MPD does not specify any "applicable law" and "definite public policy" that mandates the Arbitrator arrive at a different result. In fact, this section of the D.C. Municipal Code does not prohibit an arbitrator from awarding interest on back pay.

Further, MPD argues that even if the Board determines that the interest award is appropriate, section 28-3302(b) of the D.C. Official Code limits interest awards to 4% per annum.[25] Under D.C. Official Code § 28-3302(b), interest on judgments against the District of Columbia cannot exceed 4% per annum "when authorized by law."[26] However, the Board has

[19] *Fraternal Order of Police/Dep't of Corr. Labor Comm. v. Dep't of Corr.*, 59 D.C. Reg. 9798, Slip Op. No. 1271 at p. 6, PERB Case No. 10-A-20 (2012).
[20] *Metro. Police Dep't v. Fraternal Order of Police/Metro. Police Dep't Labor Comm.*, 47 D.C. Reg. 7217, Slip Op. 633 at 3, PERB Case No. 00-A-04 (2000); *Metro. Police Dep't and Fraternal of Police, Metro. Police Dep't Labor Comm. (Grievance of Angela Fisher)*, 51 D.C. Reg. 4173, Slip Op. 738, PERB Case No. 02-A-07 (2004); *Univ. D.C. Faculty Ass'n/NEA and Univ. D.C.*, 39 D.C. Reg. 9628 at 9629, Slip Op. 320 at 2, PERB Case No. 92-A-04 (1992).
[21] D.C.M.R. § 6-B1149 (codified at 52 D.C. Reg. 943 (2005)).
[22] Request at 7.
[23] *Metro. Police Dep't v. Fraternal Order of Police/ Metro. Police Dep't Labor Comm.*, 47 D.C. Reg. 717, Slip Op. No. 633 at p. 2, PERB Case No. 00-A-04 (2000). *See also D.C. Pub. Sch. v. AFSCME, District Council 20*, 34 D.C. Reg. 3610, Slip Op. No. 156 at p. 6, PERB Case 86-A-05 (1987).
[24] *FOP/ Dep't of Human Serv. Labor Comm. v. Dep't of Human Serv.* 59 D.C. Reg. 6858, Slip Op. 1207 at 3, PERB Case No. 04-A-02 (2011) (*citing D.C. Dep't of Corr.v. Teamsters Union Local 246*, 54 A.2d 319, 325 (D.C. 1989)).
[25] Request at 8-9; D.C. Official Code § 28-3302.
[26] D.C. Official Code § 28-3302(b) states: "Interest, when authorized by law, on judgments or decrees against the District of Columbia, or its officers, or its employees acting within the scope of their employment, is at the rate of not exceeding 4% per annum."

held that an arbitrator's authority to award interest is authorized by contract, not law, and therefore not subject to the 4% per annum interest rate limitation prescribed under section 28-3302(b) of the D.C. Official Code.[27] Therefore, the Arbitrator's award of interest on back pay is not contrary to law and public policy.

V. Conclusion

Based on the foregoing, the Board finds that the Arbitrator did not exceed his authority and that the Arbitrator's Award is not contrary to law and public policy. Accordingly, MPD's Request is denied and the matter is dismissed in its entirety with prejudice.

ORDER

IT IS HEREBY ORDERED THAT:

1. The arbitration review request is hereby denied.

2. Pursuant to Board Rule 559, this Decision and Order shall become final thirty (30) days after issuance unless a party files a motion for reconsideration or the Board reopens the case within fourteen (14) days after issuance of the Decision and Order.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By the unanimous vote of Board Members Mary Anne Gibbons, Barbara Somson, and Douglas Warshof.

August 17, 2017

Washington, D.C.

[27] *UDC and UDC, Faculty Ass'n*, 41 D.C. Reg. 2738, Slip Op. 317 at 3, PERB Case No. 92-A-02 (1992) (*citing United Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574, 580 (1960).

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 17-A-04, Op. No. 1637 was sent by File and ServeXpress to the following parties on this the 25th day of August, 2017.

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/s/ Sheryl Harrington
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Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
Department of Youth Rehabilitation Services,	
Complainant,	PERB Case No. 16-A-02
and	Opinion No. 1638
Fraternal Order of Police/ Department of Youth Rehabilitation Services Labor Committee,	
Respondent.	

DECISION AND ORDER

I. Introduction

On November 24, 2015, the Department of Youth Rehabilitation Services ("DYRS") filed this Arbitration Review Request ("Request") pursuant to section 1-605.02(6) of the Comprehensive Merit Personnel Act of 1979 ("CMPA"), seeking review of an Arbitrator's Supplemental Opinion and Amendment to Award ("Supplemental Award") that granted attorneys' fees to the Fraternal Order of Police/Department of Youth Rehabilitation Services Labor Committee ("Union"). DYRS asserts that the Arbitrator's award of attorneys' fees under the Back Pay Act, 5 U.S.C. § 5596(b)(1)(A)(ii) is on its face, contrary to law and public policy.[1]

In accordance with section 1-605.02(6) of the CMPA, the Board is permitted to modify or set aside an arbitration award in only three narrow circumstances: (1) if an arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful

[1] Request at 5.

means.[2] Having reviewed the Arbitrator's conclusions, the pleadings of the parties, and applicable law, the Board concludes that the Award on its face is not contrary to law and public policy. Therefore, the Board lacks the authority to grant the Request.

II. Arbitrator's Initial Award

In an Arbitration Award issued on August 29, 2015, the Arbitrator sustained the Union's grievance, finding that DYRS violated Article 17, Sections 2 and 3 of the parties' collective bargaining agreement, by failing to notify the Union of DYRS' decision to contract out bargaining unit work, and refusing to provide the Union with an opportunity to bargain over the impact and effects of that decision.[3] The Arbitrator ordered DYRS to "invite the Union to engage in Labor/Management meetings to discuss contracting out and alternatives to contracting out and to bargain about the impact and effects of contracting out" security work, as required by Article 17, Sections 2 and 3 of the Parties' collective bargaining agreement.[4] The Arbitrator also ordered DYRS to reinstate the collective bargaining agreement's provisions for "Light Duty" and "Early Return-to-Work."[5] Additionally, the Arbitrator ordered DYRS to offer reinstatement to "all bargaining unit employees whom it terminated or who resigned their DYRS employment, due to [DYRS'] termination of its light duty policy. . . and make them whole for any loss of wages they may have suffered, as a result of the [DYRS'] termination of that policy" retroactively to December 9, 2013.[6] The Arbitrator did not make any findings as to the specific amount of back pay or lost wages owed to the Union. The Arbitrator retained jurisdiction over the matter for the purpose of "resolving any disputes which might arise regarding this portion of the Award."[7]

III. Arbitrator's Supplemental Award

On September 24, 2015, the Union filed a brief in support of its application for attorneys' fees in accordance with the Back Pay Act, 5 U.S.C. § 5596(b)(1)(A)(ii), on the grounds that the Arbitrator found that DYRS' termination of its "Light Duty" policy was an unjustified or unwarranted personnel action in violation of the Parties' collective bargaining agreement, which resulted in a loss of pay.[8] DYRS filed a response in opposition to the Union's application for attorneys' fees.[9] DYRS contended that the cited provision of the Back Pay Act requires a showing that a bargaining unit employee lost wages as a result of the termination of DYRS'

[2] D.C. Official Code § 1-605.02(6).
[3] Award at 15.
[4] Award at 15.
[5] Award at 15.
[6] Award at 15.
[7] Award at 15.
[8] Supplemental Award at 3.
[9] Supplemental Award at 3.

"Light Duty" policy.[10] DYRS requested the Arbitrator reject the Union's application on the basis that the Union failed to produce any witnesses to support its claim of loss of pay.[11]

In a Supplemental Award issued on November 3, 2015, the Arbitrator found "ample judicial authority" to support the Union's contention that the Back Pay Act sustains its application for attorneys' fees in this case.[12] The Arbitrator found "it is well settled that the Back Pay Act applies to bargaining unit employees in the District of Columbia."[13] The Arbitrator determined that the Union satisfied the three requirements set out in *U.S. Department of Defense Dependent Schools v. Federal Education Association*[14]: (1) the grievant must be the prevailing party; (2) the award must be warranted in the interest of justice; and (3) the amount of the fees must be reasonable and incurred by the grievant.[15] First, the Arbitrator found that the Union was the prevailing party.[16] Second, the Arbitrator found that DYRS' violation of the collective bargaining agreement resulted in the termination of its "Light Duty" policy and a loss of wages by bargaining unit employees.[17] Third, noting that DYRS did not challenge the Union's Verified Statement of Hours Billed, the Arbitrator determined that the amount requested by the Union was consistent with current law.[18] In contrast, the Arbitrator concluded that there was "no authority" to support DYRS' position that the Back Pay Act requires the prevailing party to show the amount of wages lost by employees due to the agency's contract violations.[19] The Arbitrator found that the Union's claim to attorneys' fees need only satisfy the three elements in *U.S. Department of Defense Dependent Schools*.[20] Accordingly, the Arbitrator sustained the Union's application and awarded $22,920.00 in attorneys' fees to the Union.[21]

On November 24, 2015, DYRS filed the present Request, seeking review of the Arbitrator's Supplemental Award as well as "the opportunity to brief this matter fully for the Board's further consideration."[22] In Slip Opinion 1579, the Board granted DYRS' request.[23] On August 24, 2016, DYRS submitted its Agency Brief in Support of the Arbitration Review Request ("Brief") and on August 25, 2016, the Union submitted a Supplemental Brief of the Fraternal Order of Police Department of Youth Rehabilitative Services Labor Committee.

[10] Supplemental Award at 3.
[11] Supplemental Award at 3.
[12] Supplemental Award at 4.
[13] Supplemental Award at 4.
[14] 54 F.L.R.A. 777, 773 (1998)
[15] Supplemental Award at 4.
[16] Supplemental Award at 4.
[17] Supplemental Award at 4.
[18] Supplemental Award at 5.
[19] Supplemental Award at 4.
[20] Supplemental Award at 4.
[21] Supplemental Award at 5.
[22] Request at 7.
[23] *DYRS v. Fraternal Order of Police/DYRS Labor Comm.*, 63 D.C. Reg. 11708, Slip Op. 1579, PERB Case No. 16-A-02 (2016).

IV. Discussion

The CMPA, D.C. Official Code § 1-617.01 *et seq.*, regulates public employee labor-management relations in the District of Columbia. As previously noted, under section 1-605.02(6) of the CMPA, the Board is permitted to modify or set aside an arbitration award if the award on its face is contrary to law and public policy.[24] The Court of Appeals has stated, "the statutory reference to an award that 'on its face is contrary to law and public policy' may include an award that was premised on 'a misinterpretation of law by the arbitrator that was apparent 'on its face."'[25]Absent a clear violation of law evident on the face of the arbitrator's award, the Board lacks authority to substitute its judgment for that of the arbitrator.[26] Moreover, to overturn an arbitration award on the grounds that the award is contrary to law and public policy, the petitioning party has the burden to specify "applicable law and definite public policy that mandates that the Arbitrator arrive at a different result."[27] In this case, DYRS seeks review from the Board on the grounds that the Arbitrator's award of attorneys' fees under the Back Pay Act, 5 U.S.C. § 5596(b)(1)(A)(ii), without having determined whether there are any valid claims for back pay, is on its face, contrary to law and public policy.[28]

In reviewing the record, the Board finds that the essence of DYRS' Request is merely an attempt to re-litigate the Arbitrator's original Award. DYRS did not file an arbitration review request to the original Award. In that Award, the Arbitrator determined that by eliminating its "Light Duty" policy, DYRS caused some employees to leave their employment at DYRS, while others received administrative leave without pay.[29] Therefore, the Arbitrator ordered DYRS to make whole any bargaining unit employees who were terminated or who resigned as a result of DYRS' policy change.[30] Although DYRS now challenges only the Supplemental Award of attorneys' fees, its argument that none of the listed employees have a valid claim for back pay actually challenges the Arbitrator's conclusion in the original Award.

On the merits, the Board finds that the Arbitrator's award of attorneys' fees under the Back Pay Act is not contrary to law and public policy. First, as it argued before the Arbitrator, DYRS contends that in order for a claim for attorneys' fees to succeed under the Back Pay Act, the Union must show that an employee suffered a pecuniary loss as a result of DYRS' actions.[31] However, the Arbitrator previously considered and rejected this argument in the Supplemental Decision. The Arbitrator determined that there was "no authority" to support DYRS' position that the Back Pay Act requires the prevailing party to show the amount of wages lost by

[24] D.C. Official Code § 1-605.02(6).
[25] *F.O.P./Dep't of Corrections Labor Comm. v. Pub. Emp. Relations Bd.*, 973 A.2d 174, 178 (D.C. 2009)(*quoting D.C. Metropolitan Police Dep't v. D.C. Pub. Employee Relations Bd.*, 901 A.2d 784, 787-88 (D.C. 2006)).
[26] *DC Metro. Police. Dep't*, Slip Op. 1561 at 6.
[27] *MPD and FOP/MPD Labor Comm.*, 47 D.C. Reg. 717, Slip Op. No. 633 at p. 2, PERB Case No. 00-A-04 (2000). *Also see, D.C. Pub. Sch. v. AFSCME, District Council 20*, 34 D.C. Reg. 3610, Slip Op. No. 156 at p. 6, PERB Case 86-A-05 (1987).
[28] Request at 5; *See* D.C. Official Code § 1-605.02(6) (2001 ed.).
[29] Award at 10.
[30] Award at 15.
[31] Brief at 7, 9.

employees due to the agency's contract violations.[32] The Arbitrator also was not persuaded by DYRS' arguments that the Supreme Court case, *United States v. Testan*, 424 U.S. 392, 405-07 (1976) and D.C. Circuit Case, *Gray v. Office of Personnel Management*, supported DYRS' position that the Union must prove pecuniary loss.[33] The Arbitrator noted that in *Testan*, the Supreme Court simply found that the Back Pay Act did not apply to the wrongful-classification claim which it was reviewing.[34] In *Gray*, the Arbitrator noted that the D.C. Circuit found that the issue of back pay under the Back Pay Act was "premature."[35] Alternatively, the Arbitrator found that the Union's claim to attorneys' fees need only satisfy the three elements in *U.S. Department of Defense Dependent Schools*.[36]

In addition, the Board notes that *U.S. Department of Defense Dependent Schools* is persuasive in the current matter as the Federal Labor Relations Authority concluded in that case that attorney fees may be awarded even though the arbitrator did not specifically state that back pay was granted to the grievants.[37] The Authority stated:

> …the requirement that a party show a "withdrawal or reduction of pay, allowances or differentials" is satisfied by Arbitrator Bloch's finding that the Agency's action resulted in the grievant's "suffer[ing] delays, sometimes excessive, in payment of monies that were unquestionably owed to them.[38]

In the current matter, the Arbitrator's finding that DYRS' termination of its "Light Duty" policy caused some employees to lose wages[39], not merely suffer a delay in payment of monies owed them, clearly satisfied the Back Pay Act's requirement that the agency's action "...resulted in the withdrawal or reduction of all or part of the pay…of the employee."[40] The Arbitrator, relying on the testimony of then-Union Chairperson Takisha Brown, concluded that DYRS denied "Light Duty" assignments to at least six listed employees and ordered back pay to "any other bargaining unit employees who may have been terminated or forced to resign, and make them whole for any loss of wages they may have suffered."[41] Accordingly, the requirements of an award of attorneys' fees under the Back Pay Act has been met even though the Arbitrator did not determine the exact amount of back pay granted to the individual grievants. Although DYRS objects to the conclusion of the Arbitrator, the Board finds that the Arbitrator's conclusion is not based on a misinterpretation of law that is apparent on its face.

[32] Supplemental Award at 4.
[33] Supplemental Award at 3-4.
[34] Supplemental Award at 3.
[35] Supplemental Award at 4.
[36] Supplemental Award at 4.
[37] *U.S. Department of Defense Dependent Schools,* 54 F.L.R.A. 773 (1998).
[38] *Id*. at 10.
[39] Supplemental Award at 4.
[40] 5 U.S.C. § 5596(b)(1).
[41] Award at 11.

Second, DYRS argues that it has shown that there were no affected employees that have a valid claim for back pay in the Arbitrator's original Award.[42] Without any supporting evidence, DYRS argues that of the six employees listed by the Arbitrator, four remained employed by DYRS, one was terminated before the "Light Duty" policy was ended, and there is no record of the remaining employee.[43] However, this argument only involves a disagreement with the Arbitrator's findings. As previously stated, the Arbitrator found that by eliminating its "Light Duty" policy, DYRS caused some employees to leave their employment at DYRS and others received administrative leave without pay.[44] It is well settled that disputes over the weight and the significance to be afforded the evidence is within the domain of the arbitrator and does not state a statutory basis for review.[45] The Board lacks jurisdiction to review an arbitrator's findings of fact based on credibility determinations.[46] Disagreement with the arbitrator's findings is not a sufficient basis for concluding that an award is contrary to law or public policy.[47] Accordingly, DYRS has not presented grounds to support a statutory basis or setting aside the Supplemental Award.

Third, DYRS contends that the Arbitrator's Supplemental Award lacks support and analysis. Specifically, DYRS argues that the Arbitrator: (1) "[B]arely addresses the Federal Back Pay's requirements that a grievant suffer some sort of pecuniary loss due to an unjustified and unwarranted personnel action;[48] (2) "[F]ails to address, or even take into account, that the Union has failed to produce a scintilla of evidence of affected employees that may have a claim under his original award;"[49] (3) "[D]oesn't even take into account that the Union has refused the Agency's request for more information regarding the affected employees;"[50] and (4) "[D]oesn't even factor in the Union's refusal of his own suggestion to have a supplemental hearing."[51] The Board finds that DYRS' contentions here are merely disagreements with the Arbitrator's findings. The Board has repeatedly held that "[a]n Arbitrator need not explain the reason for his or her decision."[52] Furthermore, an Arbitrator's decision is not unenforceable merely because he or she fails to explain a certain basis for his or her decision.[53] In the present case, the Arbitrator made ample factual conclusions and discussed the Parties' arguments in supporting his decision.

[42] Brief at 6.
[43] Request at 3.
[44] Award at 10.
[45] *See, e.g., Am. Fed'n of State, Cnty and Mun. Emp., Local 872 v. D.C. Water and Sewer Auth.*, 63 D.C. Reg. 11725, Slip Op. No. 1588 at 4, PERB Case No. 16-A-10 (2016).
[46] *See, Univ. of the D.C. and Univ. D.C. Faculty Ass'n/NEA*, 38 D.C. Reg. 1580, Slip Op. No. 262, PERB Case No. 90-A-08 (1990).
[47] *D.C. Metro. Police Dep't and Fraternal Order of Police/Metro. Police Dep't Labor Comm*., 31 D.C. Reg. 4159, Slip Op. No. 85, PERB Case No. 84-A0-05 (1984).
[48] Brief at 8.
[49] Brief at 8.
[50] Brief at 8.
[51] Brief at 8.
[52] *FOP/Dep't of Corr. Labor Comm. v. D.C. Dep't of Corr.*, 61 D.C. Reg. 11301, Slip Op. 955 at 8, PERB Case No. 08-A-06 (2010) (*citing Lopata v. Coyne*, 735 A.2d 931, 940 (D.C. 1999)); *FOP/MPD Labor Comm. v. D.C. MPD*, 59 D.C. Reg. 3543, Slip Op 882 at n.7, PERB Case No. 07-A-13 (2008); *FOP/MPD Labor Comm. v. D.C. MPD*, 59 D.C. Reg. 3875, Slip Op. 911 at n.8, PERB Case No. 06-A-12 (2007).
[53] *Id*. (*citing Chicago Typographical Union 16 v. Chicago Sun Times Inc.*, 935 F.2d 1501, 1506 (7th Cir. 1991)).

Moreover, the Board has held that an arbitrator need not address and consider all the arguments made at arbitration.[54] Therefore, the Board finds that this DYRS argument also lacks merit.

V. Conclusion

Based on the foregoing, the Board finds that the Arbitrator's Supplemental Award is not contrary to law and public policy. Accordingly, DYRS' Request is denied and the matter is dismissed in its entirety with prejudice.

ORDER

IT IS HEREBY ORDERED THAT:

1. The arbitration review request is hereby denied.

2. Pursuant to Board Rule 559, this Decision and Order shall become final thirty (30) days after issuance unless a party files a motion for reconsideration or the Board reopens the case within fourteen (14) days after issuance of the Decision and Order.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By the unanimous vote of Board Members Mary Anne Gibbons, Barbara Somson, and Douglas Warshof.

August 17, 2017

Washington, D.C.

[54] *Id.*

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 16-A-02, Op. No. 1638 was sent by File and ServeXpress to the following parties on this the 25th day of August, 2017.

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Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	)	
Metropolitan Police Department, Petitioner,	)	PERB Case No. 16-A-12
	)	Opinion No. 1639
v.	)	
Fraternal Order of Police/ Metropolitan Police Department Labor Committee (on behalf of Jose Mendoza), Respondent.	)	

DECISION AND ORDER

I. Introduction

On July 5, 2016, the District of Columbia Metropolitan Police Department ("MPD" or "Petitioner") filed an Arbitration Review Request ("Request") of an award that sustained the grievance filed by the Fraternal Order of Police/Metropolitan Police Department Labor Committee ("FOP" or "Respondent") on behalf of Officer Jose Mendoza ("Officer Mendoza"). The Arbitrator determined that MPD failed to commence an adverse action against Officer Mendoza within 90 days of when it knew or should of known of his alleged misconduct, a violation section 5-1031(a) of the D.C. Official Code (also referred to as the "90-day rule"). The issue before the Board is whether the Award on its face is contrary to law and public policy.

The Board is authorized to modify or set aside an arbitration award in three narrow circumstances: (1) if the arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means.[1]

The Board has reviewed the Arbitrator's conclusions, the pleadings of the parties and applicable law, and concludes that the Award on its face is not contrary to law and public policy. For the reasons stated herein, Petitioner's request is denied.

[1] D.C. Official Code § 1-605.02(6)

II. Statement of the Case

On July 30, 2011, Louis Ramirez (Mr. Ramirez) filed a police report with the Fairfax County Police Department ("FCPD") accusing MPD Officer Jose Mendoza of theft.[2] At the time of the incident, Mr. Ramirez and Officer Mendoza had been friends for about two years and had a disagreement about the possible theft of money and other missing items.[3]

In response to the police report, FCPD Detective Harrington spoke with both Officer Mendoza and Mr. Ramirez. When speaking with Detective Harrington, Mr. Ramirez reported that he received all of his property back from Officer Mendoza and no longer wished to prosecute. The following day, August 1, 2011, Mr. Ramirez met Detective Harrington at the FCPS station and retracted his statement accusing Officer Mendoza of theft. FCPD decided that no criminal charges would be filed in Virginia.[4]

On July 30, 2011, FCPD contacted MPD and informed it that Officer Mendoza had been involved in the incident. MPD sent a member of Internal Affairs to visit Mr. Ramirez to investigate the allegations against Officer Mendoza. As a result, on July 30, 2011, Officer Mendoza's police powers were revoked and he was placed in a non-contact duty status.[5] An investigation was conducted by MPD into Officer Mendoza's conduct in this case; however, MPD did not institute a criminal investigation. Officer Mendoza was subsequently served a Notice of Proposed Adverse Action and charged with "Conduct unbecoming an Officer" and a 30-day suspension was proposed.[6]

III. Arbitrator's Award

The threshold issue determined by the Arbitrator was whether MPD violated the 90-day rule. MPD claimed that Officer Mendoza was served with the Notice of Proposed Adverse Action within the 90 days required by section 5-1031.

The Arbitrator ruled that MPD had actual knowledge of the acts or occurrences constituting the alleged cause on July 30, 2011, the date FCPD notified MPD of Mr. Ramirez's claims against Officer Mendoza. The Arbitrator went on to state that in order to argue that the 90-day rule was tolled because of a criminal investigation, MPD needed to notify and consult with the United States Attorneys Office ("USAO") no later than the next business day after it became aware of Office Mendoza's acts.[7] MPD determined by July 30, 2011 that Officer Mendoza may have committed a criminal act, and failed to produce any evidence that it ever consulted with the USAO or instituted a criminal investigation of Officer Mendoza.[8] Based on this lack of evidence, the Arbitrator ruled that MPD was not entitled to argue that the 90-day rule

[2] Award at 5.
[3] Award at 4.
[4] Award at 7.
[5] Award at 7.
[6] Award at 7-8.
[7] Award at 9 (citing Gen. Order 120.23 at p. 5).
[8] Award at 9.

was tolled for any reason pertaining to any criminal aspects of the underlying events.[9] Therefore, the Arbitrator found that MPD violated the 90-day rule. As a result of this finding, the Arbitrator found it unnecessary to make any further findings with respect to the other issues.[10]

The Arbitrator stated that, if the 90-day deadline could not be tolled as a result of a criminal investigation, the deadline to serve Officer Mendoza with a Notice of Proposed Adverse Action was December 8, 2011. The Arbitrator looked to exhibits presented at arbitration and determined that Officer Mendoza was served with a Notice of Proposed Adverse Action on December 9, 2011.[11] The Arbitrator found that MPD plainly violated the 90-day rule by not serving the Notice of Proposed Adverse Action on or before December 8, 2011.[12] Accordingly, the Arbitrator concluded that, under section 5-1031, MPD could not commence, proceed with or impose the proposed discipline against Officer Mendoza as a matter of law.

The Arbitrator rescinded the 30-day suspension and ordered MPD to reimburse Officer Mendoza all lost back pay with interest.[13]

IV. Discussion

The Board is authorized to modify or set aside an arbitration award in three narrow circumstances: (1) if the arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means.[14]

MPD argues that the Arbitrator's decision violated law and public policy. The Arbitrator stated in the Award that MPD agreed that December 8, 2011, was the 90th business day for the matter. The Arbitrator cited Joint Exhibit 5 and 6 as supporting evidence that Officer Mendoza was not served until December 9, 2011, and concluded that MPD violated the 90-day rule. According to MPD, the Arbitrator incorrectly cited the record in determining the date of service.[15] MPD believes that Joint Exhibit 5 demonstrates conclusively that Officer Mendoza was served on December 8, 2011 meaning there was no violation of the 90-day rule.[16]

MPD further argues that even if there was a violation of the 90-day rule, it was *de minimis* and did not preclude the agency from taking adverse action against Officer Mendoza.[17] MPD argues that consistent with the Superior Court's opinion in *MPD v. Public Employee Relations Board*,[18] PERB has determined that the 90-day rule is directory, not mandatory. When

[9] Award at 9.
[10] Award at 10.
[11] Award at 9.
[12] Award at 9.
[13] Award at 10.
[14] D.C. Official Code § 1-605.02(6)
[15] Request at 7.
[16] Request at 7.
[17] Request at 8.
[18] 2012 CA 007805 (D.C. Super. Ct. July 17, 2014).

a statute is directory, the balancing test set forth in *JBG Properties, Inc. v. D.C. Office of Human Rights*[19] must be applied.[20] Applying the *JBG Properties* balancing test, MPD argues that any purported violation of the 90-day rule by the agency would be *de minimis.* According to MPD, Officer Mendoza did not sustain any prejudice as a result of the alleged one-day violation.[21] The record establishes that Officer Mendoza was able to fully avail himself of the agency's appeal process and formulate a robust case for the arbitration hearing in 2016.[22]

Finally, MPD argues that the Arbitrator's award of pre-judgment and post-judgement interest exceeded his authority and violated law and public policy. MPD cites to the parties' collective bargaining agreement which states that the arbitrator shall not have the power to add to, subtract from, or modify the parties' collective bargaining agreement.[23] MPD further states that Article 46 of the collective bargaining agreement states that the employer shall issue back pay checks within 60 days from the date of final determination. If MPD fails to issue a check within 60 days then an arbitrator may, if appropriate, order interest.[24] MPD argues that the parties anticipated back pay as part of an award and specifically stated the arbitrator's role in awarding interest through Article 46. Finally, MPD argues that an interest award exceeding 4% violates section 28-3302(b) of the D.C. Official Code which limits interest rates on judgments against the District to no more than 4% per annum.[25] In this case, the Arbitrator awarded 10% post-judgment interest, which according to MPD is a violation of section 28-3302(b).

FOP argues that the MPD's contentions are mere disagreements with the Arbitrator's findings and conclusions and that the decision did not violate law or public policy. FOP argues that it would be improper for the Board to consider the *de minimis* issue when the Arbitrator never had the opportunity to rule on it because MPD never raised it with the Arbitrator.[26] FOP further argues that the 90-day requirement is akin to a statute of limitations and that Officer Mendoza was seriously prejudiced by the one day delay.[27] Officer Mendoza's defense was entirely dependent upon the statements of Luis Ramirez who retracted his accusations the very next day. Finally, FOP argues that the interest award was within the Arbitrator's discretion.

The issue before the Board is whether the arbitrator acted contrary to law and public policy. MPD's argument that the Arbitrator incorrectly cited the record in determining the 90-day deadline, does not meet the requirement for the Board to overrule the Award. The Arbitrator looked to all the evidence and made a determination that service was effected on December 9, 2011. The Board has long held that it does not act as a finder of fact nor does it substitute its judgment for that of the arbitrator on credibility determinations and the weight attributed to evidence.[28] By submitting a matter to arbitration, parties are bound by the Arbitrator's

[19] 364 A.2d 1183 (D.C. 1976).
[20] Request at 8.
[21] Request at 9.
[22] Request at 9.
[23] Request at 12.
[24] Request at 12.
[25] Request at 13.
[26] Opposition at 6.
[27] Opposition at 7.
[28] *Metro. Police Dep't v. Fraternal Order of Police/Metro. Police Dep't Labor Comm.*, 61 D.C. Reg. 11295, Slip Op. No. 1491 at 4, PERB Case No. 09-A-14(R) (2014); *See also AFSCME, District Council 20, Local 2743, AFL-*

evidentiary and factual findings.[29] The 90-day rule deadline is a factual determination that was resolved by the Arbitrator.

The argument that the violation was *de minimis* does not show that that the Arbitrator acted contrary to law and public policy. Although the Superior Court determined that section 5-1031(a) is directory, not mandatory, the Board has previously held that an argument may not be raised for the first time in an arbitration review request.[30] The Board has exclusive jurisdiction over appeals from grievance-arbitration awards, but it does not have original jurisdiction over such matters.[31] During Arbitration, MPD argued that the Notice of Proposed Adverse Action was served within the 90-day limit and the Arbitrator made a finding on this issue. MPD did not argue that if it violated the 90-day rule then the violation was *de minimis* and the Arbitrator made no finding regarding this matter. MPD brings the issue of a *de minimis* violation of the 90-day rule for the first time in this Arbitration Review Request. As a result, MPD has waived its argument that the Arbitrator's decision is contrary to law and public policy based on a *de minimis* violation of the 90-day rule.

On the issue of interest awarded by the Arbitrator, the Board has held that an arbitrator does not exceed his or her authority by exercising equitable power to formulate a remedy unless the collective bargaining agreement expressly restricts his or her equitable power.[32] A collective bargaining agreement's prohibition against awards that add to, subtract from, or modify the collective bargaining agreement does not expressly limit the arbitrator's equitable power.[33] For the Board to overturn an arbitrator's award as in excess of the arbitrator's authority, MPD must show that the collective bargaining agreement expressly limits an arbitrator's equitable power. MPD's interpretation of Article 46 of the collective bargaining agreement also does not provide the Board with an express limitation on the arbitrator's equitable power. Instead, MPD asks the Board to accept its interpretation of the collective bargaining agreement over that of the Arbitrator. The Board has repeatedly held that it will not overturn an arbitration award based simply upon the petitioning party's disagreement with the arbitrator's findings.[34] Lastly, the Board has also held that section 28-3302(b) of the D.C. Official Code does not apply to arbitration awards of interest since an arbitrator's power to render awards is authorized by

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CIO v. D.C. Dep't of Consumer and Regulatory Affairs, 38 D.C. Reg. 5076, Slip Op. No. 281, PERB Case No. 90-A-12 (1991).

[29] *See D.C. Dep't of Health v. AFGE, Local 2725, AFL-CIO*, 60 D.C. Reg 7198, Slip Op. No. 1383, PERB Case No. 13-A-01 (2013); *See also D.C. Metro. Police Dep't v. Fraternal Order of Police/D.C. Metro. Police Dep't Labor Comm.*, 59 D.C. Reg. 11329, Slip Op. No. 1295, PERB Case No. 09-A-11 (2012).

[30] *D.C. Metro. Police Dep't*, v. *Fraternal Order of Police/Metro. Police Dep't Labor Comms* , 64 D.C. Reg. 2021, Op No. 1606, PERB Case No. 16-A-19 2017). See also, *District of Columbia Housing Authority v. AFGE, Local 2725*, 62 DC Reg. 2893, Op. No. 1503, PERB Case 14-A-07 (2015).

[31] *D.C. Metro. Police Dep't*, v. *Fraternal Order of Police/Metro. Police Dep't Labor Comms* , 64 D.C. Reg. 2021, Op No. 1606, PERB Case No. 16-A-19 2017).

[32] *See Metro. Police Dep't v. Fraternal Order of Police/Metro. Police Dep't Labor Comm.*, 59 D.C. Reg. 6787, Slip Op. No. 1133 at p. 8, PERB Case No. 09-A-12 (2011); *Metro. Police Dep't v. Fraternal Order of Police/Metro. Police Dep't Labor Comm.*, 39 D.C. Reg. 6232, Slip Op. No. 282, PERB Case No. 92-A-04 (1992).

[33] *Metro. Police Dep't v. Fraternal Order of Police/ Metro. Police Dep't Labor Comm.*, 59 D.C. Reg. 6787, Slip Op. No. 1133 at 8, PERB Case No. 09-A-12 (2011).

[34] *Fraternal Order of Police/Dep't of Corr. Labor Comm. v. Dep't of Corr.*, 59 D.C. Reg. 9798, Slip Op. No. 1271 at p. 6, PERB Case No. 10-A-20 (2012).

contract and not by law, as prescribed by section 28-3302(b).[35] Therefore, MPD's disagreement with the Arbitrator's Award of interest does not present a statutory ground for review.

V. Conclusion

The Board rejects MPD's arguments and finds no cause to set aside or modify the Arbitrator's Award. Accordingly, MPD's request is denied and the matter is dismissed in its entirety.

ORDER

IT IS HEREBY ORDERED THAT:

1. The arbitration review request is hereby denied.

2. Pursuant to Board Rule 559, this Decision and Order shall become final thirty (30) days after issuance unless a party files a motion for reconsideration or the Board reopens the case within fourteen (14) days after issuance of the Decision and Order.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Members Douglas Warshof, Barbara Somson and Mary Anne Gibbons.

August 17, 2017

Washington, D.C.

[35] *UDC and UDC, Faculty Ass'n*, 41 D.C. Reg. 2738, Slip Op. 317 at 3, PERB Case No. 92-A-02 (1992) (*citing United Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574, 580 (1960).

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 16-A-12, Op. No. 1639 is being transmitted to the following parties on this the 25th day of August 2017.

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