

***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council schedules a joint public roundtable on Proposed Resolution 22-935, “Truancy, Reporting, and Graduation Status of Students Approval Resolution of 2018”
- Office of Contracting and Procurement updates regulations governing specifications and purchase descriptions for the District’s procurements
- Department of Energy and Environment solicits public comments on air quality issues
- Department of Health (DC Health) announces funding availability for the Senior Dental Services Program
- Department of Health (DC Health) publicizes funding availability for the Special Initiatives: Needle Exchange Services and Transgender Health Initiative
- Executive Office of the Mayor amends funding availability for the Fiscal Year 2019 Immigrant Justice Legal Services Grant
- D.C. Water and Sewer Authority establishes water and sewer service retail rates and other fees for fiscal years 2019 and 2020

# DISTRICT OF COLUMBIA REGISTER

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ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-398**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 12, 2018**

To amend Title II of the Attendance Accountability Amendment Act of 2013 to require its application to District of Columbia Public Schools and public charter schools, establishing parameters for local education agencies' policies on school climate and discipline, limiting the use of out-of-school suspensions, expulsions, and disciplinary unenrollments to certain categories of conduct and limiting the length of out-of-school suspensions, requiring special considerations around the discipline of students with disabilities, directing the Office of the State Superintendent of Education to support local education agencies and schools in reducing out-of-school suspensions, expulsions, and disciplinary unenrollments and fostering positive school climates, establishing a School Safety and Positive Climate Fund, and imposing new annual reporting requirements on the use of specific disciplinary practices across delineated demographics of students; and to amend An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, the Pre-k Enhancement and Expansion Amendment Act of 2008, the District of Columbia School Reform Act of 2005, and the State Education Office Establishment Act of 2000 to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Student Fair Access to School Amendment Act of 2018".

Sec. 2. Title II of the Attendance Accountability Amendment Act of 2013, effective September 19, 2013 (D.C. Law 20-17; D.C. Official Code § 38-235 *et seq.*), is amended as follows:

- (a) The title heading is amended to read as follows:  
"TITLE II. STUDENT DISCIPLINE".
- (b) Sections 201 and 202 are redesignated as sections 208 and 209, respectively.
- (c) New sections 201 through 207 are added to read as follows:  
"Sec. 201. Definitions.  
"For the purposes of this title, the term:

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“(1) “Bodily injury” means a cut, abrasion, bruise, burn, or disfigurement; physical pain; illness; impairment of the function of a bodily member, organ, or mental faculty; or any other injury to the body, no matter how temporary.

“(2) “Community-based organization” shall have the same meaning as provided in section 101(1A) of the Pre-k Enhancement and Expansion Amendment Act of 2008, effective July 18, 2008 (D.C. Law 17-202; D.C. Official Code § 38-271.01(1A)).

“(3) “Disciplinary unenrollment” means the expulsion or involuntary transfer of a student from a school.

“(4) “Emergency removal” means the immediate out-of-school suspension or disciplinary unenrollment of a student based on the school’s reasonable belief that the student’s presence poses an immediate and continuing danger to other students or school staff.

“(5) “Emotional distress” means mental suffering or distress that requires more than trivial treatment or counseling.

“(6) “Exclusion” means the removal of a student from the student’s daily class schedule for disciplinary reasons and includes a suspension or a disciplinary unenrollment.

“(7) “Expulsion” means the removal of a student from the student’s school of enrollment for disciplinary reasons for the remainder of the school year or longer, in accordance with local education agency policy.

“(8) “In-school suspension” means temporarily removing a student from the student’s regular class schedule as a disciplinary consequence, during which time the student remains on school grounds under the supervision of school personnel who are physically in the same location as the student.

“(9) “Involuntary dismissal” means the removal of the student from school attendance for less than 1/2 of a school day for disciplinary reasons, during which time the student is not under the supervision of school personnel and is not allowed on school grounds.

“(10) “Involuntary transfer” means the removal of a student from the student’s school of enrollment for disciplinary reasons for the remainder of the school year, or longer, and the student’s enrollment in another school within the same local education agency, in accordance with local education agency policy.

“(11) “Local education agency” means the District of Columbia Public Schools system or any individual or group of public charter schools operating under a single charter.

“(12) “OSSE” means the Office of the State Superintendent of Education established by section 2 of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-201).

“(13) “Out-of-school suspension” means the temporary removal of a student from school attendance to another setting for disciplinary reasons, during which time the student is not under the supervision of the school’s personnel and is not allowed on school grounds.

“(A) The term “out-of-school suspension” includes an involuntary dismissal.

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“(B) For students with disabilities, the term “out-of-school suspension” includes a removal in which no individualized family service plan or individualized education plan services are provided because the removal is 10 days or fewer as well as removals in which the student continues to receive services according to the student’s individualized family service plan or individualized education plan.

“(14) “Parent” means a parent, guardian, or other person who has custody or control of a student enrolled in a school in a local education agency.

“(15) “Referral to law enforcement” means an action by school personnel to report a student to a law enforcement agency or official, including a school police unit, for an incident that occurs on school grounds, during off-campus school activities, or while taking school transportation.

“(16) “School-based intervention” means temporarily removing a student from the student’s regular class schedule for the purpose of providing the student with school-based targeted supports, such as behavioral therapy, in response to student conduct that would otherwise warrant an in-school suspension.

“(17) “School-related arrest” means an arrest of a student for an activity conducted on school grounds, during off-campus school activities, while taking school transportation, or due to a referral to law enforcement by the student’s school.

“(18) “Student with a disability” means a student who qualifies as a child with a disability under section 602(3) of the Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2652; 20 U.S.C. § 1401(3)).

“(19) “Suspension” means an in-school suspension or an out-of-school suspension.

“(20) “Willful defiance” means disrupting school activities or intentionally defying the valid authority of school staff.

“Sec. 202. Application.

“This title shall apply to the District of Columbia Public Schools and public charter schools, including the schools’ pre-kindergarten programs.

“Sec. 203. Establishment of school discipline policies.

“(a) Local education agencies shall foster positive school climates that engage all students in learning.

“(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

“(1) Set high expectations for student behavior and adopt an instructional and corrective approach to school discipline;

“(2) Permit out-of-school suspension or disciplinary unenrollment as a disciplinary action only to ensure safety and in response to the most serious offenses, as set forth in school policy;

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“(3) Avoid policies requiring automatic suspension or disciplinary unenrollment for particular behaviors unless otherwise required by law;

“(4) Include a plan for continuity of education for any student subject to a suspension, including a mechanism for modifications to the plan to meet the needs of an individual student, as necessary, to facilitate the student’s return to the classroom, and appropriate measures to ensure the student:

“(A) Continues the student’s studies during the suspension and receives all appropriate assignments for the duration of the suspension;

“(B) Can communicate with school personnel regarding academic work;  
and

“(C) Upon returning to school, has the opportunity to make up any school work missed during the suspension if the school work cannot be completed by the student during the student’s suspension;

“(5) Require school personnel to seek and facilitate the involvement of parents in response to an incident resulting in a disciplinary action, particularly with regard to the plan for continuity of education, to the degree that a parent is able to participate;

“(6) Identify conduct or categories of conduct, by severity of offense, including conduct that constitutes causing, attempting, or threatening bodily injury or emotional distress, for which a student may be disciplined;

“(7) Identify graduated levels of disciplinary action for misbehavior through a list of options available to teachers and administrators for each level of misconduct; provided, that such a list need not be exhaustive;

“(8) Describe the local education agency’s in-school and out-of-school suspension practice and policy;

“(9) Promote disciplinary actions that are individualized, fair, equitable, developmentally appropriate, proportional to the severity of the student’s offense, and, if appropriate, restorative;

“(10) Provide that school personnel shall consider whether student behavior can be safely and appropriately handled through other disciplinary action before making referrals to law enforcement or seeking school-related arrests in response to student behavior;

“(11) Outline procedures for communicating with students and parents regarding disciplinary actions; and

“(12) Articulate clearly the due process rights and procedures available to students and parents.

“(c) The school discipline policy of a local education agency that operates a pre-kindergarten program shall be consistent with the requirements of section 303 of the Pre-k Enhancement and Expansion Amendment Act of 2008, effective June 23, 2015 (D.C. Law 21-12; D.C. Official Code § 38-273.03).



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“(d) A school, or local education agency, as appropriate, shall provide school discipline policies to students and parents and shall provide students and parents with explanations of the policies, including explanations of expectations, rights, and responsibilities of students and parents under the policies. The school, or local education agency, as appropriate, shall make the school discipline policy publicly available, including in a conspicuous place on the school and local education agency’s website.

“(e) Local education agencies shall proactively evaluate and update school discipline policies and practices to ensure fairness and equity, including by using data and feedback from students, families, and school personnel to identify, reduce, and eliminate discriminatory discipline practices or outcomes and unintended consequences.

“Sec. 204. Limitations on exclusion as a disciplinary action.

“(a) Unless otherwise required by federal or District law:

“(1) Beginning in school year 2019-2020, no student in grades kindergarten through 8 may be subject to an out-of-school suspension or disciplinary unenrollment, unless a school administrator determines, consistent with school policy, that the student has willfully caused, attempted to cause, or threatened to cause bodily injury or emotional distress to another person, including behavior that happens off school grounds;

“(2) Beginning in school year 2020-2021, no student in grades 9 through 12, except a student over 18 years of age at a school where more than 1/2 of the students are over 18 years of age, may be subject to an out-of-school suspension or disciplinary unenrollment for:

“(A) Violating local education agency or school dress code or uniform rules;

“(B) Willful defiance; or

“(C) Behavior that happens off school grounds and not as part of a school-sponsored activity, unless the student has willfully caused, attempted to cause, or threatened to cause bodily injury or emotional distress to another person.

“(b) No student, except a student over 18 years of age at a school where more than 1/2 of the students are over 18 years of age, may be subject to an out-of-school suspension for longer than:

“(1) Five consecutive school days for any individual incident in grades kindergarten through 5;

“(2) Ten consecutive school days for any individual incident in grades 6 through 12; or

“(3) Twenty cumulative school days during an academic year regardless of grade, unless:

“(A) The head of a local education agency provides a written justification to the student and parent describing why exceeding the 20-day limit is a more appropriate disciplinary action than alternative responses; or

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“(B) The student’s conduct necessitated an emergency removal, and the head of the local education agency provides a written justification for the emergency removal to the student and parent.

“(c) No student, except a student over 18 years of age at a school where more than 1/2 of the students are over 18 years of age, may be subject to an out-of-school suspension or disciplinary unenrollment for an unexcused absence or a late arrival to school; provided, that a student may be unenrolled from a local education agency if the student has accumulated 20 or more consecutive full-school-day unexcused absences.

“(d) No student subject to a suspension may be denied the right to continue to access and complete appropriate academic work or to earn credit toward promotion or graduation during a suspension.

“(e) The return of a student to school upon conclusion of an out-of-school suspension shall not be made contingent on a parent accompanying the student, attending a conference, or otherwise being present at the school.

“(f) Notwithstanding whether a school or local education agency states the reasoning for the removal from school or prohibition from returning to school, no student may be removed from school or prohibited from returning to school for disciplinary reasons, unless the student is subject to an out-of-school suspension or disciplinary unenrollment.

“(g) For purposes of due process, a suspension of 6 school days or more shall be considered a long-term suspension.

“(h)(1) On a quarterly basis, each local education agency shall submit a report, which shall be a public document, to the Council delineating by school the following information:

“(A) For students in grades kindergarten through 5, the number of students suspended for one to 5 consecutive school days and for 6 or more consecutive school days;

“(B) For students in grades 6 through 12, the number of students suspended for the following number of consecutive school days:

“(i) One to 5;

“(ii) Six to 10; and

“(iii) Eleven or more;

“(C) The number of students who have been suspended, on a cumulative basis, the following number of school days:

“(i) One to 5;

“(ii) Six to 10;

“(iii) Eleven to 15;

“(iv) Sixteen to 20; and

“(v) Twenty-one or more; and

“(D) The number of students subject to disciplinary unenrollment.

## ENROLLED ORIGINAL

“(2) If a local education agency is comprised of one or more public charter schools, the Public Charter School Board may submit the quarterly reporting required in paragraph (1) of this subsection to the Council on behalf of the local education agency.

“Sec. 205. Exclusion of students with disabilities.

“(a) School administrators shall take special consideration regarding the exclusion of a student with a disability.

“(b) All of a student’s disabilities, as defined in section 3(1)(A) and (B) of the Americans with Disabilities Act, approved July 26, 1990 (104 Stat. 329; 42 U.S.C. § 12102(1)(A)-(B)), of which the school had knowledge shall be considered in a manifestation determination review conducted pursuant to section 615(k)(1)(E) of the Individuals with Disabilities Education Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1415(k)(1)(E)).

“Sec. 206. Support for positive school climate and trauma-informed educational settings.

“(a) The Office of the State Superintendent of Education shall provide an array of supports to assist local education agencies and schools to achieve the goals of sections 203 through 205 and to adopt trauma-informed disciplinary practices. The OSSE shall provide local education agencies and schools with, among other supports, the following:

“(1) Guidance and materials that inform local education agencies and school communities about developments in the fields of school climates and behavioral management;

“(2) Regular, high-quality professional development opportunities and technical assistance, and recommendations for further instruction outside of these opportunities, for local education agency and school personnel on:

“(A) Trauma and chronic stress, their effects on students and learning, and effective responses;

“(B) Classroom management, positive behavioral interventions, and fostering positive school climate;

“(C) Disciplinary approaches that utilize instruction and correction;

“(D) Restorative practices and other evidence-based or promising behavioral interventions;

“(E) Implementation of high-quality functional behavior assessments, behavioral intervention plans, and manifestation determination reviews, as those terms are used in the Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2745; 20 U.S.C. § 1400 *et seq.*); and

“(F) Implicit bias and culturally responsive corrective action techniques;

“(3) Opportunities for local education agencies and schools to share promising practices regarding the topics in paragraph (2) of this subsection; and

“(4) Technical assistance and supportive services, including non-instructional personnel with specialized expertise in behavioral health, trauma-informed educational settings, and restorative justice practices, to assist local education agencies and schools in developing and

## ENROLLED ORIGINAL

revising disciplinary plans and reducing the use of exclusion by addressing the causes of student misconduct.

“(b) The OSSE shall collaborate with other government agencies, local education agencies and schools, and postsecondary educational institutions to facilitate the provision of postsecondary degree or certificate programs covering the topics described in subsection (a)(2) of this section, including the identification or creation of a trauma-informed educator certificate program.

“(c) The OSSE may enter into a grant or contract with one or more nonprofit organizations, a memorandum of understanding with the Department of Behavioral Health, or any combination thereof, for the purpose of providing local education agencies and schools the services mandated pursuant to subsection (a) of this section.

“(d) Within 2 years after the effective date of the Student Fair Access to School Amendment Act of 2018, passed on 2nd reading on May 1, 2018 (Enrolled version of Bill 22-594), and every 5 years thereafter, the OSSE shall submit to the Mayor and the Council an evaluative report on local education agency and school implementation of practices to promote school safety and reduce the use of exclusion, which shall:

“(1) Be based upon rigorous research techniques, including quantitative and qualitative methods;

“(2) Draw on the information maintained and reported pursuant to section 209, as well as other sources, with a particular focus on:

“(A) Ensuring the fidelity of data reporting;

“(B) Unanticipated consequences of the disciplinary policies and practices adopted pursuant to this title;

“(C) Barriers schools face in implementing the policies and practices required pursuant to this title; and

“(D) Effective approaches utilized by schools to avoid reliance on exclusion and reduce disparities in its use;

“(3) Provide specific recommendations for further action by the Council, executive branch, and schools; and

“(4) Provide suggestions for further research.

“Sec. 207. School Safety and Positive Climate Fund.

“(a) There is established as a special fund the School Safety and Positive Climate Fund (“Fund”), which shall be administered by the Office of the State Superintendent of Education in accordance with subsection (c) of this section.

“(b) Revenue from any annual appropriation shall be deposited into the Fund.

“(c) Money in the Fund shall be used solely to support the activities described in section 206.

## ENROLLED ORIGINAL

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

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

(d) Redesignated section 209 (D.C. Official Code § 38-236) is amended as follows:

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

(A) Paragraph (1)(H) is amended by striking the phrase “; and” and inserting a semicolon in its place.

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

(i) Subparagraph (A) is amended by striking the phrase “out-of-school suspensions and in-school suspensions” and inserting the phrase “in-school suspensions, out-of-school suspensions, involuntary dismissals, and emergency removals” in its place.

(ii) Subparagraph (C) is amended by striking the phrase “suspension;” and inserting the phrase “suspension, and whether the student attended;” in its place.

(iii) Subparagraphs (D) through (F) are amended to read as follows:

“(D) Whether the student was subject to a disciplinary unenrollment during the school year;

“(E) Whether the student voluntarily withdrew or voluntarily transferred from the school during the school year;

“(F) Whether the student was subject to referral to law enforcement;”.

(iv) New subparagraphs (G) and (H) are added to read as follows:

“(G) Whether the student was subject to school-related arrest; and

“(H) A description of the misconduct that led to or reasoning behind each suspension, involuntary dismissal, emergency removal, disciplinary unenrollment, voluntary withdrawal or transfer, referral to law enforcement, school-based arrest and, for students with disabilities, change in placement; and”.

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

“(3) Special education services data, including whether a student received during the school year:

“(A) A functional behavioral assessment;

“(B) An updated behavior improvement plan; or

“(C) A manifestation determination review, including the number of suspension days that triggered the review, whether the suspension days were cumulative, and the outcome of the review.”.

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



## ENROLLED ORIGINAL

“(b) By August 15 of each year, each local education agency or entity operating a publicly funded community-based organization shall submit a report to the Office of the State Superintendent of Education disaggregated by each of the demographic categories identified in subsection (a)(1) of this section. The report shall include:”

“(1) The students suspended for:

“(A) At least one and no more than 5 days, and whether the suspension was an in-school suspension or an out-of-school suspension;

“(B) At least 6 and no more than 10 days and whether the suspension was an in-school suspension or an out-of-school suspension;

“(C) More than 10 days and whether the suspension was an in-school suspension or an out-of-school suspension;

“(2) The students who received more than one suspension in a school year and whether the suspensions were in-school or out-of-school suspensions;

“(3) The students who were referred to an alternative educational setting for the course of a suspension;

“(4) The students who received a school-based intervention rather than an in-school suspension, and a description of the school-based intervention;

“(5) The students involuntarily dismissed:

“(A) At least once and no more than 5 times;

“(B) At least 6 times and no more than 10 times;

“(C) More than 10 times;

“(6) The students subject to emergency removals;

“(7) The students subject to a disciplinary unenrollment, disaggregated by type of disciplinary unenrollment;

“(8) The students who voluntarily withdrew or transferred;

“(9) The students subject to referral to law enforcement;

“(10) The students subject to school-related arrest;

“(11) A description of the misconduct that led to or reasoning behind each suspension, involuntary dismissal, emergency removal, disciplinary withdrawal, voluntary withdrawal or transfer, referral to law enforcement, school-based arrest, and, for students with disabilities, change in placement;

“(12) Whether the student received a functional behavior assessment, an updated behavioral improvement plan, or a manifestation determination review, as those terms are used in the Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2745; 20 U.S.C. § 1400 *et seq.*), and the outcomes of those actions; and

“(13) Whether the student was subject to suspensions exceeding the time limits described in section 204(b), and a summary of the written justification provided by the local education agency for those disciplinary actions.”.

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

## ENROLLED ORIGINAL

(A) Designate the existing text as paragraph (1).

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

“(2) The OSSE shall collaborate with local education agencies and publicly funded community-based organizations to develop consistent definitions for the types of misconduct and explanations of reasoning required to be maintained or reported pursuant to subsections (a)(2)(H) and (b)(11) of this section.”.

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

(A) Strike the phrase “suspensions and expulsions that were imposed in local education agencies and publicly funded community-based organizations” and insert the phrase “data provided by local education agencies and community-based organizations in subsection (b) of this section” in its place.

(B) Strike the period and insert the phrase “. The report shall include a trend analysis based on available data, including data drawn from the Youth Risk Behavior Survey, school climate surveys, and any other available sources, of the exclusion of students who identify as lesbian, gay, bisexual, questioning of the student’s sexual orientation, transgender, gender nonconforming, or questioning of the student’s gender identity or expression.” in its place.

(5) Subsection (e) is repealed.

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

“(e-1) The OSSE, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this section.”.

### Sec. 3. Conforming amendments.

(a) Sections 2(f-1) and (f-2) of Article II of An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-203(f-1) and (f-2)), are repealed.

(b) The Pre-k Enhancement and Expansion Amendment Act of 2008, effective July 18, 2008 (D.C. Law 17-202; D.C. Official Code § 38-271.01 *et seq.*), is amended as follows:

(1) Section 101(5A) (D.C. Official Code § 38-271.01(5A)) is amended by striking the phrase “the removal of a student from school attendance for an entire school day or longer” and inserting the phrase “the temporary removal of a student from school attendance to another setting for disciplinary reasons, during which time the student is not under the supervision of the school’s personnel and is not allowed on school grounds” in its place.

(2) Section 303(a) (D.C. Official Code § 38-273.03(a)) is amended by striking the phrase “be expelled” and inserting the phrase “receive a disciplinary unenrollment, as defined in section 201(3) of the Attendance Accountability Amendment Act of 2013, passed on 2nd reading on May 1, 2018 (Enrolled version of Bill 22-594),” in its place.

## ENROLLED ORIGINAL

(c) Section 2206(g) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.06(g)), is amended to read as follows:

“(g) Expulsion and suspension. – (1) A public charter school shall comply with sections 203 through 205 of the Attendance Accountability Amendment Act of 2013, passed on 2nd reading on May 1, 2018 (Enrolled version of Bill 22-594).

“(2) The principal of a public charter school may expel or suspend a student from the school based on criteria set forth in the charter granted to the school, consistent with sections 204 and 205 of the Attendance Accountability Amendment Act of 2013, passed on 2nd reading on May 1, 2018 (Enrolled version of Bill 22-594), and section 303 of the Pre-k Enhancement and Expansion Amendment Act of 2008, effective June 23, 2015 (D.C. Law 21-12; D.C. Official Code § 38-273.03).”.

(d) Section 3(b) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)), is amended as follows:

(1) Paragraph (28) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(2) Paragraph (29) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph (30) is added to read as follows:

“(30) Provide schools the supports mandated pursuant to section 206 of the Attendance Accountability Amendment Act of 2013, passed on 2nd reading on May 1, 2018 (Enrolled version of Bill 22-594).”.

#### Sec. 4. Applicability.

(a) Sections 204(a), 204(b), 206, and 207 of Title II of the Attendance Accountability Amendment Act of 2013, passed on 2nd reading on May 1, 2018 (Enrolled version of Bill 22-594), added by section 2(c), shall apply upon the date of inclusion of the section’s fiscal effect in an approved budget and financial plan.

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

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

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



ENROLLED ORIGINAL

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman  
Council of the District of Columbia

\_\_\_\_\_  
UNSIGNED  
Mayor  
District of Columbia  
July 11, 2018

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-399**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To approve, on an emergency basis, Modification Nos. 9 through 11 to Contract No. DCAM-16-NC-0034A with Adrian L. Merton, Inc. for on-call heating, air conditioning, and ventilation system repairs and upgrades to several municipal facilities and District of Columbia Public Schools, and to authorize payment in the aggregate amount of \$3,775,000 for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. DCAM-16-NC-0034A Approval and Payment Authorization Emergency Act of 2018”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 9 through 11 to Contract No. DCAM-16-NC-0034A with Adrian L. Merton, Inc. for on-call heating, air conditioning, and ventilation system repairs and upgrades to several municipal facilities and District of Columbia Public Schools, and to authorize payment in the aggregate amount of \$3,775,000 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 16, 2018

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 22-400**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To approve, on an emergency basis, Modification Nos. 16 and 17 to Contract No. CW29405 with Miriam's Kitchen to provide permanent supportive housing, and to authorize payment in the not-to-exceed amount of \$1,270,452 for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Contract No. CW29405 Approval and Payment Authorization Emergency Act of 2018".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 16 and 17 to Contract No. CW29405 with Miriam's Kitchen to provide permanent supportive housing, and authorizes payment in the not-to-exceed amount of \$1,270,452 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.


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

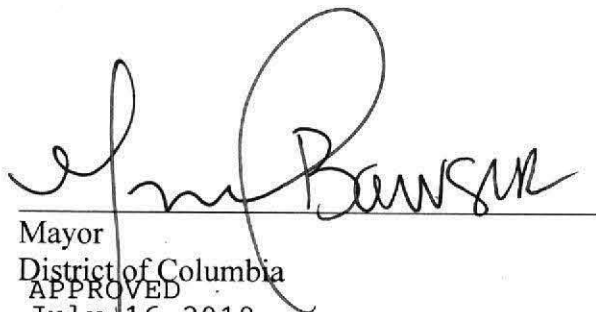
Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

  
Chairman  
Council of the District of Columbia

  
Mayor  
District of Columbia  
APPROVED  
July 16, 2018

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 22-401**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To amend, on an emergency basis, Chapter 38 of Title 28 of the District of Columbia Official Code to restrict a credit reporting agency’s authority to charge consumers for security freeze services.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Credit Protection Fee Waiver Emergency Amendment Act of 2018”.

Sec. 2. Section 28-3862(o) of the District of Columbia Official Code is amended to read as follows:

“(o)(1) Except as provided in paragraph (2) of this subsection, a credit reporting agency shall not charge a consumer for a security freeze service.

“(2) If the consumer fails to retain the original personal identification number or password provided by the agency, the consumer may not be charged for a one-time reissue of the same or a new personal identification number or password, but may be charged an amount not to exceed \$10 for subsequent instances of loss and reissuance of a new personal identification number or password.”.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 16, 2018

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 22-402**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To amend, on an emergency basis, Chapter 39 of Title 28 of the District of Columbia Official Code to clarify that the Office of the Attorney General is authorized to enforce the District of Columbia Consumer Protection Procedures Act against housing providers that violate certain consumer protection laws that protect tenants.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “At-Risk Tenant Protection Clarifying Emergency Amendment Act of 2018”.

Sec. 2. Chapter 39 of Title 28 of the District of Columbia Official Code is amended as follows:

(a) Section 28-3909 is amended as follows:

(1) Strike the phrase “Corporation Counsel” wherever it appears and insert the phrase “Office of the Attorney General” in its place.

(2) Subsection (c)(5) is amended by striking the phrase “Corporation’s Counsel’s” and inserting the phrase “Office of the Attorney General’s” in its place.

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

“(d) The Office of the Attorney General may apply the provisions and exercise the duties of this section to landlord-tenant relations.”.

(b) Section 28-3910(a) is amended by striking the phrase “Corporation Counsel” and inserting the phrase “Office of the Attorney General” in its place.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

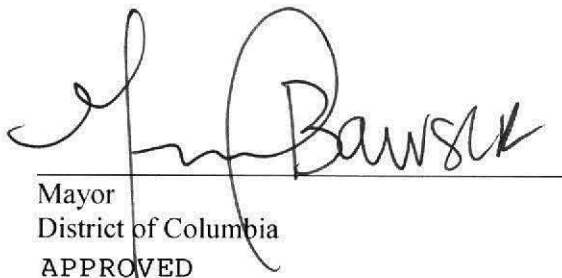


ENROLLED ORIGINAL

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 16, 2018

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 22-403**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To amend, on an emergency basis, the Business Improvement Districts Act of 1996 to add designated properties to the Golden Triangle Business Improvement District, to revise the rates of assessment, and to establish the residential tax rate for residential members of the Golden Triangle Business Improvement District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Golden Triangle Business Improvement District Emergency Amendment Act of 2018".

Sec. 2. The Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.01 *et seq.*), is amended as follows:

(a) Section 3(24)(B) (D.C. Official Code § 2-1215.02(24)(B)) is amended by striking the phrase "Capitol Riverfront, and Downtown BIDs," and inserting the phrase "Capitol Riverfront, Downtown, and Golden Triangle BIDs," in its place.

(b) Section 10b(a)(1) (D.C. Official Code § 2-1215.09b(a)(1)) is amended by striking the phrase "Downtown BID petition to join the Downtown BID;" and inserting the phrase "Downtown BID or Golden Triangle BID petition to join such BID;" in its place.

(c) Section 202 (D.C. Official Code § 2-1215.52) is amended as follows:

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

"(4) Square 0115, Lots 0064, 0065, 0803, and 0804; Square 0073, Lots 0079, 0883, and 0884; Square 0182, Lot 0084; Square 0166, Lot 0861; and Square 0159, Lot 0087; provided, that Lot 0087 is included in the Golden Triangle BID effective as of October 1, 2019."

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

(A) Subparagraph (A)(iii)(II) is amended by striking the word "and".

(B) Subparagraph (B) is amended as follows:

(i) Strike the phrase "For tax years 2011 and thereafter;" and insert the phrase "For tax years 2011 through 2018;" in its place.

(ii) Sub-subparagraph (iii)(II) is amended by striking the period and inserting the phrase "; and" in its place.

(C) New subparagraphs (C) and (D) are added to read as follows:

"(C) For tax years 2019 and thereafter:

"(i)(I) Seventeen cents for each net rentable square foot of improved Class 2 Property and Class 3 Property, excluding hotels, for any property for which the

ENROLLED ORIGINAL

owner is required to report net rentable area to the Office of Tax and Revenue or for which the Office of Tax and Revenue has records indicating the net rentable area of the property.

“(II) Net Rentable square feet shall be the number of net rentable square feet reported to, or on record with, the Office of Tax and Revenue;

“(ii)(I) Seventeen cents for each equivalent net rentable square foot of improvements of improved Class 2 Property and Class 3 Property, excluding hotels, for any property for which the owner is not required to report net rentable area to the Office of Tax and Revenue and for which the Office of Tax and Revenue maintains no record of net rentable area.

“(II) Equivalent net rentable area shall be 90% of the gross building area;

“(iii)(I) Fourteen cents for each equivalent net rentable square foot of improvements of hotels.

“(II) Equivalent net rentable areas shall be 90% of the gross building area.

“(iv) The amount of \$120 per unit annually for nonexempt residential properties; provided, that for a residential unit restricted to residents based upon income pursuant to a federal or District affordable housing program, the BID tax due on the unit shall be computed by applying the percentage of area median income that an eligible household must meet to participate in the affordable housing program for the unit to the amount of the BID tax that would otherwise be due; and

“(D) For tax year 2020 and thereafter, a 3% annual increase in the BID taxes over the current year rates specified in this section is authorized, subject to the requirements of section 9(b).”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Golden Triangle Business Improvement District Amendment Act of 2018, passed on 2nd reading on June 26, 2018 (Enrolled version of Bill 22-761), as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

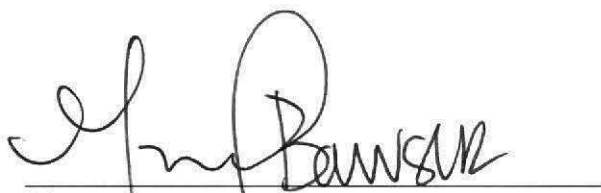
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 16, 2018

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-404**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To amend, on an emergency basis, the Recreation Act of 1994 to require the Department of Parks and Recreation to issue a grant to an organization to provide programming to low-income children who are District residents at Fort Dupont Ice Arena.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fort Dupont Ice Arena Programming Emergency Amendment Act of 2018".

Sec. 2. Section 3 of the Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-302), is amended by adding a new subsection (e) to read as follows:

"(e) Beginning in Fiscal Year 2017, and on an annual basis thereafter, the Department shall issue a \$235,000 grant to an organization to provide programming for low-income children who are District residents at Fort Dupont Ice Arena. The grantee shall have experience in providing such programming and shall not charge a participation fee to low-income residents."

Sec. 3. Applicability.

This act shall apply as of July 14, 2018.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

ENROLLED ORIGINAL

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 16, 2018

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 22-405**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 17, 2018**

To amend, on an emergency basis, the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to enhance the reporting requirements of political action committees and independent expenditure committees during nonelection years and to apply current contribution limitations to political action committees during nonelection years.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Campaign Finance Reform and Transparency Emergency Amendment Act of 2018”.

Sec. 2. The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*), is amended as follows:

(a) Section 309(b) (D.C. Official Code § 1-1163.09(b)) is amended as follows:

(1) The existing text is designated as paragraph (1).

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

“(2) In addition to the reporting requirements in paragraph (1) of this subsection, the treasurer of each political action committee and independent expenditure committee shall file the reports required by subsection (a) of this section on the 10th day of April and October of each year in which there is no election. The reports shall be complete as of the date prescribed by the Director of Campaign Finance, which shall not be more than 5 days before the date of filing.”.

(b) Section 333 (D.C. Official Code § 1-1163.33) is amended by adding a new subsection (f-1) to read as follows:

“(f-1) Limitations on contributions under this section shall apply to political action committees during nonelection years.”.

ENROLLED ORIGINAL

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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



Chairman  
Council of the District of Columbia

\_\_\_\_\_  
UNSIGNED

Mayor  
District of Columbia  
July 16, 2018



ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-406**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To approve, on an emergency basis, Modification Nos. 03 and 04 to Contract No. DCAM-16-NC-0005B with Sustainable Facilities Management Services for consolidated maintenance services at the Department of Employment Services, and to authorize payment in the aggregate amount of \$1,168,876.20 for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. DCAM-16-NC-0005B Approval and Payment Authorization Emergency Act of 2018”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 03 and 04 to Contract No. DCAM-16-NC-0005B with Sustainable Facilities Management Services for consolidated maintenance services at the Department of Employment Services, and to authorize payment in the aggregate amount of \$1,168,876.20 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 16, 2018

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-407**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To approve, on an emergency basis, Modification Nos. 19 and 20 to Contract No. CW20202 with Lucky Dog, LLC to provide solid waste hauling and disposal services, and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. CW20202 Approval and Payment Authorization Emergency Act of 2018”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 19 and 20 to Contract No. CW20202 with Lucky Dog, LLC to provide solid waste hauling and disposal services, and authorizes payment in the estimated amount of \$1,312,500 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 16, 2018

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 22-408**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To approve, on an emergency basis, Modification Nos. 17 and 18 to Contract No. CW29403 with Pathways to Housing to provide long-term housing and case management services for the District, and to authorize payment in the not-to-exceed amount of \$1,968,900 for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. CW29403 Approval and Payment Authorization Emergency Act of 2018”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 17 and 18 to Contract No. CW29403 with Pathways to Housing to provide long-term housing and case management services for the District, and authorizes payment in the not-to-exceed amount of \$1,968,900 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED  
July 16, 2018

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-409**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To approve, on an emergency basis, Modification Nos. 18 and 21 to Contract No. CW18948 with Aramark Correctional Services, LLC to provide management and operation of the food service program for inmates housed in the Central Detention Facility, the Correctional Treatment Facility, and Central Cell Block, and to authorize payment for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. CW18948 Approval and Payment Authorization Emergency Act of 2018”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 18 and 21 to Contract No. CW18948 with Aramark Correctional Services, LLC to provide management and operation of the food service program for inmates housed in the Central Detention Facility, the Correctional Treatment Facility, and Central Cell Block, and authorizes payment in the estimated amount of \$2.6 million for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.


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

Sec. 4. Effective date.

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

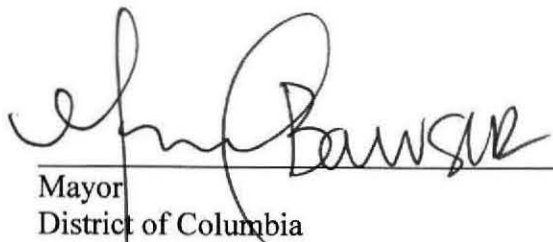
ENROLLED ORIGINAL

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



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
July 16, 2018



ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-410**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To amend, on an emergency basis, due to congressional review, the District of Columbia Election Code of 1955 to exempt the current Executive Director of the District of Columbia Board of Elections from the domicile requirement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Board of Elections Domicile Requirement Congressional Review Emergency Amendment Act of 2018”.

Sec. 2. Section 5(e)(1) of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 700; D.C. Official Code § 1-1001.05(e)(1)), is amended by adding a new subparagraph (B-i) to read as follows:

“(B-i) The requirements of subparagraph (B) of this paragraph shall not apply to Executive Director Alice Miller, beginning on her hire date of July 6, 2016.”.

Sec. 3. Applicability.

This act shall apply as of June 24, 2018.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

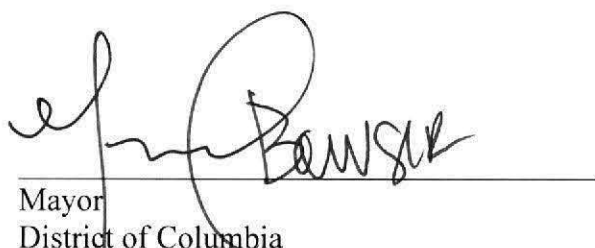
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 16, 2018

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 22-411**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To amend, on a temporary basis, the District of Columbia Traffic Act, 1925 to clarify the definition of all-terrain vehicle or ATV.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "All-Terrain Vehicle Clarification Temporary Amendment Act of 2018".

Sec. 2. Section 2(2) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(2)), is amended by striking the phrase "with not less than 3 low-pressure tires, but not more than 6 low-pressure tires, designed" and inserting the phrase "with 3 or more tires that is designed" in its place.

Sec. 3. Fiscal impact statement.


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

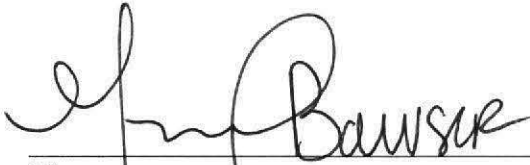
Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

ENROLLED ORIGINAL

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

  
Chairman  
Council of the District of Columbia

  
Mayor  
District of Columbia  
APPROVED  
July 16, 2018

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-412**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 16, 2018**

To amend, on a temporary basis, the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010 to authorize the Attorney General to issue grants, not to exceed the total amount of \$360,000, for the purposes of crime reduction and violence interruption and to use the Litigation Support Fund to pay any personnel and non-personnel costs related to administering a grant.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Attorney General Limited Grant-Making Authority Temporary Amendment Act of 2018”.

Sec. 2. The Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81 *et seq.*), is amended as follows:

(a) Section 106b (D.C. Official Code § 1-301.86b) is amended by adding a new subsection (c-1) to read as follows:

“(c-1) The Fund may be used to pay personnel and non-personnel costs related to administering any grant issued pursuant to the authority provided in section 108c(a).”.

(b) A new section 108c is added to read as follows:

“Sec. 108c. Authority to issue grants for crime reduction and violence interruption.

“(a) The Attorney General may issue grants not to exceed the total amount of \$360,000 for the purposes of crime reduction and violence interruption.

“(b) Personnel and non-personnel costs related to administering any grants issued pursuant to the authority provided in subsection (a) of this section may be paid from funds deposited into the Litigation Support Fund established in section 106b.”.

Sec. 3. Fiscal impact statement.

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

ENROLLED ORIGINAL

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 16, 2018

ENROLLED ORIGINAL

## A RESOLUTION

22-499

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 29, 2018

To declare the existence of an emergency with respect to the need to increase certain appropriations in the Fiscal Year 2018 Local Budget Act of 2017.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Fiscal Year 2018 Revised Local Budget Adjustment Emergency Declaration Resolution of 2018".

Sec. 2. (a) The Office of the Chief Financial Officer provided quarterly revised revenue estimates in February that resulted in increased Fiscal Year 2018 revenues that are not allocated for a particular use.

(b) In conjunction with the proposed Fiscal Year 2019 Budget and Financial Plan, the Mayor proposed reducing budget authority for several agencies in Fiscal Year 2018 and identified additional amounts from fund balances and policy decisions to increase available resources.

(c) The Fiscal Year 2018 resources resulting from these changes are used to help balance the proposed Fiscal Year 2019 Budget and Financial Plan, align agency budgets with expenditures in Fiscal Year 2018, and ensure timely repayment of the Contingency Cash Reserve Fund.

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 Fiscal Year 2018 Revised Local Budget Emergency Adjustment Act of 2018 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](http://www.dccouncil.us).

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

- |         |  |
|---------|--|
| B22-902 | Sustainable Straws and Stirrers Amendment Act of 2018<br><br>Intro. 7-10-18 by Councilmembers Evans, Cheh, and Chairman Mendelson and referred sequentially to the Committee on Transportation and the Environment and the Committee on Business and Economic Development          |
| <hr/>   |  |
| B22-903 | Self-Operated School Food Service Amendment Act of 2018<br><br>Intro. 7-10-18 by Councilmembers Cheh, Todd, Bonds, Silverman, and Allen and referred to the Committee on Education   |
| <hr/>   |  |
| B22-904 | CleanEnergy DC Omnibus Amendment Act of 2018<br><br>Intro. 7-10-18 by Councilmembers Cheh, Allen, T. White, Nadeau, and Chairman Mendelson and referred sequentially to the Committee on Transportation and the Environment and the Committee on Business and Economic Development |
| <hr/>   |  |
| B22-905 | Real Estate LLC Transparency Amendment Act of 2018<br><br>Intro. 7-10-18 by Councilmembers Silverman, Nadeau, Allen, R. White, Cheh, and T. White and referred to the Committee of the Whole   |
-



- B22-906      Non-Profit Reimbursement Fairness Act of 2018
- Intro. 7-10-18 by Councilmembers Nadeau, Bonds, R. White, and T. White and referred to the Committee of the Whole
- 
- B22-907      Sexual Misconduct Sunshine Amendment Act of 2018
- Intro. 7-10-18 by Councilmembers Allen, Bonds, Evans, Grosso, Nadeau, R. White, Silverman, Cheh, Gray, McDuffie, Todd, T. White, and Chairman Mendelson and referred to the Committee on Judiciary and Public Safety
- 
- B22-908      Ride Share Tax Reduction Amendment Act of 2018
- Intro. 7-10-18 by Councilmembers Todd, Nadeau, T. White, Allen, and Grosso and referred sequentially to the Committee on Finance and Revenue and the Committee on Business and Economic Development
- 
- B22-909      Homestead Exemption Increase Amendment Act of 2018
- Intro. 7-10-18 by Councilmembers Todd, McDuffie, Cheh, Nadeau, Allen, Evans, and T. White and referred to the Committee on Finance and Revenue
- 
- B22-910      Vacant Building Notification Expansion Amendment Act of 2018
- Intro. 7-10-18 by Chairman Mendelson and referred to the Committee of the Whole
- 
- B22-911      Office of Public-Private Partnerships Delegation and Council Review Amendment Act of 2018
- Intro. 7-10-18 by Chairman Mendelson and referred to the Committee of the Whole with comments from the Committee on Government Operations
- 
- B22-912      Grocery Store Development Projects Labor Peace Agreement Amendment Act of 2018
- Intro. 7-10-18 by Chairman Mendelson and referred to the Committee on Labor and Workforce Development
-

- B22-913      Tipped Wage Workers Fairness Amendment Act of 2018
- Intro. 7-9-18 by Chairman Mendelson and Councilmembers Gray, Todd, T. White, Bonds, Evans, and McDuffie and referred to the Committee of the Whole
- 
- B22-914      Internet Sales Tax Amendment Act of 2018
- Intro. 7-9-18 by Chairman Mendelson and Councilmember Evans and referred to the Committee on Finance and Revenue
- 
- B22-915      Randall School Museum and Housing Development Real Property Tax Abatement Act of 2018
- Intro. 7-9-18 by Councilmember Allen and referred to the Committee on Finance and Revenue
- 
- B22-916      Southwest Waterfront Park Bus Prohibition Act of 2018
- Intro. 7-9-18 by Councilmember Allen and referred to the Committee on Transportation and the Environment
- 
- B22-917      Approval of the Comcast of the District, LLC Cable Television System Franchise Act of 2018
- Intro. 7-10-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
- 
- B22-918      Local Jobs and Tax Incentive Amendment Act of 2018
- Intro. 7-10-18 by Chairman Mendelson and Councilmember Evans and referred to the Committee on Finance and Revenue
- 
- B22-919      Fair Condominium Withdrawal Amendment Act of 2018
- Intro. 7-12-18 by Councilmember Nadeau and referred to the Committee on Housing and Neighborhood Revitalization
-

**PROPOSED RESOLUTIONS**

PR22-969 Board of Directors of the Washington Metropolitan Area Transit Authority Jeff Marootian Confirmation Resolution of 2018

Intro. 7-11-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue

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PR22-970 4442 B Street, SE Disposition Approval Resolution of 2018

Intro. 7-11-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization

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PR22-971 Home Purchase Assistance Program Amendment Regulations Approval Resolution of 2018

Intro. 7-13-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization

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COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE & COMMITTEE ON EDUCATION  
NOTICE OF PUBLIC ROUNDTABLE

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
&  
COUNCILMEMBER DAVID GROSSO, CHAIRPERSON  
COMMITTEE ON EDUCATION

ANNOUNCE A JOINT PUBLIC ROUNDTABLE

on

**PR 22-935, Truancy, Reporting, and Graduation Status of Students Approval Resolution of 2018**

on

**Thursday, July 26, 2018  
2:00 p.m., Hearing Room 412, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Chairman Phil Mendelson and Councilmember David Grosso announce a joint public roundtable of the Committee of the Whole and Committee on Education on PR 22-935, the “Truancy, Reporting, and Graduation Status of Students Approval Resolution of 2018.” The roundtable will be held at 2:00 p.m. on Thursday, July 26, 2018 in Hearing Room 412 of the John A. Wilson Building. Pursuant to Resolution 22-570, the “Council Period 22 Recess Rules Amendment Resolution of 2018,” the Committee of the Whole is permitted to hold a joint roundtable during Council recess.

The stated purpose of PR 22-935 is to approve proposed regulations put forth by District of Columbia Public Schools (DCPS). Pursuant to Section 103 of the District of Columbia Public Education Reform Amendment Act of 2007 (D.C. Law 17-9), the proposed regulations are before the Council for a 45-day review period and will be deemed approved on August 11, 2018. The proposed regulations update existing regulations to clarify key requirements related to grading and attendance and establish procedural activities and timelines to enable implementation of these requirements. DCPS issued emergency regulations on June 19, 2018, and they expire on October 17, 2018. The emergency regulations are identical to the proposed regulations currently before the Council.

Those who wish to testify are asked to sign-up online at <http://bit.do/educationhearings>, or call the Committee on Education at (202) 724-8061 by **5:00p.m. Tuesday, July 24, 2018**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on July 24, 2018 the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to Ashley Strange, Committee Assistant, via email at [astrange@dccouncil.us](mailto:astrange@dccouncil.us), or via post to the Committee on

Education, Council of the District of Columbia, Suite 116 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 Thursday, August 9, 2018.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: July 20, 2018
Protest Petition Deadline: September 4, 2018
Roll Call Hearing Date: September 17, 2018

License No.: ABRA-097534
Licensee: Addis Ethiopian Restaurant, LLC
Trade Name: Addis Ethiopian Restaurant
License Class: Retailer's Class "C" Restaurant
Address: 707 H Street, N.E.
Contact: Zakaira Ibrahim: (240) 383-7992

WARD 6 ANC 6C SMD 6C05

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 September 17, 2018 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

Applicant requests to expand to the second and third floors of the licensed premises, increasing seating from 59 to 122. Total Occupancy Load will increase from 65 to 269 for all three floors.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday through Saturday, 11am - 2am

HOURS OF LIVE ENTERTAINMENT

Thursday through Saturday, 10pm - 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: July 20, 2018
Protest Petition Deadline: September 4, 2018
Roll Call Hearing Date: September 17, 2018

License No.: ABRA-099787
Licensee: Chaia Georgetown, LLC
Trade Name: Chaia LLC
License Class: Retailer's Class "D" Restaurant
Address: 3207 Grace Street, N.W.
Contact: Suzanne Simon, Managing Member: (202) 352-6645

WARD 2 ANC 2E SMD 2E05

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 September 17, 2018 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

Request to add a Summer Garden with 16 seats.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES

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

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

Sunday 10am - 9pm
Monday through Friday 11am - 9pm
Saturday 10am - 9pm

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

Placard Posting Date: July 20, 2018  
Protest Petition Deadline: September 4, 2018  
Roll Call Hearing Date: September 17, 2018

License No.: ABRA-108392  
Licensee: Communal Restaurant, LLC  
Trade Name: Communal Restaurant  
License Class: Retailer's Class "C" Restaurant  
Address: 919 5<sup>th</sup> Street, N.W.  
Contact: Andrew J. Kline, Esq.: (202) 686-7600

WARD 6

ANC 6E

SMD 6E05

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 September 17, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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**

Request to expand to the second floor of the premises, adding 70 seats inside on the second floor. The licensee is also requesting an adjoining Summer Garden with 50 seats. Requested changes will increase Total Occupancy Load from 94 to 214.

**CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES)**

Sunday 9:30am – 2am  
Monday – Thursday 10am – 2am  
Friday 10am – 3am  
Saturday 9:30am – 3am

**CURRENT HOURS OF ENTERTAINMENT (INSIDE PREMISES)**

Sunday – Thursday 6pm – 2am  
Friday – Saturday 6pm – 3am

**PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SUMMER GARDEN)**

Sunday 9:30am – 2am  
Monday – Thursday 10am – 2am  
Friday 10am – 3am  
Saturday 9:30am – 3am



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

Placard Posting Date: July 20, 2018  
Protest Petition Deadline: September 4, 2018  
Roll Call Hearing Date: September 17, 2018

License No.: ABRA-100259  
Licensee: Omar, LLC  
Trade Name: Costello Restaurant and Lounge  
License Class: Retailer's Class "C" Tavern  
Address: 5201 Georgia Avenue, N.W  
Contact: Amadou Bah: (202) 251-0492

WARD 4

ANC 4D

SMD 4D04

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 September 17, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

**NATURE OF SUBSTANTIAL CHANGE**

Applicant requests a Change of Hours of Operation, Alcoholic Beverage Sales and Consumption, and Live Entertainment inside the premises only.

**CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISES**

Sunday through Saturday 10am – 12am

**CURRENT HOURS OF LIVE ENTERTAINMENT FOR INSIDE PREMISES**

Sunday through Saturday 6pm – 12am

**PROPOSED HOURS OF OPERATION, ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION, AND LIVE ENTERTAINMENT FOR INSIDE PREMISES**

Sunday through Thursday 10am – 2am, Friday and Saturday 10am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
7/20/2018

Notice is hereby given that:

License Number: ABRA-103795

License Class/Type: A Retail - Liquor Store

Applicant: Local Vine, LLC

Trade Name: Local Vine

ANC: 5D01

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

1575 New York AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
9/4/2018

A HEARING WILL BE HELD ON:  
9/17/2018

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****NOTICE OF PUBLIC HEARING**

Placard Posting Date: July 20, 2018  
Protest Petition Deadline: September 4, 2018  
Roll Call Hearing Date: September 17, 2018

License No.: ABRA-105729  
Licensee: Silver Cathedral Commons, LLC  
Trade Name: Silver  
License Class: Retailer's Class "C" Restaurant  
Address: 3404 Wisconsin Avenue, N.W.  
Contact: Sidon Yohannes, Esq.: (202) 686-7600

WARD 3

ANC 3C

SMD 3C06

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 September 17, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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**

The licensee has requested to extend use of the existing Entertainment Endorsement to the Sidewalk Café to provide Live Entertainment outdoors.

**CURRENT HOURS OF OPERATION (INSIDE PREMISES)**

Sunday – Thursday 7am – 12am, Friday – Saturday 7am – 2am

**CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION (INSIDE PREMISES)**

Sunday – Thursday 8am – 12am, Friday – Saturday 8am – 2am

**CURRENT HOURS OF OPERATION (SIDEWALK CAFÉ)**

Sunday – Thursday 7am – 11pm, Friday – Saturday 7am – 12am

**CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION (SIDEWALK CAFÉ)**

Sunday – Thursday 8am – 11pm, Friday – Saturday 8am – 12am

**CURRENT HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES)**

Thursday – Saturday 4pm – 10pm

**PROPOSED HOURS OF LIVE ENTERTAINMENT (SIDEWALK CAFÉ)**

Thursday – Saturday 4pm – 8pm

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

Placard Posting Date: July 20, 2018  
Protest Petition Deadline: September 4, 2018  
Roll Call Hearing Date: September 17, 2018  
Protest Hearing Date: November 7, 2018

License No.: ABRA-110747  
Licensee: Union Hospitality Group, LLC  
Trade Name: Union Oyster Bar & Lounge  
License Class: Retailer's Class "C" Restaurant  
Address: 501 Morse Street, N.E.  
Contact: Stephen J. Williams: (301) 710-6260

WARD 5

ANC 5D

SMD 5D01

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 September 17, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 **November 7, 2018 at 1:30 p.m.**

**NATURE OF OPERATION**

A New Class "C" oyster and seafood restaurant and lounge. The restaurant will have 80 indoor seats, and a Total Occupancy Load of 319. Licensee is requesting a 15 seat Summer Garden, and a 24 seat Sidewalk Café. The Licensee is also requesting an Entertainment Endorsement to include Live Entertainment and Dancing inside the premises only.

**PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES, SUMMER GARDEN, AND SIDEWALK CAFÉ)**

Sunday – Thursday 11am – 2am

**PROPOSED HOURS OF LIVE ENTERTAINMENT INDOORS ONLY**

Sunday – Thursday 11am – 2am

**DISTRICT OF COLUMBIA DEPARTMENT OF ENERGY AND ENVIRONMENT****NOTICE OF PUBLIC HEARING AND PUBLIC COMMENT PERIOD****AIR QUALITY ISSUES**

Notice is hereby given that a public hearing will be held on Monday, August 20, 2018, at 5:30 p.m. in Room 555 at 1200 First Street NE, 5<sup>th</sup> Floor, in Washington, D.C. 20002. This hearing provides interested parties an opportunity to comment on the proposed revision to the District of Columbia's (District) State Implementation Plan (SIP), found at 40 C.F.R. Part 52 Subpart J, regarding certain federal Clean Air Act (CAA) requirements under Sections 110(a)(2)(A) to (M). Once the District has completed its procedures, the proposed revision to the SIP will be submitted to the EPA for approval.

The U.S. Environmental Protection Agency (EPA) promulgated revisions to the national ambient air quality standards (NAAQS) for 8-hour ozone in 2015 (80 Fed. Reg. 65,292; October 26, 2015). The District was designated as marginal nonattainment for the 2015 standards (83 Fed. Reg. 25,776; June 4, 2018). As per the federal Clean Air Act mandate, the District of Columbia (District) is required to prepare an Infrastructure State Implementation Plan (i-SIP) that affirms that laws and regulations are in place in the District and in the District-wide SIP to allow for adequate implementation, maintenance, and enforcement of the 2015 8-hour ozone NAAQS.

This SIP revision is a compilation of elements that describe how the District is implementing the "infrastructure" elements of the 2015 8-hour NAAQS. Once approved by EPA, it will provide a federally enforceable written confirmation of how the District will continue to comply with the §110(a)(2) requirements of the CAA for ground-level ozone.

Copies of the proposed SIP revision are available for public review during normal business hours at the offices of the Department of Energy and Environment (DOEE), 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC 20002, and on-line at <http://doee.dc.gov/>.

Interested parties wishing to testify at this hearing must submit in writing their names, addresses, telephone numbers and affiliation, if any, to Ms. Alexis Tinsley at the DOEE address above or at [alexis.tinsley@dc.gov](mailto:alexis.tinsley@dc.gov) by 4:00 p.m. on August 20, 2018. Interested parties may also submit written comments to Ms. Alexandra Catena, Monitoring and Assessment Branch, Air Quality Division, DOEE, at the same address or by email at [alexandra.catena@dc.gov](mailto:alexandra.catena@dc.gov). Questions about this SIP revision should be directed to Mr. Rama S. Tangirala by phone at 202-535-2989 or email at [rama.tangirala@dc.gov](mailto:rama.tangirala@dc.gov), or Ms. Catena at 202-741-0862 or [alexandra.catena@dc.gov](mailto:alexandra.catena@dc.gov). No comments will be accepted after August 20, 2018.

## OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF FINAL RULEMAKING

The Chief Procurement Officer (CPO) of the District of Columbia, pursuant to the authority set forth in Sections 204 and 1106 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.04 and 2-361.06 (2016 Repl.)) (the “Act”), hereby gives notice of the intent to adopt amendments to Chapter 25 (Specifications, Standards, and Other Purchase Descriptions) of Title 27 (Contracts and Procurement) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking updates Chapter 25 and implements the provisions in the Act that apply to specifications, standards and other purchase descriptions in the District’s acquisition of goods and services. The current Chapter 25 contains regulations that are outdated and inconsistent with the Act. Accordingly, contracting officers, contractors, subcontractors and other stakeholders lack clear guidance on the formation, selection, and use of specifications, standards, and purchase descriptions to meet agency requirements. This rulemaking will align Chapter 25 to the provisions of the Act resulting in more consistent, transparent procurements.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on January 26, 2018, at 65 DCR 672–677. No comments were received and no changes have been made to the text of the rules as proposed.

On May 11, 2018, the CPO adopted these rules as final and they will become effective upon publication in the *D.C. Register*.

**Chapter 25, SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS, of Title 27 DCMR, CONTRACTS AND PROCUREMENT, is amended as follows:**

**Section 2500, GENERAL PROVISIONS, is amended to read as follows:**

**2500 GENERAL PROVISIONS**

- 2500.1 The District shall specify procurement needs in a manner designed to promote competition to the maximum extent possible.
- 2500.2 The District shall develop specifications and purchase descriptions using market research in a manner designed to promote competition to the maximum extent possible, with due regard to the nature of the goods or services to be procured.
- 2500.3 Solicitations shall contain specifications and purchase descriptions that include restrictive provisions or conditions only to the extent necessary to satisfy the minimum needs of the District, or as authorized or required by law.

- 2500.4 Plans, drawings, specifications, standards, or purchase descriptions for procurements shall state only the District's actual minimum needs and describe the goods or services in a manner designed to promote competition to the maximum extent possible.
- 2500.5 Specifications and purchase descriptions shall reflect the minimum needs of the District and the market available to meet those needs. Specifications and purchase descriptions may be stated in terms of the following:
- (a) Function, so that a variety of products or services may qualify;
  - (b) Performance, including specifications of the range of acceptance characteristics or the minimum acceptable standards; or
  - (c) Design requirements.
- 2500.6 Responsibility for the preparation and issuance of standard specifications shall be in accordance with § 204 of the Procurement Practices Reform Act of 2010 ("Act"), D.C. Official Code § 2-352.04.

**Section 2501, SELECTING SPECIFICATIONS OR DESCRIPTIONS FOR USE, is amended to read as follows:**

**2501 SELECTING SPECIFICATIONS OR DESCRIPTIONS FOR USE**

- 2501.1 Items to be procured shall be described by citing the applicable specifications and standards or by a description containing the necessary requirements.
- 2501.2 The using agency shall review and select from available specifications, standards, and related documents those specifications and standards which have application to a particular procurement. The specification or standard shall be modified or tailored to state the District's minimum requirement.
- 2501.3 When authorized in accordance with this chapter, or when no applicable specification exists, the using agency may use a purchase description.
- 2501.4 Each purchase description shall set forth the essential physical and functional characteristics of the materials or services required.
- 2501.5 Each purchase description shall include the following characteristics, when applicable:
- (a) Common nomenclature;
  - (b) Kind of material, such as type, grade, or alternatives;

- (c) Electrical data, if any;
- (d) Dimensions, size, or capacity;
- (e) Principles of operation;
- (f) Restrictive environmental conditions;
- (g) Intended use, such as location within an assembly and essential operating condition;
- (h) Equipment with which the item is to be used; and
- (i) Other pertinent information that further describes the item, materials, or service required.

2501.6 A purchase description shall not be written to specify a product, or a particular feature of a product, that is peculiar to a single manufacturer (thereby precluding consideration of a product manufactured by another company) unless the particular feature is essential to the District's requirements, and that other sources' similar products lacking that particular feature would not meet the minimum requirements for the items.

2501.7 Purchase descriptions of services shall outline the specific services the contractor is expected to perform to the greatest degree practicable.

2501.8 When applicable, the using agency shall include in the purchase description requirements for adequate packaging and marking of goods to prevent deterioration and damage during shipping, handling, and storage.

2501.9 The contracting officer shall ensure that the specifications and standards included in the solicitation are not unduly restrictive and promote competition to the maximum extent possible.

**Section 2502, BRAND NAME OR EQUAL, is amended to read as follows:**

**2502 BRAND NAME OR EQUAL**

2502.1 The minimum acceptable purchase description shall be the identification of a requirement by use of a brand name followed by the words "or equal." This purchase description shall be used only when adequate specifications or a more detailed purchase description cannot be made available.

2502.2 When using a brand name description or equal purchase description, the using agency shall also provide a list of salient characteristics, or the minimum acceptable features.



**Section 2503, SPECIFICATIONS AND STANDARDS, is amended to read as follows:**

**2503 SPECIFICATIONS AND STANDARDS**

- 2503.1 Using agencies and contracting officers shall use the specifications and standards prepared and issued by the Director for goods and services required by the District, unless otherwise authorized by law or approved in accordance with this chapter.
- 2503.2 Specifications and standards issued by the Director shall be used by all agencies when procuring goods and services covered by those specifications and standards except as follows:
- (a) When the service or work to be performed or the item to be furnished is procured under emergency circumstances, as defined in the Act and Chapter 17 of this title, and the use of standard specifications would cause unacceptable delay in obtaining the requirement;
  - (b) When items are procured using small purchase methods;
  - (c) When nationally recognized industry or technical source specifications and standards are used to procure construction or new installations of equipment; and
  - (d) When the using agency can state its needs in a purchase description for a commercial product.
- 2503.3 Commercial products may be procured whenever those products adequately satisfy the District's needs and a description of the District's need is stated in functional terms of sufficient detail.

**Section 2504, DEVIATIONS FROM SPECIFICATIONS AND STANDARDS, is amended to read as follows:**

**2504 DEVIATIONS FROM SPECIFICATIONS AND STANDARDS**

- 2504.1 When the exceptions set forth in § 2503 of this chapter are not applicable, and an existing specification does not meet an agency's minimum needs, the Director may authorize deviations in accordance with this section.
- 2504.2 Each contracting officer shall be responsible for ensuring the following:
- (a) That District specifications are normally used, and requirements for exceptions and deviations are complied with;

- (b) That written justifications for each exception and deviation are subject to prior review and approval by the Director, and that each justification can be fully substantiated if post audit is required; and
- (c) That major or repeated deviations are not taken except as prescribed in this chapter.

**Section 2505, IDENTIFICATION AND AVAILABILITY OF SPECIFICATIONS, is repealed and replaced with:**

**2505 [RESERVED]**

**Section 2506, USED OR RECONDITIONED MATERIAL, SURPLUS PROPERTY, AND RESIDUAL INVENTORY, is amended to read as follows:**

**2506 USED OR RECONDITIONED MATERIAL, SURPLUS PROPERTY, AND RESIDUAL INVENTORY**

2506.1 The contracting officer may procure used or reconditioned material if the solicitation clearly identifies which goods or components do not have to be new and the necessary requirements for acceptability.

2506.2 The contracting officer shall consider the following when determining whether used or reconditioned materials, former government surplus property, or residual inventory are acceptable:

- (a) The safety of persons or property;
- (b) The total cost to the District, including maintenance, inspection, testing, and useful life;
- (c) Performance requirements; and
- (d) The availability and cost of new materials and components.

**Section 2599, DEFINITIONS, is amended to read as follows:**

**2599 DEFINITIONS**

2599.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

**Brand name description** – a purchase description that identifies a product by its brand name and model, part number, or other appropriate nomenclature by which the product is offered for sale.

**Commercial product** – a product, such as an item, material, component, subsystem, or system, sold or traded to the general public in the course of normal business operations at prices based on established catalog or market prices.

**Director** – the agency head of the Office of Contracting and Procurement (OCP) or the Chief Procurement Officer (CPO).

**Market research** – the process used for collecting and analyzing information about the entire available market that will satisfy the minimum agency need.

**Purchase description** – a description of the essential physical characteristics and functions required to meet the District’s minimum needs.

**Specification** – a description of a physical or functional characteristic of or the nature of a good, service, or construction item. The term “specification” includes a description of a requirement for inspecting, testing, or preparing a good, service, or construction item for delivery.

**Standard** – a document that establishes engineering and technical limitations and applications of items, materials, processes, methods, designs, and engineering practices. It includes any related criteria deemed essential to achieve the highest practical degree of uniformity in materials or products, or interchangeability of parts. Standards may be used in specifications, invitations for bids, requests for proposals, and contracts.

**Using agency** – any subordinate or independent agency, department, board, commission, employee, or instrumentality of the District government that utilizes any supplies, services, or construction procured pursuant to the Act and subject to the regulations promulgated thereunder.

## OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended (82 Stat. 1203; D.C. Official Code § 2-559 (2016 Repl.)), hereby gives notice of a correction to the Notice of Final Rulemaking issued by the District of Columbia Retirement Board and published in the *D.C. Register* on March 23, 2018, at 65 DCR 2951.

The final rulemaking amended Chapter 15 (District of Columbia Retirement Board) of Title 7 (Employment Benefits) of the District of Columbia Municipal Regulations (DCMR). The Definitions section was mistakenly numbered as Section 1510; it should have been numbered as Section 1599. This errata notice corrects the numbering.

**Chapter 15, DISTRICT OF COLUMBIA RETIREMENT BOARD, of Title 7 DCMR, EMPLOYMENT BENEFITS, is amended as follows:**

**Section 1510 is [RESERVED].**

**Section 1599, DEFINITIONS, is added to read as follows:**

**1599            DEFINITIONS**

1599.1

**“Board” or “Board of Trustees”** means the District of Columbia Retirement Board established by Section 121(a) of the Act (D.C. Official Code § 1-711(b)(1)(A)).

**“Chairman”** means the chairman or chairperson, or his or her designee, of the District of Columbia Retirement Board (“DCRB”).

**“Day”** means a calendar day unless expressly stated otherwise. Any day on which a submission is due or other action occurs must be a day on which the District of Columbia Government is open for regularly scheduled business.

**“Election cycle”** means the timeframe during which an election of a trustee or trustees is conducted. Except in the event of a special election, or where extenuating circumstances result in a delay, an election cycle shall begin on August 1<sup>st</sup> of any year in which a qualified voter position is eligible for election to the Board.

**“Election official”** means the person or entity appointed by the Board to undertake the activities outlined in these Rules. The election official must

be independent, experienced and qualified to conduct elections and may be any one, or combination, of the following:

- (a) an officer or employee of the Board;
- (b) an officer, employee, or agency of District of Columbia Government; or
- (c) an individual, partnership, firm, or corporation.

A qualified voter of any category may not be an election official. An election official will be considered qualified and experienced if the election official has successfully performed independent electoral services of, at least, a similar like, kind and volume as the services described in these Rules.

**“Eligible candidate”** means a qualified voter who has submitted valid Statements of Candidacy and Qualification and meets all of the criteria to be eligible for election to the Board as defined under these Rules.

**“Executive Director”** means the Executive Director, or his or her designee, of the District of Columbia Retirement Board.

**“Qualified voter”** means an active or retired member of the Retirement Plans as reflected in the records of the applicable personnel office, payroll office, or DCRB, as the benefits administrator of the Retirement Plans, at the start of an election cycle.

A qualified voter must be:

- (a) An “active firefighter” who is a sworn member or officer of the District of Columbia Fire and Emergency Medical Services Department (“FEMS”);
- (b) A “retired firefighter” who has retired from FEMS under the provisions of the District of Columbia Police Officers and Firefighters’ Retirement Plan (“Police Officers & Firefighters’ Plan”);
- (c) An “active police officer” who is a sworn member or officer of the District of Columbia Metropolitan Police Department (“MPD”);
- (d) A “retired police officer” who has retired from MPD under the provisions of the Police Officers & Firefighters’ Plan;
- (e) An “active teacher” who is an employee of District of Columbia Public Schools (“DCPS”) in a salary class position ET 1-15 or an employee of a District of Columbia public charter school who is an

active member of the District of Columbia Teachers' Retirement Plan ("Teachers' Plan"); or

- (f) A "retired teacher" who has retired from DCPS or a District of Columbia public charter school under the provisions of the Teachers' Plan.

**"Reform Act"** means the District of Columbia Retirement Reform Act, Pub. Law 96-122, Nov. 17, 1979, as amended (codified in D.C. Official Code §§ 1-701 et. seq.).

**"Replacement Plan Act"** means the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998 (D.C. Official Code §§ 1-901.01 et seq.).

**"Retirement Plans"** means the following:

- (a) District of Columbia Police Officers and Firefighters' Retirement Plan ("Police Officers & Firefighters' Plan"), which includes the benefits established under the Replacement Plan Act that applies to service accrued after June 30, 1997 (D.C. Official Code §§ 5-701 et seq.) and the benefits in place under Title XI of the Balanced Budget Act of 1997, Pub. Law 105-33, Aug. 5, 1997 (codified in D.C. Official Code §§ 1-801.01 et seq.), that apply to service accrued on or before June 30, 1997 (former D.C. Official Code §§ 4-601 et seq.).
- (b) District of Columbia Teachers' Retirement Plan ("Teachers' Plan"), which includes the benefits established under the Replacement Plan Act that applies to service accrued after June 30, 1997 (D.C. Official Code §§ 38-2021.01 et seq.) and the benefits in place under Title XI of the Balanced Budget Act of 1997, Pub. Law 105-33, Aug. 5, 1997 (codified in D.C. Official Code §§ 1-801.01 et seq.) that apply to service accrued on or before June 30, 1997 (former D.C. Official Code §§ 31-1221 et seq.).

This Errata Notice's correction to the Notice of Final Rulemaking is non-substantive in nature and does not alter the intent, application, or purpose of the proposed rules. The rules are effective upon the original publication date of March 23, 2018.

Any questions or comments regarding this notice shall be addressed by mail to Victor L. Reid, Esq., Administrator, Office of Documents and Administrative Issuances, 441 4<sup>th</sup> Street, N.W., Suite 520 South, Washington, D.C. 20001, email at [victor.reid@dc.gov](mailto:victor.reid@dc.gov), or via telephone at (202) 727-5090.

## DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health (Department), pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.13 (2012 Repl.)); Section 4902(d) of the Health Clarifications Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(d) (2012 Repl. & 2017 Supp.)); Section 6(9) of the Medical Marijuana Omnibus Amendment Act of 2016 (D.C. Law 21-209; D.C. Official Code §§ 7-1671.05(9) (2017 Supp.)); and Mayor's Order 2011-71, dated April 13, 2011, hereby gives notice of the adoption of the following amendments to Chapter 51 (Registration and Permit Categories) of Title 22 (Health), Subtitle C (Medical Marijuana), of the District of Columbia Municipal Regulations (DCMR).

This rulemaking enables the Department to sustain the availability of the Medical Marijuana Program for the District's qualifying patients. Previously, all medical marijuana cultivation center and dispensary registrations expired on September 30<sup>th</sup> of each calendar year. These registrants were required to renew their registrations by September 30<sup>th</sup> of each year. The application and registration fees that accompany these renewals support the operation of the Medical Marijuana Program. However, because the fees were received on the last day of the fiscal year, the Department was unable to apply the fees toward the Medical Marijuana Program's operating costs before the fiscal period ended on the same day. This rulemaking enables the Department to utilize these funds to support the operating costs of the Medical Marijuana Program throughout the duration of the fiscal period, thus ensuring its continued availability for the District's qualifying patients.

This rulemaking changes the registration period for a cultivation center or dispensary registration from the current period October 1<sup>st</sup> to September 30<sup>th</sup>, to the new period of January 1<sup>st</sup> to December 31<sup>st</sup> of each year. It also establishes the registration period for testing laboratories, consolidates the renewal fee and application fees for cultivation centers and dispensaries into one single regulation to avoid confusion, increases the initial and renewal application and registration fee for dispensaries and cultivation centers to offset the Department's operating costs for the electronic tracking system that is required for implementing reciprocity, establishes the initial application and registration fee and renewal application and registration fee for testing laboratories, establishes the application fees for change of ownership or transfer of location applications, and discontinues the refunding of application fees.

The proposed rules were published in the *D.C. Register* for public comment on October 20, 2017, at 64 DCR 10602. No comments were received. No changes have been made.

Following the required period of Council review, the rules were deemed approved by the D.C. Council on April 27, 2018. These final rules will be effective upon publication of this notice in the *D.C. Register*.

**Chapter 51, REGISTRATION AND PERMIT CATEGORIES, of Title 22-C DCMR, MEDICAL MARIJUANA, is amended as follows:**

**Section 5101, RENEWAL PERIODS, is amended as follows:**

**Subsection 5101.1 is amended to read as follows:**

5101.1 Effective upon adoption of this rulemaking, the registration period and renewal period for each registration type listed below shall occur annually between the following dates:

<b>Registration Type</b>	<b>Registration Period</b>	<b>Renewal Period</b>
Cultivation Center	January 1 to December 31	November 1 to December 31
Dispensary	January 1 to December 31	November 1 to December 31
Testing Laboratory	January 1 to December 31	November 1 to December 31

**The current Subsections 5101.2 and 5101.3 are renumbered as 5101.3 and 5101.4 respectively.**

**A new Subsection 5101.2 is added to read as follows:**

5101.2 A registration set forth in § 5101.1 that is active and in good standing as of the date of adoption of this rulemaking shall remain in full force and effect until December 31, 2017, unless suspended or revoked by the Department for cause.

**Section 5103, REGISTRATION AND PERMIT FEES, is amended to read as follows:**

**5103 APPLICATION, REGISTRATION, AND PERMIT FEES**

5103.1 All application, registration, and permit fees shall be paid by cashier’s check, certified check, or money order payable to the D.C. Treasurer. Applicants shall pay the fees specified by the Department at the time an application is filed. All fees are nonrefundable.

5103.2 The Department may impose a late fee upon an applicant that fails to timely renew their registration, or permit in the amount of fifty dollars (\$50) for each day after the due date of payment. The total amount of the late fee to be paid shall not exceed the annual cost of the registration. The Department may suspend a previously approved registration until the renewal fee is paid. A cultivation center or dispensary that has not timely renewed its registration shall not be permitted to sell medical marijuana with an expired registration.

5103.3 The Department may suspend a registration or permit where payment was made by the applicant with a check returned unpaid. The applicant, in addition to any late fees imposed by the Department pursuant to § 5103.2, shall also be charged with a one hundred dollar (\$100) returned check fee.



- 5103.4 The fee for the filing of an initial application for a medical marijuana dispensary shall be eight thousand dollars (\$8,000).
- 5103.5 The annual renewal fee and renewal application fee for a medical marijuana dispensary registration shall be sixteen thousand dollars (\$16,000). This fee shall also cover any audit and inspection costs incurred by the Department.
- 5103.6 The fee for the filing of an initial application for a medical marijuana cultivation center shall be eight thousand dollars (\$8,000).
- 5103.7 The annual renewal fee and renewal application fee for a cultivation center registration shall be eleven thousand dollars (\$11,000). This fee shall also cover any audit and inspection costs incurred by the Department.
- 5103.8 The fee for the filing of an initial application for a testing laboratory shall be three thousand five hundred dollars (\$3,500).
- 5103.9 The annual renewal fee and renewal application fee for a testing laboratory shall be seven thousand five hundred dollars (\$7,500). This fee shall also cover any audit and inspection costs incurred by the Department.
- 5103.10 The annual fee for each director, officer, member, incorporator, or agent registration shall be two hundred dollars (\$200).
- 5103.11 The annual fee for an employee registration shall be seventy-five dollars (\$75).
- 5103.12 The fee for the filing of an initial medical marijuana certification provider permit shall be one hundred dollars (\$100).
- 5103.13 The annual renewal fee and renewal application fee for a medical marijuana certification provider permit shall be three hundred dollars (\$300).
- 5103.14 The annual fee for a Manager's registration shall be one hundred fifty dollars (\$150).
- 5103.15 The annual fee for a transport permit shall be twenty-five dollars (\$25).
- 5103.16 The fee for a duplicate registration or replacement of a lost registration shall be twenty-five dollars (\$25).
- 5103.17 The fee for a duplicate permit or replacement of a lost permit shall be twenty-five dollars (\$25).
- 5103.18 The fee for a change of director, officer, member, incorporator, or agent shall be one hundred dollars (\$100).

- 5103.19 The fee for a corporate or trade name change shall be one hundred dollars (\$100).
- 5103.20 The fee for the transfer of a dispensary, cultivation center, or testing laboratory registration to a new owner shall be two thousand five hundred dollars (\$2,500).
- 5103.21 The fee for the transfer of a dispensary, cultivation center, or testing laboratory registration to a new location shall be five thousand dollars (\$5,000). This fee shall also cover any audit and inspection costs incurred by the Department.

**Section 5104, APPLICATION FEES, is repealed.**

## DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Sections 203(3) and (11) and 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216; D.C. Official Code §§ 34-2202.03(3) and (11) and § 34-2202.16 (2012 Repl.)); Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a) (2016 Repl.)); and in accordance with Chapter 40 (Retail Ratemaking) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR), hereby gives notice of the adoption of amendments to Chapter 1 (Water Supply), and Chapter 41 (Retail Water and Sewer Rates), of Title 21 DCMR.

At its regularly scheduled meeting on July 5, 2018, the Board adopted Resolution #18-56 to amend the Right-of-Way Occupancy Fee Pass Through Charge, Payment-in-Lieu of Taxes Fee, the Clean Rivers Impervious Area Charge, and Retail Rates and Charges for Water and Sewer Services effective for Fiscal Year 2019 and 2020.

Pursuant to Board Resolution #18-27, dated March 1, 2018, DC Water's Notice of Proposed Rulemaking was published in the *District of Columbia Register* (*D.C. Register* or DCR) at 65 DCR 2730 on March 16, 2018. Further, a Notice of Public Hearing was published in the *D.C. Register* on April 20, 2018 at 65 DCR 4395 for a public hearing on May 9, 2018. DC Water also received public comments during eight town hall meetings, one in each ward, between March 29, 2018 and April 24, 2018. On June 26, 2018, the DC Retail Water and Sewer Rates Committee met to consider the comments offered during the public comment period, public hearing and town hall meetings, and recommendations from the DC Water General Manager.

On July 5, 2018, the Board, through Resolution #18-56, after consideration of all the comments received, the report from the DC Retail Water and Sewer Rates Committee, recommendations from DC Water's General Manager, voted to amend the DCMR to amend the Right-of-Way Occupancy Fee Pass Through Charge, Payment-in-Lieu of Taxes Fee, the Clean Rivers Impervious Area Charge, and Retail Rates and Charges for Water and Sewer Services effective for Fiscal Year 2019 and 2020. No changes were made to the proposed regulations.

These rules were adopted as final on July 5, 2018 by resolution, and will become effective on October 1, 2018 after publication of this notice in the *D.C. Register*.

**Chapter 1, WATER SUPPLY, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:**

**Section 112, FEES, Subsection 112.8, is amended to read as follows:**

112.8 The District of Columbia Right-of-Way Occupancy Fee Pass Through Charge and the Payment-in-Lieu of Taxes (PILOT) Fee shall be as follows:

- (a) District of Columbia Right-of-Way Fee, assessed to recover the cost of fees charged by the District of Columbia to D.C. Water and Sewer Authority for use of District of Columbia public space and rights of way, for each one hundred cubic feet (1 Ccf) of water use shall be:

Customer	Effective October 1, 2018		Effective October 1, 2019	
	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
Residential	\$0.18	\$0.24	\$0.19	\$0.25
Multi-Family	\$0.18	\$0.24	\$0.19	\$0.25
Non-Residential	\$0.18	\$0.24	\$0.19	\$0.25

- (b) Payment-in-Lieu of Taxes (PILOT) Fee to the Office of the Chief Financial Officer (OCFO) of the District of Columbia, assessed to cover the amount which D.C. Water and Sewer Authority pays each fiscal year to the District of Columbia, consistent with D.C. Water and Sewer Authority's enabling statute for public goods and services received from the District of Columbia, for each one hundred cubic feet (1 Ccf) of water use shall be:

Customer	Effective October 1, 2018		Effective October 1, 2019	
	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
Residential	\$0.50	\$0.67	\$0.51	\$0.68
Multi-Family	\$0.50	\$0.67	\$0.51	\$0.68
Non-Residential	\$0.50	\$0.67	\$0.51	\$0.68

**Chapter 41, RETAIL WATER AND SEWER RATES, is amended as follows:**

**The title of the chapter shall be amended to read:**

**CHAPTER 41            RETAIL WATER AND SEWER RATES AND CHARGES**

**Section 4100, RATES FOR WATER SERVICE, Subsection 4100.3, is amended to read as follows:**

4100.3            The retail rates for metered water service for each one hundred cubic feet (1 Ccf) of water use shall be:

Customer	Effective October 1, 2018		Effective October 1, 2019	
	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
Residential - 0 to 4 Ccf	\$2.91	\$3.89	\$3.06	\$4.09
Residential - Greater than 4 Ccf	\$3.90	\$5.21	\$4.10	\$5.48
Multi-Family	\$3.37	\$4.51	\$3.54	\$4.73
Non-Residential	\$4.05	\$5.42	\$4.25	\$5.68

**Section 4101, RATES FOR SEWER SERVICE, is amended as follows:**

**The title of the Section shall be amended to read:**

**4101                    RATES AND CHARGES FOR SEWER SERVICE**

**Subsection 4101.1 is amended to read as follows:**

4101.1            (a)            The retail rates for sanitary sewer service for each one hundred cubic feet (1 Ccf) of water use shall be:

Customer	Effective October 1, 2018		Effective October 1, 2019	
	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
Residential	\$7.75	\$10.36	\$8.14	\$10.88
Multi-Family	\$7.75	\$10.36	\$8.14	\$10.88
Non-Residential	\$7.75	\$10.36	\$8.14	\$10.88

...

**Subsection 4101.3 is amended to read as follows:**

4101.3 The annual Clean Rivers Impervious Area Charge (CRIAC) per Equivalent Residential Unit (ERU) shall be:

Customer	Effective October 1, 2018		Effective October 1, 2019	
	Annual CRIAC per ERU	Monthly CRIAC per ERU	Annual CRIAC per ERU	Monthly CRIAC per ERU
Residential	\$276.00	\$23.00	\$306.96	\$25.58
Multi-Family	\$276.00	\$23.00	\$306.96	\$25.58
Non-Residential	\$276.00	\$23.00	\$306.96	\$25.58

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.10 (a)(12) (2015 Repl.)), and Mayor's Order 2000-70, dated May 2, 2000, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, amendments to Title 17 (Business, Occupations, and Professionals) by replacing Chapter 1 (Occupational and Professional Licensing Boards) to create a new chapter to govern asbestos abatement workers and supervisors, and amendments to Chapter 33 (General Rules: Funeral Directors, Veterinarians, Interior Designers, and Real Estate Appraisers) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking would delete the mostly outdated provisions of the existing Chapter 1, and establish professional license regulations to govern the licensure of asbestos abatement workers and supervisors seeking to operate in the District of Columbia. Specifically, this proposed rulemaking would create licensure requirements for Asbestos Abatement Supervisors, and codify the pre-existing licensure requirements and practice standards which have been implemented in the District.

This rulemaking is also being undertaken in a broad effort with respect to our licensing boards to move away from categorical exclusions for our returning citizens, to provide pathways to the middle class and second chances. Specifically, it establishes clear guidelines for the boards in how to evaluate prior criminal convictions, transparency for returning citizens in how their past offenses will be evaluated in terms of the relationship of the offense to the license, the time elapsed since the offense, the person's age at the time of offense, and other criteria.

**Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

**Chapter 1, OCCUPATIONAL AND PROFESSIONAL LICENSING BOARDS, is deleted, and a new Chapter 1, ASBESTOS ABATEMENT WORKERS AND SUPERVISORS, is added to read as follows:**

**CHAPTER 1 ASBESTOS ABATEMENT WORKERS AND SUPERVISORS**

- 100 APPLICABILITY**
- 101 CLASSES OF LICENSURE**
- 102 APPLICATIONS FOR LICENSURE**
- 103 PRE-LICENSURE TRAINING REQUIREMENTS**
- 104 ISSUANCE AND DISPLAY OF LICENSE**
- 105 TERM OF LICENSE**
- 106 CONTINUING EDUCATION REQUIREMENTS**
- 107 REQUIRED NOTIFICATIONS**

**108 STANDARDS OF PRACTICE****109 EXEMPTIONS FROM LICENSURE REQUIREMENT****199 DEFINITIONS****100 APPLICABILITY**

100.1 This chapter applies to applicants for licenses and licensed asbestos workers and supervisors.

100.2 Chapter 33 (General Rules: Funeral Directors, Veterinarians, Interior Designers and Real Estate Appraisers) of this title supplements this chapter.

**101 CLASSES OF LICENSURE**

101.1 The following classes of licenses shall be issued to qualified applicants in accordance with D.C. Official Code § 47-2853.52 (2015 Repl.):

(a) Asbestos Worker; and

(b) Asbestos Supervisor.

**102 APPLICATIONS FOR LICENSURE**

102.1 Each applicant for a license as an Asbestos Worker or Asbestos Supervisor in the District of Columbia shall duly file with the Board an application on a form prescribed and provided by the Board.

102.2 Each application shall be sworn to or affirmed before a notary public or, if applicable, by electronic signature or other authentication methods as authorized by the Council of the District of Columbia or the Mayor.

102.3 The proper fees and all required documents shall accompany the application at the time of filing.

102.4 Each applicant shall provide the following:

(a) A copy of an official government-issued photo identification card, such as a driver's license or permanent resident card, as proof that the applicant is at least eighteen (18) years of age;

(b) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2 in. x 2 in.);

(c) A business or a home address, which cannot be a post office box number;

(d) Proof of having completed the training requirements specified by the Board for the level of licensure desired by the applicant; or



- (e) Proof of his or her current licensure as an asbestos worker or supervisor in another jurisdiction with requirements that are substantially equivalent to those of the District;
- (f) Proof of having been declared capable of working while wearing a respirator by a physician within the twelve (12) months immediately preceding the application; and
- (g) Proof that the applicant has met any other requirements established by the Board or the federal government to ensure the applicant is qualified and has had the proper training to engage in or supervise asbestos abatement.

102.5 If an applicant has been convicted of a criminal offense, other than a minor traffic violation, the applicant shall provide the following:

- (a) Copies of the relevant court records which describe the nature of the conviction;
- (b) A written statement from the applicant explaining the circumstances surrounding the conviction; and
- (c) Any information regarding the applicant's rehabilitation and good conduct.

### **103 PRE-LICENSURE TRAINING REQUIREMENTS**

103.1 To be eligible for licensure as an Asbestos Worker, an applicant who is not currently and comparably licensed in another jurisdiction shall, not more than two (2) years prior to the date of application, complete a course of instruction on asbestos abatement for workers that has been accredited by the Environmental Protection Agency (EPA) in accordance with the EPA Asbestos Model Accreditation Plan (MAP) issued under the Asbestos Hazard Emergency Response Act of 1986, as amended (AHERA), or a course that has been approved by another state or territory which meets or exceeds the standards of the MAP.

103.2 To be eligible for licensure as an Asbestos Supervisor, an applicant who is not currently and comparably licensed in another jurisdiction shall, not more than two (2) years prior to the date of application, complete a course of instruction on asbestos abatement for contractors or supervisors that has been accredited by the EPA in accordance with the MAP issued under AHERA, or a course that has been approved by another state or territory which meets or exceeds the standards of the MAP.

103.3 Any applicant that has completed a course prescribed by § 103.1 or § 103.2 more than one (1) year prior to the date of his or her application, must submit proof of

having completed a course of Annual Refresher Training which meets the requirements of § 106.4 of this chapter within one (1) year of the date of application.

#### **104 ISSUANCE AND DISPLAY OF LICENSE**

104.1 The Director shall issue a license to any applicant who has met the requirements of the Act and this chapter.

104.2 The Director shall issue a license only for the individual named as applicant in the application. The license is not assignable or transferable, or valid for use by any individual other than that designated on the license.

104.3 A licensee shall carry proof of valid licensure on his or her person, and make it available for inspection by District officials, during the performance of any asbestos abatement in the District.

#### **105 TERM OF LICENSE**

105.1 All licenses issued pursuant to this chapter shall be valid from the date of issuance through the close of the two (2) year licensing period, which ends on July 31 of each odd-numbered year.

105.2 The Board may change the license cycle for administrative convenience.

105.3 If the Board changes the license cycle, the term of a license that is in effect on the date of the Board's determination to change the cycle may, at the Board's discretion, be extended up to three (3) years in order to permit an orderly transition. Any extension of the license term implemented under this section shall only be made by Board resolution.

#### **106 CONTINUING EDUCATION REQUIREMENTS**

106.1 This section shall apply to all applicants for the renewal or reinstatement of a license as an Asbestos Worker or Asbestos Supervisor.

106.2 An applicant for renewal of a license shall submit to the Board proof of having completed a course of Annual Refresher Training on asbestos abatement during each year of the previous license cycle.

106.3 An applicant for reinstatement of a license shall submit to the Board proof of having completed, no more than one (1) year prior to the date of application, one of the following courses:

- (a) Annual Refresher Training; or

- (b) If an applicant has failed to complete a course of Annual Refresher Training within the two (2) years preceding the date of the application, a pre-licensure course prescribed by § 103.1 or § 103.2 of this chapter.
- 106.4 To be acceptable for credit, the Annual Refresher Training must have been obtained through an in-person or online program that has been accredited by the Environmental Protection Agency (EPA) in accordance with the EPA Asbestos Model Accreditation Plan (MAP) issued under the Asbestos Hazard Emergency Response Act of 1986, as amended (AHERA), or approved by another state or territory which meets or exceeds the standards of the MAP.
- 106.5 Applicants are responsible for ensuring that continuing education courses taken to satisfy the Board's renewal or reinstatement requirements are properly accredited.
- 106.6 An applicant for the renewal of a license who fails to submit proof of having completed the continuing education requirements by or before the expiration date may renew the license within sixty (60) days after expiration by submitting proof of course completion and by paying the required late fee. Upon renewal, the Board shall deem the applicant to have possessed a valid license during the period between the expiration of the license and its renewal.
- 106.7 If an applicant for the renewal of a license fails to submit proof of completion of continuing education requirements within sixty (60) days after the expiration of the applicant's license, the license shall be deemed to have lapsed on the date of expiration, and the applicant shall be required to apply for reinstatement of the expired license pursuant to § 3308 of this chapter.
- 106.8 The Board may grant an extension of the sixty (60) day period to renew after expiration if the applicant's failure to submit proof of completion of continuing education requirements was for good cause. For purposes of this subsection, "good cause" includes proof of the following:
- (a) Serious and protracted illness of the applicant who submits a doctor's statement verifying the illness;
- (b) The death or serious and protracted illness of a member of the applicant's immediate family, which death or illness resulted in the applicant's inability to complete the continuing education requirements within the specified time. For the purposes of this subsection, the term "immediate family" means the applicant's spouse and any parent, brother, sister, or child of the applicant and the spouse of any such parent, brother, sister, or child; or
- (c) Active military service.

**107           REQUIRED NOTIFICATIONS**

- 107.1           A licensee shall notify the Board in writing within thirty (30) days of any name change, or any change of business, email, or residence address.
- 107.2           A licensee shall inform the Board in writing within thirty (30) days of pleading guilty or *nolo contendere*, or being convicted or found guilty of any felony.
- 107.3           A licensee shall inform the Board in writing within thirty (30) days of the suspension, revocation, or surrender of his or her license or certificate held in any other jurisdiction to perform or supervise asbestos abatement.

**108           STANDARDS OF PRACTICE**

- 108.1           A licensee shall conduct all asbestos abatement in compliance with the Act, the Asbestos Licensing and Control Act of 1990, effective May 1, 1990 (D.C. Law 8-116; D.C. Official Code §§ 6-991 *et seq.*), as amended, the requirements set forth in 20 DCMR Chapter 8, and all other federal and District laws and regulations governing the treatment and removal of asbestos.
- 108.2           A licensee shall not knowingly engage in or attempt to engage in asbestos abatement at any site for which a valid permit has not been issued under 20 DCMR Chapter 8.
- 108.3           A licensee shall report any unsafe condition that he or she observes in the course of performing asbestos abatement to the Board, the Department of Consumer and Regulatory Affairs, or the District Department of the Environment.
- 108.4           A licensee shall not offer, give, or promise anything of value or benefit to any federal or District employee for the purpose of influencing that employee to circumvent, in the performance of his or her duties, any federal or District law, regulation, or ordinance governing the occupation of asbestos abatement.

**109           EXEMPTIONS FROM LICENSURE REQUIREMENT**

- 109.1           A license issued under this chapter and the Act shall not be required for the following activities:
- (a)           Removal of non friable asbestos containing material; and
  - (b)           Removal, or other activity involving, resilient floor covering materials, including sheet vinyl, resilient tile, and associated adhesives.
- 109.2           Nothing in this section shall be construed to exempt any person from the permitting or notification requirements set forth in 20 DCMR Chapter 8.

**199 DEFINITIONS**

199.1 When used in this chapter, the words and phrases set forth in this section shall have the following meanings:

**Act** - The Non-Health Related Occupations and Professions Licensure Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code §§ 47-2853.01, *et seq.* (2015 Repl.)).

**Asbestos** – any material that contains chrysotile, amosite, crocidolite, tremolite, anthophyllite, actinolite, and any of these minerals that have been chemically treated or altered, that can be crumbled, pulverized, or reduced to powder by the pressure of the ordinary human hand.

**Asbestos abatement** - the removal, encapsulation, enclosure, disposal, or transportation of asbestos or material that contains asbestos.

**Asbestos worker** – an individual who is licensed in the District to engage in asbestos abatement.

**Asbestos supervisor** – an individual who is licensed in the District to engage in or supervise asbestos abatement.

**Encapsulation** - the coating, binding, or resurfacing of a wall, ceiling, pipe, or other structure to prevent friable asbestos or material that contains asbestos from becoming airborne.

**Non friable asbestos** – any material that contains more than one percent (1%) of asbestos, but cannot be crumbled, pulverized, or reduced to powder by the pressure of the ordinary human hand.

**Chapter 33, GENERAL RULES: FUNERAL DIRECTORS, VETERINARIANS, INTERIOR DESIGNERS, AND REAL ESTATE APPRAISERS, is amended as follows:**

**Section 3300, APPLICABILITY, is amended as follows:**

**Subsection 3300.1 is amended to read as follows:**

3300.1 This chapter shall apply to applicants for and holders of a license to practice a profession or occupation regulated by the following boards:

- (a) The Board of Funeral Directors for the District of Columbia, established by § 4 of the District of Columbia Funeral Services Regulatory Act of 1984 (D.C. Law 5-84; D.C. Official Code §§ 3-401 *et seq.* (2016 Repl.));

- (b) The Board of Veterinary Examiners for the District of Columbia, established by § 6 of the Veterinary Practice Act of 1982 (D.C. Law 4-171; D.C. Official Code § 3-505 (2016 Repl.));
- (c) The Board of Real Estate Appraisers, established by § 2(c) of the Non-Health Related Occupations and Professions Licensure Amendment Act of 2006 (D.C. Law 16-130; D.C. Official Code § 47-2853.06(g) (2015 Repl.));
- (d) The Barber and Cosmetology Board, established by 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(c) (2015 Repl.));
- (e) The Board of Professional Engineering, established by 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(c) (2015 Repl.));
- (f) The Board of Architecture and Interior Designers, established by 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(a) (2015 Repl.)); and
- (g) The Board of Industrial Trades, established by The Non-Health Related Occupations and Professions Licensure Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.06(d) (2015 Repl.)).

**Section 3312, [RESERVED], is amended to read as follows:**

**3312 STANDARD OF REVIEW FOR EVALUATING THE CRIMINAL HISTORY OF AN APPLICANT FOR LICENSURE OR CANDIDATE FOR SUSPENSION OR REVOCATION OF A LICENSE**

3312.1 No application for any license shall be denied and no licensee shall have his or her license suspended or revoked, by reason of the applicant or licensee having been convicted of one or more criminal offenses in the District of Columbia or another jurisdiction, unless the board with jurisdiction over the matter first evaluates the applicant's or licensee's fitness to engage in the profession or occupation in accordance with § 3312.4, § 3312.5, or both.

3312.2 The fitness of applicants and holders of the following licenses shall be evaluated in accordance with both § 3312.4 and § 3312.5:

- (a) Asbestos worker or supervisor;

- (b) Barber;
- (c) Body artist
- (d) Cosmetologist;
- (e) Electrician;
- (f) Funeral director;
- (g) Operating engineer;
- (h) Plumber/gasfitter;
- (i) Refrigeration and air conditioning mechanic; and
- (j) Steam engineer.

3312.3 When a board seeks to deny, revoke, or suspend a license that is not listed in § 3312.2, the board shall only be required to apply the criteria set forth in § 3312.5.

3312.4 When a board bases a decision to deny, suspend, or revoke licensure for a license listed in § 3312.2 on the criminal history of an applicant or licensee, the board must show:

- (a) There is a potential direct relationship between the nature of one or more of the criminal offenses and the specific license sought or held; or
- (b) The issuance or retention of the license could involve an unreasonable risk to property, safety, or welfare of specific individuals or the general public

3312.5 In making a determination of fitness in light of a criminal history, the board shall consider the following factors:

- (a) The specific duties and responsibilities necessarily related to the license;
- (b) The bearing, if any, the criminal offense or offenses for which the person was convicted will have on his fitness or ability to perform one or more such duties or responsibilities under the license;
- (c) The time that has elapsed since the occurrence of the criminal offense or offenses;
- (d) The age of the person at the time of occurrence of the criminal offense or offenses;

- (e) The nature and seriousness of the offense or offenses;
- (f) Any information produced by the person, or produced on his behalf, concerning his or her rehabilitation and good conduct; and
- (g) The legitimate interest of the public agency in protecting property, the safety, or welfare of specific individuals or the general public.

3312.6 In making a determination pursuant to § 3312.5, the board or commission shall also consider a certificate of relief from disabilities or a certificate of good conduct issued to the applicant or licensee. Only a certificate issued by the District of Columbia shall create a presumption of rehabilitation. Certificates that have been issued by other jurisdictions may be provided as evidence of rehabilitation.

3312.7 If a conviction of a criminal offense, which bears directly on the fitness of the person to be licensed, forms the basis of a board's decision to deny, suspend or revoke a license under this section, the board shall provide the applicant or licensee with a notice of the intended action and an opportunity for a hearing in accordance with § 3315 of this chapter.

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



**DEPARTMENT OF FOR-HIRE VEHICLES****NOTICE OF SECOND EMERGENCY RULEMAKING**

The Director of the Department of For-Hire Vehicles, pursuant to the authority set forth in Sections 8 (c) (1), (2), (3), (5), (7), (10), (12), (13), and (19); 14; 20; 20a; 20j; and 20l of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301.07(c) (1),(2), (3), (5), (7), (10), (12), (13), and (19); § 50-301.13; § 50-301.19; § 50-301.20; and § 50-301.29 (2014 Repl. & 2017 Supp.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 8 (Operating Rules for Public Vehicles-for-Hire) and Chapter 99 (Definitions), of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking amends Chapter 8 to encourage the use of shared riding for digital taxicab solutions through a clarified structure for calculating shared ride fares. The Department finds there is an immediate need to preserve and promote the safety and welfare of District residents by increasing the taxicab industry’s competitiveness and maintaining the availability of taxicab service by lowering the wait time rate. In addition, the current shared riding system outlined under the Department’s current regulations is being underutilized. The new system will make shared riding more attractive to both operators and passengers by instituting a clarified structure for calculating shared ride fares that incentivizes the use of digital meters, an innovative technology that would apportion shared ride fares in a manner that maximizes consumer choice and operator income. In transporting two or more shared ride fares, operators will earn more money than had they only transported one passenger or fare at once. Passengers, in turn, will save money by paying a lower time and distance rate in sharing a ride with others—a benefit that has long been available on the private sedan segment of the for-hire transportation industry through services such as UberPOOL, Lyft Line, and Via.

This rulemaking also amends Chapter 8 to reduce the wait time rate from \$35 per hour to \$25 per hour. The wait time rate was increased from \$25 to \$35 in 2015, but most operators’ modern taximeter systems were never reprogrammed with the same rate. With the beginning of the DTS rollout, many passengers have raised concerns to the Department about the higher wait time rate, and the Department has also heard from taxicab owners and operators that the higher rate is bad for business and places taxicabs at a greater competitive disadvantage versus the private sedans.

A Notice of Emergency and Proposed Rulemaking was adopted on November 30, 2017, and took effect immediately. It was due to expire one hundred twenty (120) days after the date of its adoption on March 30, 2018, and was published in the *D.C. Register* on February 9, 2018, at 65 DCR 001480. A Notice of Public Hearing was published in the *D.C. Register* on March 2, 2018, at 65 DCR 002174, announcing a public hearing for Wednesday, March 7, 2018 at 10:00 am. Additionally, a forty-five (45)-day comment period ran from February 9, 2018, to March 26, 2018. No substantial comments were received from either the comment period or at the public hearing.

The Department adopted this second emergency rulemaking on March 27, 2018 for the reasons articulated above, with no substantive changes to the prior rulemaking, in order to prevent a lapse in its effect while a final rulemaking is being published. Non-substantive changes were to correct a numbering error at Subsection 801.7(c)(2), which was replaced with the proper numbering of (c)(1)(C)(v); to replace the word “plus” with the words “for entry and” in subparagraph (c)(1)(A); and to replace the word “never” with “not” in subparagraph (c)(2)(E).

This rulemaking was adopted March 27, 2018, took effect immediately upon adoption, and will expire in one hundred twenty (120) days, or July 25, 2018, unless superseded by subsequent emergency rulemaking or by repeal by the Department, or by the publication of final rulemaking in the *D.C. Register*, whichever occurs first.

**Chapter 8, OPERATING RULES FOR PUBLIC VEHICLES-FOR-HIRE, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:**

**Section 801, PASSENGER RATES AND CHARGES, is amended as follows:**

**Subsection 801.7(c) is amended to read as follows:**

- (c) Fare for trips booked by a street hail, a telephone dispatch or a digital dispatch by a DDS that does not process digital payments (in-vehicle payment only) shall be as follows:
  - (1) The time and distance charges that shall be generated automatically by the taximeter for a taxicab trip booked by street hail, by telephone dispatch, or by digital dispatch through a DDS that does not process digital payments, are established as follows:
    - (A) Minimum fare (flag drop rate): three dollars and twenty-five cents (\$3.25) for entry and the first one-eighth (1/8) of a mile.
    - (B) Distance (after the first one eighth (1/8) of a mile):
      - (i) General distance rate: two dollars and sixteen cents (\$2.16) per mile (or twenty-seven cents (\$0.27) per one-eighth (1/8) of a mile); or
      - (ii) Special shared ride distance rate (available for digital taximeter systems only): one dollar and twenty cents (\$1.20) per mile (or fifteen cents (\$0.15) per one-eighth (1/8) of a mile).
    - (C) Time (wait time):

- (i) Twenty-five dollars (\$25) per hour, to be calculated in sixty (60)-second increments;
  - (ii) Time shall be charged when the vehicle is stopped, and when the vehicle is slowed to a speed of less than ten (10) miles per hour for longer than sixty (60) seconds;
  - (iii) Time shall be charged for delays and stopovers en route at the direction of the passenger;
  - (iv) Time shall not be charged during periods lost due to vehicle or operator inefficiency; and
  - (v) If the vehicle is responding to a dispatch, time shall be charged beginning five (5) minutes after the time pickup was requested by the customer. There shall be no additional charge for early arrival.
- (2) The authorized additional charges which shall be generated automatically by the taximeter for a taxicab trip booked by street hail, by telephone dispatch, or by digital dispatch through a DDS that does not process digital payments, are established as follows:
- (A) A fee for telephone dispatch, if any, which shall be two dollars (\$2);
  - (B) A taxicab passenger surcharge, which shall be twenty-five cents (\$0.25) (per trip or per segment of a shared ride, and not per passenger);
  - (C) A charge for delivery service where there is no passenger present shall be determined by an applicable administrative issuance or other document approved by the Department;
  - (D) The amount of any airport surcharge or toll paid by the taxicab operator;
  - (E) An additional passenger fee for each segment of a group or shared ride where more than one (1) passenger is present in the vehicle, which shall be one dollar (\$1.00) regardless of the number of additional passengers (the total additional passenger fee shall not exceed one dollar (\$1.00)), provided however, that no additional passenger fee shall be charged when the special shared ride distance rate applies; and

(F) A snow emergency fare when authorized under § 804.

**Section 9901, DEFINITIONS, of Chapter 99, DEFINITIONS, is amended as follows:**

**Subsection 9901.1 is amended to add the following definition:**

**“Special shared ride distance rate”** – the taximeter distance rate for a shared ride in a vehicle with a digital taximeter which has been reprogrammed for this rate.

Copies of this proposed rulemaking can be obtained at [www.dcregs.dc.gov](http://www.dcregs.dc.gov) or by contacting the Department of For-Hire Vehicles, 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020.

## DEPARTMENT OF FOR-HIRE VEHICLES

**NOTICE OF SECOND COMBINED EMERGENCY RULEMAKING**

The Director of the Department of For-Hire Vehicles, pursuant to the authority set forth in Sections 8 (c) (1), (2), (3), (5), (7), (10), (12), (13), and (19); 14; 20; 20a; 20j; and 20l of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301.07(c)(1), (2), (3), (5), (7), (10), (12), (13), and (19); § 50-301.13; § 50-301.19; § 50-301.20; and § 50-301.29 (2014 Repl. & 2017 Supp.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 18 (Wheelchair Accessible Paratransit Taxicab Service) and Chapter 20 (Fines and Civil Penalties) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This second notice incorporates and combines the following two (2) rulemakings, most recently published as a combined notice in the *D.C. Register* at 65 DCR 1087 (February 2, 2018):

Emergency rulemaking amending Chapter 18: This emergency rulemaking amends Chapter 18 to immediately modify the requirements: (1) that taxicab companies approved to provide service in Transport DC add a wheelchair-accessible vehicle for every 3,000 trips completed in the program, allowing the addition of these vehicles at such greater intervals as may be established in an administrative issuance; and (2) for a fixed, flat rate fare of thirty three dollars (\$33) for each Transport DC trip, changing the requirement from a fixed fare to a cap on the fare. This emergency rulemaking is necessary as the Department finds there is an immediate need to preserve and promote the safety and welfare of District residents to make the foregoing changes to ensure the financial viability of the Transport DC program, which serves the ongoing paratransit needs of the community, including by providing wheelchair service. Notice of emergency and proposed rulemaking was adopted by the Department and posted on the DFHV website on June 29, 2016. That emergency rulemaking expired on October 27, 2016. An additional emergency rulemaking was adopted and posted on the DFHV website on October 6, 2016, and expired on February 3, 2017. An emergency rulemaking was adopted and posted to the DFHV website on February 3, 2017, and expired June 3, 2017. An emergency rulemaking was adopted and posted to the DFHV website on June 3, 2017, and expired on September 30, 2017. A Notice of Emergency Rulemaking, which combined the Chapter 18 amendments with the Chapter 20 amendments listed below, was then adopted and posted on the DFHV website on November 30, 2017, expiring on March 30, 2018, and was published in the *D.C. Register* at 65 DCR 1087 (February 2, 2018).

Emergency rulemaking amending Chapter 20: This emergency rulemaking amends Chapter 20 to reestablish a fine of \$500 for serious violations of Title 31 DCMR. This emergency rulemaking is necessary as the Department finds there is an immediate need to preserve and promote the safety and welfare of District residents to ensure that civil fines are immediately available for serious violations such as fraud, misrepresentation, larceny, aggressive driving, and illegal driving maneuvers, and for numerous other violations as set forth in § 816. Prior to the enactment of Chapter 20, these violations were punishable by a \$500 civil fine for “unlawful activities” under a schedule of fines in § 825, in addition to other civil penalties (vehicle impoundment, and license suspension, revocation, or nonrenewal). When Chapter 20 was published as final,

however, fines for these violations were inadvertently omitted. The Department, therefore, finds there is an immediate need to preserve and promote the safety and welfare of District residents by ensuring that lawful, reasonable, and appropriate civil fines are immediately available for these violations, in addition to civil penalties other than fines. Notice of emergency and proposed rulemaking was adopted by the Department and posted to the DFHV website on June 29, 2016, and expired on October 27, 2016. An additional notice of emergency and proposed rulemaking was adopted and posted to the DFHV website on October 6, 2016, and expired on February 3, 2017. An emergency and proposed rulemaking was adopted and posted to the DFHV website on February 3, 2017, and expired on June 3, 2017. An emergency and proposed rulemaking was adopted and posted to the DFHV website on June 3, 2017, and expired on September 30, 2017. A Notice of Emergency Rulemaking, which combined the Chapter 18 and 20 amendments, was adopted and posted on the DFHV website on November 30, 2017, expiring on March 30, 2018, and was published in the *D.C. Register* at 65 DCR 1087 (February 2, 2018).

This Notice of Second Emergency Rulemaking was adopted on March 27, 2018, took effect immediately, and will remain in effect for one hundred twenty (120) days after the date of its adoption (expiring July 25, 2018), unless earlier superseded by an amendment or repeal by the Department, whichever occurs first.

The following changes have been made to the emergency rulemaking posted on November 30:

- (1) The word “paragraph” was changed to “subparagraph” in § 1806.5(a);
- (2) § 1806.10 was revised to include the language, “or such lower amount as may be established,” in order to clarify that Transport DC trip rates may not be increased through an administrative issuance—only lowered;
- (3) In § 2000.8, the row title for the Department’s Fine Schedule 3 has been removed from the rulemaking because it has not been changed from the existing § 2000.8 and its inclusion is therefore unnecessary;
- (4) The word “the” was added immediately before the second to last word of the sentence in § 1806.10(b)(2).

**Chapter 18, WHEELCHAIR ACCESSIBLE PARATRANSIT TAXICAB SERVICE, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:**

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

**Subsection 1806.5(a), is amended to read as follows:**

...

- (a) Each company shall add a vehicle to its fleet which complies with paragraph (b) each time the company completes three thousand (3,000) Transport DC trips, or such greater number of trips as may be established in an administrative issuance.

**Subsection 1806.10 is amended to read as follows:**

1806.10 The rates and charges, and acceptable forms of payment, for each Transport DC trip shall be in accordance with the following requirements:

- (a) The fare for a Transport DC trip shall not exceed a flat rate of thirty-three dollars (\$33), or such lower amount as may be established in an administrative issuance, plus any gratuity which a passenger chooses to add to the total fare, payable as follows:
  - (1) Not more than five dollars (\$5.00) of the Transport DC fare shall be paid by the passenger by any means allowed by Chapter 8, including a payment card or cash; and
  - (2) The remaining fare shall be paid by the District.
- (b) No passenger surcharge shall be collected from a passenger for a Transport DC trip.

**Chapter 20, FINES AND CIVIL PENALTIES, is amended as follows:**

**Subsection 2000.8 of Section 2000, FINES AND CIVIL PENALTIES, is amended as follows:**

**Schedule 3 (Fines for Entities, Owners, and Operators) is amended by amending the row of the schedule listing “Fraudulent actions” and the associated fine, to read as follows:**

<b>Fraudulent and unlawful actions</b>	\$500
<ul style="list-style-type: none"> <li>• Falsifying or tampering with manifest (§ 823)</li> <li>• Displaying, possessing, or presenting a fraudulent copy or altered government issued operator identification (Face) card or vehicle inspection (DFHV) card (§ 814.7)</li> <li>• Tampering with meter or meter seals (§ 1323)</li> <li>• Knowingly operating with non-functioning meter or operating without a meter</li> <li>• Improperly sealed meter (§ 1321)</li> <li>• Improper conduct and/or unlawful actions (§ 816)</li> </ul>	

**GOVERNMENT OF THE DISTRICT OF COLUMBIA****ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2018-052  
July 16, 2018

**SUBJECT:** Appointments — Mayor's Council on Physical Fitness, Health, and Nutrition

**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 in accordance with section 2 of the Mayor's Council on Physical Fitness, Health, and Nutrition Establishment Act of 2011, effective December 2, 2011, D.C. Law 19-58, D.C. Official Code § 7-121 (2013 Repl.), it is hereby **ORDERED** that:

1. The following persons are appointed as members to the Mayor's Council on Physical Fitness, Health, and Nutrition ("**Council**"), to serve at the pleasure of the Mayor:
  - a. **KEITH ANDERSON** is appointed as the designee of the Director of the Department of Parks and Recreation.
  - b. **JACKIE GERALNICK**, replacing Tiffanie Yates, is appointed as the designee of the Director of the District of Columbia Office on Aging.
  - c. **ALAN KARNOFSKY**, replacing Gregory Jackson, is appointed as designee of the Mayor.
  - d. **AMELIA PETERSON-KOSECKI** is appointed as the designee of the Director of the Department of Health.
  - e. **ROBERT TURNER** is appointed as the designee of the Chair of the Public Charter School Board.
2. **ALAN KARNOFSKY** is appointed as the Chairperson of the Council, to serve at the pleasure of the Mayor.



3. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
MURIEL BOWSER  
MAYOR

ATTEST:   
LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, JULY 25, 2018  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson  
Members: Nick Alberti, Mike Silverstein,  
James Short, Donald Isaac, Sr., Bobby Cato, Rema Wahabzadah,

**Protest Hearing (Status) 9:30 AM**  
**Case # 18-PRO-00053;** Pako, LLC, t/a Kovaks Liquors, 1237 Mount Olivet Road NE, License #106551, Retailer A, ANC 5D  
**Substantial Change (Request to Change Hours of Operation and Sales)**

**Protest Hearing (Status) 9:30 AM**  
**Case # 18-PRO-00048;** TM Liquors, Inc., t/a Big Ben Liquors, 1300 North Capitol Street NW, License #60652, Retailer A, ANC 5E  
**Application to Renew the License**

**Protest Hearing (Status) 9:30 AM**  
**Case # 18-PRO-00046;** Bodega Market, LLC, t/a Bodega Market, 1136 Florida Ave NE, License #94621, Retailer A, ANC 5D  
**Application to Renew the License**

**Protest Hearing (Status) 9:30 AM**  
**Case # 18-PRO-00044;** Medhanie Weldegergish t/a 1618 Liquor and Grocery Cold Beer and Wine, 1618 8th Street NW, License #84582, Retailer A, ANC 6E  
**Application to Renew the License**

**Show Cause Hearing (Status) 9:30 AM**  
**Case # 18-CMP-00030;** P25, LLC, t/a Piola, 2208 14th Street NW, License #87595, Retailer CR, ANC 1B  
**Allowed Establishment to be Used for Unlawful or Disorderly Purposes, No ABC Manager on Duty, Allowed Marijuana to be consumed in public space, Failed to Follow Terms of your License, Dancing or Cover Charge Endorsement**

Board's Calendar

July 25, 2018

**Show Cause Hearing (Status)**

**9:30 AM**

**Case # 18-251-00030;** 1336 U Street, LLC, t/a Hawthorne, 1336 U Street NW  
License #99603, Retailer CT, ANC 1B

**Allowed Establishment to be Used for Unlawful or Disorderly Purposes**

**Show Cause Hearing (Status)**

**9:30 AM**

**Case # 18-CIT-00174;** India Get Restaurant, Inc., t/a India Gate, 2020 P Street  
NW, License #95030, Retailer CR, ANC 2B

**Failed to File Quarterly Statement**

**Show Cause Hearing\***

**11:00 AM**

**Case # 18-CMP-00035;** J & J Holdings, LLC, t/a Pho 88 Noodles and Grill  
608 H Street NW, License #101629, Retailer DR, ANC 2C

**Purchased Alcohol from an off-premises retailer, Failed to Obtain  
Importation Permit**

**BOARD RECESS AT 12:00 PM**

**ADMINISTRATIVE AGENDA**

**1:00 PM**

**\*The Board will hold a closed meeting for purposes of deliberating these  
hearings pursuant to D.C. Official Code §2-574(b)(13).**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
CANCELLATION AGENDA

WEDNESDAY, JULY 25, 2018  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The Board will be cancelling the following licenses for the reasons outlined below:

ABRA-072685 – **Las Canteras** – Retail – C – Restaurant – 2307 18<sup>th</sup> Street NW  
[Licensee did not pay Safekeeping fee within 30 days.]

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ABRA-078058 – **Chinese Disco** – Retail – C – Restaurant – 3251 Prospect St. NW, CS-1  
[Licensee appears to be Out of Business and did not respond to a letter dated July 12, 2018  
requesting to place the license in Safekeeping.]

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LICENSING AGENDA

WEDNESDAY, JULY 25, 2018 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 3B. SMD 3B02. The Establishment has a pending Show Cause hearing. No outstanding fines/citations. No conflict with Settlement Agreement. *Mason Inn*, 2408 Wisconsin Avenue NW, Retailer CT, License No. 104588.

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2. Review Request to add 27 more seats inside the premises, bringing total interior seat count up from 150 to 177. The interior Total Occupancy Load of 199 will remain unchanged. ANC 5D. SMD 5D01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *St. Anselm*, 1250-1274 5<sup>th</sup> Street NE, Retailer CR, License No. 106709.

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3. Review Application for Sidewalk Café with seating for 6 patrons. *Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Sidewalk Café*: Saturday-Sunday 11am to 6pm, Monday-Friday 10:30am to 9pm. ANC 2C. SMD 2C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Roti Mediterranean Grill*, 1311 F Street NW, Retailer DR, License No. 102598.

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4. Review Application for Sidewalk Café with seating for 26 patrons. *Proposed Hours of Operation for Sidewalk Café*: Sunday-Thursday 6am to 2am, Friday-Saturday 6am to 3am. *Proposed Hours of Alcoholic Beverage Sales and Consumption for Sidewalk Café*: Sunday-Thursday 10am to 2am, Friday-Saturday 10am to 3am. ANC 2C. SMD 2C01. ANC 4C. SMD 4C05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Golden Paradise Restaurant*, 3903-3905 14<sup>th</sup> Street NW, Retailer CR, License No. 098205.

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**\*In accordance with D.C. Official Code §2-547(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

**APPLETREE EARLY LEARNING PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****School Playground and Surface SY19**

AppleTree Early Learning PCS is seeking an organization to provide installation of new playground surface and playground equipment at one of its locations. Please contact Dwight Crawford, Chief Operating Officer, for details on the RFPs. The deadline for responding to the RFPs is August 3, 2018 at 5pm. Contact Dwight Crawford, Chief Operating Officer, 1801 Mississippi Avenue SE, Washington, DC 20020, or e-mail him at [Dwight.crawford@appletreeinstitute.org](mailto:Dwight.crawford@appletreeinstitute.org).

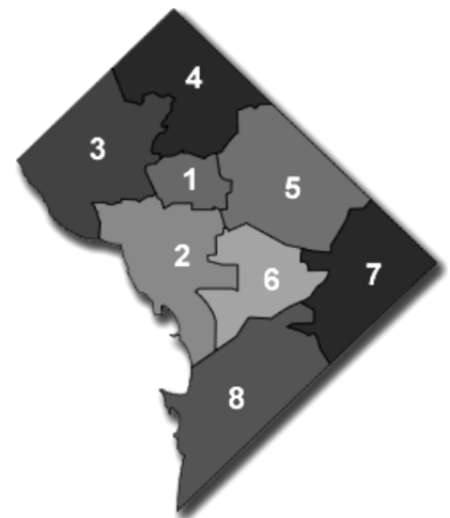
**D.C. BOARD OF ELECTIONS  
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS  
CITYWIDE REGISTRATION SUMMARY  
As Of June 30, 2018**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
<b>1</b>	45,412	2,919	633	163	195	11,384	<b>60,706</b>
<b>2</b>	30,477	5,706	239	182	165	10,742	<b>47,511</b>
<b>3</b>	38,224	6,344	366	155	150	10,971	<b>56,210</b>
<b>4</b>	49,096	2,250	533	104	165	8,867	<b>61,015</b>
<b>5</b>	52,750	2,358	589	136	236	9,538	<b>65,607</b>
<b>6</b>	55,157	7,295	534	269	250	13,716	<b>77,221</b>
<b>7</b>	48,088	1,314	434	64	169	6,787	<b>56,856</b>
<b>8</b>	46,515	1,401	453	49	194	7,305	<b>55,917</b>
<b>Totals</b>	365,719	29,587	3,781	1,122	1,524	79,310	<b>481,043</b>
<b>Percentage By Party</b>	<b>76.03%</b>	<b>6.15%</b>	<b>.79%</b>	<b>.23%</b>	<b>.32%</b>	<b>16.49%</b>	<b>100.00%</b>

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF  
**VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS**  
AS OF THE END OF JUNE 30, 2018

COVERING CITY WIDE TOTALS BY:  
**WARD, PRECINCT AND PARTY**

1015 HALF STREET, SE SUITE 750  
WASHINGTON, DC 20003  
(202) 727-2525  
<http://www.dcboe.org>



**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 1 REGISTRATION SUMMARY**  
**As Of June 30, 2018**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,592	31	10	3	6	278	1,920
22	3,782	386	30	12	13	994	5,217
23	2,899	214	42	13	15	787	3,970
24	2,646	247	28	17	11	766	3,715
25	3,817	436	48	18	14	1,095	5,428
35	3,601	215	50	17	9	856	4,748
36	4,213	250	55	11	22	1,008	5,559
37	3,539	165	44	11	21	842	4,622
38	2,940	135	45	15	13	743	3,891
39	4,144	190	67	12	15	933	5,361
40	3,842	183	80	10	18	986	5,119
41	3,608	207	74	8	18	1,013	4,928
42	1,811	89	25	5	10	458	2,398
43	1,829	70	28	5	6	371	2,309
137	1,149	101	7	6	4	254	1,521
<b>TOTALS</b>	<b>45,412</b>	<b>2,919</b>	<b>633</b>	<b>163</b>	<b>195</b>	<b>11,384</b>	<b>60,706</b>



**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 2 REGISTRATION SUMMARY**  
**As Of June 30, 2018**

<b>PRECINCT</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTALS</b>
<b>2</b>	898	167	7	9	10	543	<b>1,634</b>
<b>3</b>	1,642	376	17	9	11	650	<b>2,705</b>
<b>4</b>	1,961	502	8	11	11	737	<b>3,230</b>
<b>5</b>	2,100	599	15	17	14	772	<b>3,517</b>
<b>6</b>	2,330	823	21	17	16	1,258	<b>4,465</b>
<b>13</b>	1,299	235	4	4	5	420	<b>1,967</b>
<b>14</b>	2,795	451	27	18	9	937	<b>4,237</b>
<b>15</b>	2,985	401	33	19	14	884	<b>4,336</b>
<b>16</b>	3,378	432	33	24	17	958	<b>4,842</b>
<b>17</b>	4,787	629	29	23	22	1,450	<b>6,940</b>
<b>129</b>	2,335	405	12	8	14	897	<b>3,671</b>
<b>141</b>	2,428	306	15	11	12	656	<b>3,428</b>
<b>143</b>	1,539	380	18	12	10	580	<b>2,539</b>
<b>TOTALS</b>	<b>30,477</b>	<b>5,706</b>	<b>239</b>	<b>182</b>	<b>165</b>	<b>10,742</b>	<b>47,511</b>

**D.C. BOARD OF ELECTIONS  
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS  
WARD 3 REGISTRATION SUMMARY  
As Of June 30, 2018**

<b>PRECINCT</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTALS</b>
<b>7</b>	1,275	396	13	4	5	559	<b>2,252</b>
<b>8</b>	2,433	635	28	6	10	776	<b>3,888</b>
<b>9</b>	1,194	495	7	9	9	499	<b>2,213</b>
<b>10</b>	1,882	412	19	9	10	689	<b>3,021</b>
<b>11</b>	3,375	837	44	34	21	1,222	<b>5,533</b>
<b>12</b>	496	181	0	5	4	204	<b>890</b>
<b>26</b>	2,891	341	21	9	6	831	<b>4,099</b>
<b>27</b>	2,468	247	21	8	2	567	<b>3,313</b>
<b>28</b>	2,499	464	41	13	11	767	<b>3,795</b>
<b>29</b>	1,307	221	12	7	8	392	<b>1,947</b>
<b>30</b>	1,285	205	11	4	6	304	<b>1,815</b>
<b>31</b>	2,452	305	16	9	13	572	<b>3,367</b>
<b>32</b>	2,763	290	30	6	10	566	<b>3,665</b>
<b>33</b>	2,909	275	26	4	5	663	<b>3,882</b>
<b>34</b>	3,830	427	38	12	11	1,093	<b>5,411</b>
<b>50</b>	2,164	279	16	5	7	502	<b>2,973</b>
<b>136</b>	837	80	10	0	3	263	<b>1,193</b>
<b>138</b>	2,164	254	13	11	9	502	<b>2,953</b>
<b>TOTALS</b>	<b>38,224</b>	<b>6,344</b>	<b>366</b>	<b>155</b>	<b>150</b>	<b>10,971</b>	<b>56,210</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 4 REGISTRATION SUMMARY**  
**As Of June 30, 2018**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,313	68	32	8	7	375	2,803
46	2,806	100	32	8	14	487	3,447
47	3,445	137	44	10	14	742	4,392
48	2,792	130	29	7	7	546	3,511
49	909	44	13	3	5	203	1,177
51	3,365	513	23	8	10	619	4,538
52	1,255	146	10	2	5	233	1,651
53	1,243	73	21	3	4	244	1,588
54	2,348	96	27	4	5	442	2,922
55	2,447	82	15	1	13	424	2,982
56	3,120	97	36	10	13	634	3,910
57	2,467	72	34	6	10	483	3,072
58	2,275	60	19	5	6	357	2,722
59	2,599	84	27	7	7	417	3,141
60	2,163	72	24	5	11	604	2,879
61	1,587	57	16	1	5	300	1,966
62	3,144	131	22	2	4	387	3,690
63	3,714	140	59	3	17	653	4,586
64	2,353	63	21	6	6	361	2,810
65	2,751	85	29	5	2	356	3,228
<b>Totals</b>	<b>49,096</b>	<b>2,250</b>	<b>533</b>	<b>104</b>	<b>165</b>	<b>8,867</b>	<b>61,015</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 5 REGISTRATION SUMMARY**  
**As Of June 30, 2018**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,425	193	66	14	17	956	5,671
44	2,854	237	29	9	19	650	3,798
66	4,547	96	44	4	19	606	5,316
67	2,879	100	24	4	8	423	3,438
68	1,928	161	22	10	6	402	2,529
69	2,099	73	20	1	10	294	2,497
70	1,455	71	23	0	4	233	1,786
71	2,426	72	24	5	9	347	2,883
72	4,347	143	38	9	25	729	5,291
73	1,956	89	24	6	9	358	2,442
74	4,738	263	60	13	23	1,004	6,101
75	3,936	223	50	23	22	821	5,075
76	1,657	96	20	6	6	381	2,166
77	2,931	120	28	5	13	528	3,625
78	2,966	98	43	9	12	495	3,623
79	2,071	78	24	2	13	384	2,572
135	3,094	182	34	12	16	618	3,956
139	2,441	63	16	4	5	309	2,838
<b>TOTALS</b>	<b>52,750</b>	<b>2,358</b>	<b>589</b>	<b>136</b>	<b>236</b>	<b>9,538</b>	<b>65,607</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 6 REGISTRATION SUMMARY**  
**As Of June 30, 2018**

<b>PRECINCT</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTALS</b>
<b>1</b>	4,401	575	47	26	18	1,231	<b>6,298</b>
<b>18</b>	4,790	383	49	20	21	1,112	<b>6,375</b>
<b>21</b>	1,190	59	9	6	2	245	<b>1,511</b>
<b>81</b>	4,611	372	48	14	20	951	<b>6,016</b>
<b>82</b>	2,566	250	27	10	8	597	<b>3,458</b>
<b>83</b>	5,513	750	46	32	26	1,435	<b>7,802</b>
<b>84</b>	1,952	410	18	7	11	536	<b>2,934</b>
<b>85</b>	2,682	499	22	14	8	733	<b>3,958</b>
<b>86</b>	2,221	247	24	10	7	443	<b>2,952</b>
<b>87</b>	2,676	295	18	3	16	591	<b>3,599</b>
<b>88</b>	2,103	299	22	8	6	487	<b>2,925</b>
<b>89</b>	2,576	627	25	18	11	770	<b>4,027</b>
<b>90</b>	1,584	238	14	6	13	457	<b>2,312</b>
<b>91</b>	4,101	416	34	14	20	933	<b>5,518</b>
<b>127</b>	4,222	314	46	22	17	877	<b>5,498</b>
<b>128</b>	2,449	220	29	13	11	592	<b>3,314</b>
<b>130</b>	786	305	6	2	3	271	<b>1,373</b>
<b>131</b>	3,054	813	32	30	23	968	<b>4,920</b>
<b>142</b>	1,680	223	18	14	9	487	<b>2,431</b>
<b>TOTALS</b>	<b>55,157</b>	<b>7,295</b>	<b>534</b>	<b>269</b>	<b>250</b>	<b>13,716</b>	<b>77,221</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 7 REGISTRATION SUMMARY**  
**As Of June 30, 2018**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,470	85	21	4	3	281	1,864
92	1,589	35	12	1	5	235	1,877
93	1,595	41	18	2	7	241	1,904
94	1,973	59	18	1	5	275	2,331
95	1,675	48	12	1	2	281	2,019
96	2,359	60	14	0	12	353	2,798
97	1,419	48	16	1	6	212	1,702
98	1,921	42	20	5	9	258	2,255
99	1,527	52	18	5	7	270	1,879
100	2,427	49	16	2	9	295	2,798
101	1,588	30	14	4	5	184	1,825
102	2,362	53	20	3	12	297	2,747
103	3,488	81	42	4	10	493	4,118
104	3,135	87	31	3	20	459	3,735
105	2,422	72	19	4	9	389	2,915
106	2,842	61	22	3	12	387	3,327
107	1,769	61	15	1	6	238	2,090
108	1,072	32	6	0	2	133	1,245
109	968	39	4	0	1	102	1,114
110	3,731	101	24	9	10	441	4,316
111	2,456	63	33	3	6	388	2,949
113	2,210	57	22	3	6	270	2,568
132	2,090	58	17	5	5	305	2,480
<b>TOTALS</b>	<b>48,088</b>	<b>1,314</b>	<b>434</b>	<b>64</b>	<b>169</b>	<b>6,787</b>	<b>56,403</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 8 REGISTRATION SUMMARY**  
**As Of June 30, 2018**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,235	59	16	0	10	321	2,641
114	3,607	139	41	3	24	610	4,424
115	2,830	68	25	4	11	608	3,546
116	4,142	105	43	4	15	634	4,943
117	2,108	46	19	3	9	332	2,517
118	2,777	76	31	3	15	407	3,309
119	2,763	113	34	3	15	459	3,387
120	1,963	37	15	2	4	260	2,281
121	3,435	78	29	3	8	474	4,027
122	1,820	47	22	1	8	258	2,156
123	2,381	172	26	11	20	406	3,016
124	2,633	71	24	1	8	368	3,105
125	4,525	103	36	4	16	713	5,397
126	3,897	140	50	6	17	719	4,829
133	1,313	45	8	0	1	177	1,544
134	2,226	49	24	0	5	286	2,590
140	1,860	53	10	1	8	273	2,205
<b>TOTALS</b>	<b>46,515</b>	<b>1,401</b>	<b>453</b>	<b>49</b>	<b>194</b>	<b>7,305</b>	<b>55,917</b>

**D.C. BOARD OF ELECTIONS  
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS  
CITYWIDE REGISTRATION ACTIVITY**

*For voter registration activity between 5/31/2018 and 6/30/2018*

<b>NEW REGISTRATIONS</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTAL</b>
<b>Beginning Totals</b>	<b>362,317</b>	<b>29,364</b>	<b>3,751</b>	<b>1,069</b>	<b>1,524</b>	<b>78,731</b>	<b>476,756</b>
Board of Elections Over the Counter	41	1	1	1	0	11	55
Board of Elections by Mail	53	9	1	0	0	32	95
Board of Elections Online Registration	637	52	7	4	10	141	851
Department of Motor Vehicle	956	100	43	9	15	382	1,505
Department of Disability Services	2	1	0	0	0	0	3
Office of Aging	0	0	0	0	0	0	0
Federal Postcard Application	1	0	0	0	0	0	1
Department of Parks and Recreation	0	0	0	0	0	0	0
Nursing Home Program	17	2	0	1	0	2	22
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	0
Department of Corrections	24	3	1	0	0	5	33
Department of Human Services	5	1	1	0	0	1	8
Special / Provisional	7	1	0	0	0	0	8
All Other Sources	146	9	2	1	1	39	198
<b>+Total New Registrations</b>	<b>1,887</b>	<b>179</b>	<b>56</b>	<b>16</b>	<b>26</b>	<b>613</b>	<b>2,776</b>

<b>ACTIVATIONS</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTAL</b>
Reinstated from Inactive Status	270	21	6	1	4	53	355
Administrative Corrections	816	21	6	0	0	420	1,263
<b>+TOTAL ACTIVATIONS</b>	<b>1,086</b>	<b>42</b>	<b>12</b>	<b>1</b>	<b>4</b>	<b>473</b>	<b>1,618</b>

<b>DEACTIVATIONS</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTAL</b>
Changed to Inactive Status	1	0	0	0	0	0	1
Moved Out of District (Deleted)	0	0	0	0	0	0	0
Felon (Deleted)	0	0	0	0	0	0	0
Deceased (Deleted)	26	1	0	0	0	0	27
Administrative Corrections	85	8	1	4	1	23	122
<b>-TOTAL DEACTIVATIONS</b>	<b>112</b>	<b>9</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>23</b>	<b>150</b>

<b>AFFILIATION CHANGES</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	
+ Changed To Party	831	177	54	55	31	267	
- Changed From Party	-290	-166	-91	-15	-60	-751	
<b>ENDING TOTALS</b>	<b>365,719</b>	<b>29,587</b>	<b>3,781</b>	<b>1,122</b>	<b>1,524</b>	<b>79,310</b>	<b>481,043</b>



**FRIENDSHIP PUBLIC CHARTER SCHOOL**  
**REQUEST FOR PROPOSALS**

Friendship Public Charter School is soliciting proposals from qualified vendors for:

- **Bus Services for Student Transportation**
- **Related Services for Students Requiring Clinical Services**

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, **Thursday, August 9<sup>th</sup>, 2018**. No proposal will be accepted after the deadline. Questions can be addressed to: [ProcurementInquiry@friendshipschools.org](mailto:ProcurementInquiry@friendshipschools.org)

**EXTENSION OF REQUEST FOR PROPOSALS**

Friendship Public Charter School is soliciting proposals from qualified vendors for:

- **Budget Software and Implementation Services**

The competitive Request for Proposal can be found on FPCS website at <http://www.friendshipschools.org/procurement>. The deadline has been extended and the proposals are due no later than 4:00 P.M., EST, Thursday, August June 9th, 2018. No proposal will be accepted after the deadline. Questions can be addressed to: [ProcurementInquiry@friendshipschools.org](mailto:ProcurementInquiry@friendshipschools.org). -- **Bids not addressing all areas as outlined in the RFP will not be considered.**

**DEPARTMENT OF HEALTH (DC HEALTH)  
HEALTH PROFESSIONAL LICENSING ADMINISTRATION**

**NOTICE OF MEETING**

Board of Medicine  
July 25, 2018

On JULY 25, 2018 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

The meeting will be open to the public from 8:30 am to 10:30 am to discuss various agenda items and any comments and/or concerns from the public.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will then move to Closed Session from 10:30 am until 4:45 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting location is 899 North Capitol Street NE, 2<sup>nd</sup> Floor, Washington, DC 20002.

Meeting times and/or locations are subject to change – please visit the Board of Medicine website [www.doh.dc.gov/bomed](http://www.doh.dc.gov/bomed) and select BoMed Calendars and Agendas to view the agenda and any changes that may have occurred.

Executive Director for the Board – Frank B. Meyers, JD

## DEPARTMENT OF HEALTH (DC HEALTH)

**NOTICE OF PUBLIC MEETING**

The Director of the Department of Health hereby gives the following notice pursuant to Sections 3 and 11 of the Prescription Drug Monitoring Program Act of 2013, effective February 22, 2014 (D.C. Law 20-66); D.C. Official Code §§ 48-853.02 and 48-853.10 (2012 Repl. & 2015 Supp.)(Act), and 17 DCMR § 10316.

The District of Columbia Prescription Drug Monitoring Program Advisory Committee will hold a public meeting on:

**Tuesday, July 17, 2018, from 10:00 a.m. until 12:00 p.m.  
At 899 North Capitol St., NE, 2<sup>nd</sup> Floor, Room 216  
Washington, D.C. 20002**

A copy of the meeting agenda may be obtained on the Department's Prescription Drug Monitoring Program website at [doh.dc.gov/pdmp](http://doh.dc.gov/pdmp)

Please monitor the Department's Prescription Drug Monitoring Program website at [doh.dc.gov/pdmp](http://doh.dc.gov/pdmp) for updates. Phone inquiries will not be accepted regarding this topic.

**DEPARTMENT OF HEALTH (DC HEALTH)  
 COMMUNITY HEALTH ADMINISTRATION (CHA)  
 NOTICE OF FUNDING AVAILABILITY (NOFA)  
 CHA\_SDSP 08.03.18 (RFA)  
 Senior Dental Services Program**

The District of Columbia, Department of Health (DC Health) is soliciting applications from qualified applicants to services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement is to provide public notice of the Department of Health's intent to make funds available for the purpose described herein. The applicable Request for Applications (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria and DC Health terms and conditions for applying for and receiving funding.

**General Information:**

Funding Opportunity Title:	Senior Dental Services Program
Funding Opportunity Number:	FO-CHA-PG-00006-000
Program RFA ID#:	CHA_SDSP 08.03.18
Opportunity Category:	Competitive
DC Health Administrative Unit:	Community Health Administration
DC Health Program Bureau	Health Care Access Bureau
Program Contact:	Lauren Ratner, Bureau Chief 202/442-5925
Program Description:	The Senior Dental Services Program grants will support the efforts of DC-based dental practices to promote the dental health and welfare of the District’s seniors, with an emphasis on engaging seniors in quality, comprehensive dental care. To implement the SDSP, the grantees will be required to deliver the following services to DC seniors: outreach and education; health care navigation; and the following clinical services: diagnostic, preventive, and restorative dental care. Grantees will also be required to gather and report data on patients served and services delivered. To be eligible for SDSP services, patients must be 65 years or older, must reside in DC, and must have an adjusted gross income of less than \$100,000.
Eligible Applicants	Established private dental practices located and licensed to conduct business within the District of Columbia, currently billing to DC Medicaid, charge patients according to a formal sliding-scale fee policy, and are experienced in providing comprehensive dental services to seniors.

Anticipated # of Awards:	1-2
Anticipated Amount Available:	\$375,000
Floor Award Amount:	\$150,000
Ceiling Award Amount:	\$375,000

**Funding Authorization**

Legislative Authorization	Fiscal Year 2019 Budget Support Act of 2018(forecasted)
Associated CFDA#	N/A
Associated Federal Award ID#	N/A
Cost Sharing / Match Required?	No
RFA Release Date:	August 3, 2018
Pre-Application Meeting (Date)	August 10, 2018
Pre-Application Meeting (Time)	1:00 – 2:30 PM
Pre-Application Meeting (Location/Conference Call Access)	899 N. Capitol Street NE, 3 <sup>rd</sup> Fl. Washington, DC 20002 Pre-Registration required for conference call access ( <a href="mailto:justice.armattoe@dc.gov">justice.armattoe@dc.gov</a> )
Letter of Intent Due date:	Not applicable
Application Deadline Date:	August 20, 2018
Application Deadline Time:	6:00 PM
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghouse <a href="http://opgs.dc.gov/page/opgs-district-grants-clearinghouse">http://opgs.dc.gov/page/opgs-district-grants-clearinghouse</a> .  DC Health EGMS <a href="https://dcdoh.force.com/GO_ApplicantLogin2">https://dcdoh.force.com/GO_ApplicantLogin2</a>

Notes:

1. DC Health reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.
2. Awards are contingent upon the availability of funds.
3. Individuals are not eligible for DC Health grant funding.
4. Applicants must have a DUNS #, Tax ID#, be registered in the federal Systems for Award Management (SAM) and the DC Health Enterprise Grants Management System (EGMS)
5. Contact the program manager assigned to this funding opportunity for additional information.
6. DC Health is located in a secured building. Government issued identification must be presented for entrance.

**DEPARTMENT OF HEALTH (DC HEALTH)  
HIV/AIDS, HEPATITIS, STD AND TB ADMINISTRATION (HAHSTA)  
NOTICE OF FUNDING AVAILABILITY (NOFA)**

**HAHSTA\_NETH 08.08.18 (RFA)**

**Special Initiatives: Needle Exchange Services and Transgender Health Initiative**

The District of Columbia, Department of Health (DC Health) is soliciting applications from qualified applicants to services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement is to provide public notice of the Department of Health's intent to make funds available for the purpose described herein. The applicable Request for Applications (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria and DC Health terms and conditions for applying for and receiving funding.

**General Information:**

Funding Opportunity Title:	<b>Special Initiatives: Needle Exchange Services and Transgender Health Initiative</b>
Funding Opportunity Number:	FO-HAHSTA-PG-00007-001
Program RFA ID#:	HAHSTA_NETH 08.08.18
Opportunity Category:	Competitive
DC Health Administrative Unit:	HIV/AIDS, Hepatitis, STD and TB Administration
DC Health Program Bureau	Prevention and Intervention Services
Program Contact:	Stacey L. Cooper, MSW Deputy Chief, Prevention 202-671-5093 <a href="mailto:Stacey.Cooper@dc.gov">Stacey.Cooper@dc.gov</a>
Program Description:	The HIV/AIDS, Hepatitis, STD and TB Administration (HAHSTA) intends to support critical priorities and innovative strategies that reinforce prevention activities for high-risk HIV negative individuals and persons living with HIV in the early stages of their infection. Activities include the following program areas and program models: Needle Exchange Services and Transgender Health Initiatives. <b><u>All services are intended for District residents in District venues.</u></b>
Eligible Applicants	Not- for profit, public and private organizations located and licensed to conduct business within the District of Columbia and experienced in providing proposed services.
Anticipated # of Awards:	Up to 4 (Needle Exchange) Up to 1 (Transgender Health Initiatives)

Anticipated Amount Available:	\$1,180,000
Floor Award Amount:	\$60,000
Ceiling Award Amount:	\$575,000

### Funding Authorization

Legislative Authorization	District of Columbia Fiscal Year 2018 Budget Support Act of 2019 (forecasted)
Associated CFDA#	
Associated Federal Award ID#	NA
Cost Sharing / Match Required?	No
RFA Release Date:	August 3, 2018, 2018
Pre-Application Meeting (Date)	Tuesday, August 7, 2018
Pre-Application Meeting (Time)	10:00 a.m. – 12:00 p.m.
Pre-Application Meeting (Location/Conference Call Access)	DC Health HIV/AIDS, Hepatitis, STD and TB Administration (HAHSTA) 899 North Capitol Street, NE Fourth Floor, Suite Washington, DC 20002
Letter of Intent Due date:	Not applicable
Application Deadline Date:	August 31, 2018
Application Deadline Time:	6:00 PM
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghouse <a href="http://opgs.dc.gov/page/opgs-district-grants-clearinghouse">http://opgs.dc.gov/page/opgs-district-grants-clearinghouse</a> .  DC Health EGMS <a href="https://dcdoh.force.com/GO_ApplicantLogin2">https://dcdoh.force.com/GO_ApplicantLogin2</a>

#### Notes:

1. DC Health reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.
2. Awards are contingent upon the availability of funds.
3. Individuals are not eligible for DC Health grant funding. Applicants must have a DUNS #, Tax ID#, be registered in the federal Systems for Award Management (SAM) and the DC Health Enterprise Grants Management System (EGMS)
4. Contact the program manager assigned to this funding opportunity for additional information.
5. DC Health is located in a secured building. Government issued identification must be presented for entrance.

**HOPE COMMUNITY PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS (RFP)**

Hope Community Public Charter School Tolson Campus is seeking proposals from individuals or companies to provide the following services:

**VAN PURCHASE** (New or Used) at the Tolson Campus, 2917 8<sup>th</sup> Street, NE, Washington, DC 20017. Deadline for submissions is Tuesday, July 31<sup>st</sup> by 12:00 pm. All bids not addressing all areas as outlined in the RFP and/or received after this date and time will not be considered.

**Hope Community PCS reserves the right to cancel this RFP at any time.**

**Please e-mail proposals and supporting documents to:**

**Trina Gross**

**[trina.gross@imageschools.org](mailto:trina.gross@imageschools.org)**



**KIPP DC PUBLIC CHARTER SCHOOLS****REQUEST FOR PROPOSALS****Diversity, Equity & Inclusion Consulting**

KIPP DC is soliciting proposals from qualified vendors for Diversity, Equity & Inclusion (DEI) consulting. The RFP can be found on KIPP DC's website at [www.kippdc.org/procurement](http://www.kippdc.org/procurement). Proposals should be uploaded to the website no later than 1:00 P.M., ET, on July 31, 2018. Questions can be addressed to [kate.williams@kippdc.org](mailto:kate.williams@kippdc.org).

**EXECUTIVE OFFICE OF THE MAYOR (EOM)****REVISED NOTICE OF FUNDING AVAILABILITY****FY19 IMMIGRANT JUSTICE LEGAL SERVICES GRANT**

The Executive Office of the Mayor (EOM) is soliciting grant applications from qualified private organizations and Community-Based Organizations (CBOs) serving District of Columbia residents for its FY 2019 Immigrant Justice Legal Services Grant Program (IJLS). The grant is intended to fund programs that provide targeted services and resources to the DC immigrant population. The FY2019 Immigrant Justice Legal Services Grant Program offers one-time grants of up to \$150,000 to CBOs with a current and valid 501(c)(3) status, as well as private organizations, associations and law firms that plan to mobilize pro bono talent or skilled immigration attorneys and legal professionals in order to provide immigrant justice legal services.

This grant will fund the following activities:

1. Conduct Know Your Rights briefings and workshops;
2. Screen persons for possible legal relief; make appropriate referrals to pro bono or paid counsel; and provide brief legal consultations;
3. Legal Representation, on matters such as helping DC residents apply for green cards, converting green cards to citizenship, and making other affirmative USCIS filings; renewing DACA (Deferred Action for Childhood Arrivals) or TPS (Temporary Protective Status) applications and work permits for DC residents, and executing legal strategies for persons whose DACA or TPS status is expiring; helping prepare affirmative and defensive asylum applications and providing legal representation at asylum interviews and/or hearings for DC residents; representing DC residents who are in removal proceedings, including by filing petitions of cancellation of removal, but who are not detained at the time representation begins; filing applications for S, T, U, Special Immigrant Juvenile visas and Violence Against Women Act (VAWA) petitions for DC residents or family members of DC residents.
4. Such briefings, screenings and representation in Activities 1-3 can also include legal preparedness and support for immigrant families and families supporting immigrants including protecting financial assets and custody for DC children in the face of potential deportation of parents or guardians; and providing legal help for family reunification efforts for families with at least one DC resident;
5. Capacity Building: Build non-profit organization capacity to provide continuing legal representation to Washington, DC immigrants, including by filing for “accredited representative” status and training and mentor pro bono attorneys to perform any of the activities funded by this grant.
6. Other permissible grant activities include: Help DC families provide foster homes, adopt or sponsor refugees and children from war- torn or crime-plagued countries;

7. Help immigrants conduct affairs through ITIN numbers, appeal licensing board denials based on international qualifications, and access health insurance and other public benefits for which they are eligible;
8. Structural litigation: File any lawsuits that may become necessary to challenge the use of DACA applications for finding or deporting undocumented persons; or lawsuits challenging other aspects of immigration law and practice that harm the interest of Washington, DC resident immigrants;

Note that the grant will not fund legal support for persons who are in detention.

The grant award will be for a period not to exceed 12 months, with an earliest starting date of October 1, 2018 and a closing date of September 30, 2019.

The Request for Application (RFA) includes a detailed description of eligibility requirements, selection criteria, key performance indicators and more. The RFA will be released on Monday, July 16, 2018 and posted on these websites: Mayor's Office on Asian & Pacific Islander Affairs (<http://apia.dc.gov/>); Mayor's Office on Latino Affairs ([www.ola.dc.gov](http://www.ola.dc.gov/)); Mayor's Office on African Affairs (<http://oaa.dc.gov/>); Office of Documents and Administrative Issuance (<http://os.dc.gov/>); Mayor's Office of Community Affairs (<https://moca.dc.gov/>)

Pre-Bidders' conferences will take place at the John A. Wilson Building - Press Room G9 (1350 Pennsylvania Ave. NW, Washington, DC 20004) on Thursday, July 26, 2018 (12 pm – 1:30 pm) and Tuesday, July 31st, 2018 (4:30 pm – 6:00 pm).

Application Process: Interested applicants must complete an online application via Zoomgrants on or before Friday, August 13, 2018 at 5:00 p.m. EST. Late submissions and incomplete applications will not be forwarded to the review panel. The online application will be available starting on Monday, July 16, 2018 and can be accessed [here](#).

For more information, contact:

Dory Peters ([Dory.Peters@dc.gov](mailto:Dory.Peters@dc.gov) or 202-727-3120)

Phuong Nguyen ([Phuong.nguyen2@dc.gov](mailto:Phuong.nguyen2@dc.gov) or 202-727-3120)

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

PUBLIC NOTICECAPITAL GRID PROJECTFORMAL CASE NO. 1144, IN THE MATTER OF THE POTOMAC ELECTRIC POWER COMPANY'S NOTICE TO CONSTRUCT TWO 230kV UNDERGROUND CIRCUITS FROM THE TAKOMA SUBSTATION TO THE REBUILT HARVARD SUBSTATION AND FROM THE REBUILT HARVARD SUBSTATION TO THE REBUILT CHAMPLAIN SUBSTATION (CAPITAL GRID PROJECT)

1. The Public Service Commission of the District of Columbia ("Commission") gives notice that on June 29, 2018, the Potomac Electric Power Company ("Pepco" or "Company") filed a Notice of Construction ("NOC"), seeking approval of its proposed Capital Grid Project ("Notice").<sup>1</sup> Pepco filed its NOC pursuant to 15 DCMR § 2111.1<sup>2</sup> and in compliance with Commission Order Nos. 19274<sup>3</sup> and 19313.<sup>4</sup> *Formal Case No. 1144*, involves the Commission's investigation into the reasonableness, safety and need for Pepco's Capital Grid Project.

2. On May 10, 2017, Pepco filed the first of two NOCs with the Commission seeking approval of the first part of its Capital Grid Project.<sup>5</sup> Under NOC-1, Pepco proposed to construct two 230kV underground transmission lines from the Takoma Substation to the rebuilt Harvard Substation and from the rebuilt Harvard Substation to the rebuilt Champlain Substation that is being repurposed as a sub-transmission substation. At that time, Pepco explained that the Capital Grid Project will reconfigure its existing radial transmission system to increase resiliency and redundancy of supplies into the city by creating a networked transmission system that will also address the

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<sup>1</sup> *Formal Case No. 1144, In the Matter of the Potomac Electric Power Company's Notice to Construct Two 230 kV Underground Circuits from the Takoma Substation to the Rebuilt Harvard Substation and From the Rebuilt Harvard Substation to the Rebuilt Champlain Substation (Capital Grid Project) ("Formal Case No. 1144")*, The Potomac Electric Power Company's Formal Notice of Construction of the Capital Grid Project, filed June 29, 2018 ("NOC").

<sup>2</sup> Pursuant to 15 DCMR § 2111.1 (2004), "An electric corporation which plans to construct inside the District of Columbia an underground transmission line in excess of sixty-nine thousand (69,000) volts, or substation connected to such line, shall file the formal notice with the Commission six months prior to the construction."

<sup>3</sup> *Formal Case No. 1144*, Order No. 19274, ¶ 16, rel. February 14, 2008 ("Order No. 19274").

<sup>4</sup> *Formal Case No. 1144*, Order No. 19313, ¶ 7 rel. April 5, 2018 ("Order No. 19313").

<sup>5</sup> *Formal Case No. 1144*, Potomac Electric Power Company's Formal Notice of Construction of Capital Grid Project, filed May 10, 2017 ("Pepco's NOC-1").

reliability risk associated with the aging infrastructure including the replacement of self-contained cables with solid, dielectric cables. Pepco represented that the proposed substation upgrades will accommodate more distributed energy resources (“DERs”). Pepco indicated that NOC-2 will include a new load-driven substation in the Mt. Vernon Triangle as well as completion of the 230kV underground circuits.<sup>6</sup> According to Pepco, “the second NOC filing will include work from the rebuilt Champlain Substation to the Waterfront substation and will primarily address load-driven needs in Mt. Vernon Triangle and its surrounding neighborhoods.”<sup>7</sup> Pepco also stated that the “second NOC will likely be filed in early 2018.”<sup>8</sup>

3. On May 24, 2017, the Commission issued a Public Notice of Pepco’s NOC-1, “opening an investigation into the reasonableness, safety and need for underground transmission lines and substations work proposed in Pepco’s NOC and invited interested persons to file comments and replies within 90 [] and 120 days, respectively.”<sup>9</sup>

4. After reviewing Pepco’s NOC-1 and the comments of interested persons, the Commission determined that “the purported overall reliability and resiliency benefits of the Capital Grid Project necessitates a holistic view of the entire Capital Grid project, incorporating both NOC-1 and NOC-2 since both projects are interconnected.”<sup>10</sup> At that time, the Commission made no determination regarding the reasonableness, safety, and need for the proposed NOC-1 and NOC-2 facilities. The Commission simply determined that more information than what was provided in NOC-1 was needed in order for the Commission to complete a comprehensive evaluation regarding the reasonableness, safety, and need for the proposed NOC-1 and 2 facilities. Thus, Pepco was directed to refile its NOC-1 combined with NOC-2 as a single new comprehensive Capital Grid Application within 60 days from the date of the Order.<sup>11</sup> Subsequently, in Order No. 19313, the Commission granted Pepco’s request for an Enlargement of Time until June 29, 2018, to file the new NOC required in Order No. 19274.<sup>12</sup>

5. Because Pepco indicated that it had not decided whether to include the Mt. Vernon Substation in the NOC-2 filing and because the Mt. Vernon Substation is one of the options for consideration regarding Pepco’s Capital Grid Application, Pepco was

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<sup>6</sup> Pepco’s NOC-1 at 1.

<sup>7</sup> Pepco’s NOC-1 at 2.

<sup>8</sup> Pepco’s NOC-1 at 2.

<sup>9</sup> *Formal Case No. 1144*, Public Notice at 1, rel. May 24, 2017 (“Notice”).

<sup>10</sup> Order No. 19274, ¶ 12.

<sup>11</sup> Order No. 19274, ¶ 12.

<sup>12</sup> Order No. 19313, ¶¶ 7-8.

also directed to include an analysis both with and without the Mt. Vernon Substation in its comprehensive Capital Grid Application.<sup>13</sup>

6. Also, Pepco was directed to include additional information as outlined in Attachment A of Order No. 19274 to facilitate the Commission's review of Pepco's single new comprehensive Capital Grid Application. Among other items, Pepco was directed to provide an assessment of the District of Columbia Department of Energy and Environment's January 29, 2018, filing in *Formal Case No. 1130*,<sup>14</sup> including an assessment of the Study prepared by Synapse Energy Economics which addresses the need and timing of the proposed Mt. Vernon Substation in the context of additional DER growth.<sup>15</sup>

7. On June 29, 2018, Pepco filed its NOC seeking approval of its proposed Capital Grid Project.<sup>16</sup> According to Pepco, the Capital Grid Project is a long-term plan addressing the distribution system's resiliency, reliability and modernization needs, and, as proposed, with construction running from February 2019 through June 2026. As directed by the Commission, Pepco's NOC combines the two phases of the Capital Grid Project into a single comprehensive proposal. Generally, the NOC considers the expected load growth in specific areas of the District of Columbia and the growth in DERs, as well as potential alternative non-wire solutions. The Capital Grid Project involves rebuilding two existing substations (Harvard and Champlain Substations), constructing approximately 10 miles of underground transmission lines and constructing a new substation (Mt. Vernon Substation) in the District of Columbia. Pepco is also seeking authorization to pull cable through the conduit previously authorized by the Commission, to allow it to convert the existing Waterfront Substation to a 230kV substation. Also, as part of its Capital Grid Project, Pepco conducted a preliminary analysis regarding the use of non-wires solutions to defer the entire Mt. Vernon Substation. According to Pepco, the analysis included the use of demand response, photovoltaic distribution generation and storage batteries. Pepco states that "while the safe and reliable deferral of future substations in the District of Columbia using alternative solutions may be on the horizon, the Mt. Vernon Substation is necessary in 2023 to relieve overloads on and oversteering of certain network feeder groups."<sup>17</sup>

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<sup>13</sup> Order No. 19274, ¶ 13.

<sup>14</sup> *Formal Case No. 1130, In the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability ("Formal Case No. 1130")*, Comments by the Department of Energy and Environment and Report by Synapse Energy Economics — Alternatives to Building a New Mt. Vernon Substation in Washington, DC filed January 29, 2018 ("Synapse Energy Economics Study").

<sup>15</sup> Order No. 19274, ¶ 14.

<sup>16</sup> Pepco's NOC-1.

<sup>17</sup> *Formal Case No. 1144*, NOC at v-vii.

8. Pepco represents that it served a copy of the NOC on the affected Advisory Neighborhood Commissions and the Office of the People's Counsel on the same date it filed its NOC with the Commission as required by Commission Rule 2111.3.<sup>18</sup> Interested persons are invited to provide comments and reply comments within 90 and 120 days, respectively, from the date Pepco filed its Notice.<sup>19</sup> Comments may be filed with Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 or [PSC-CommissionSecretary@dc.gov](mailto:PSC-CommissionSecretary@dc.gov).

9. Copies of Pepco's Notice may be obtained by visiting the Commission's website at [www.dcpsc.org](http://www.dcpsc.org). Once at the website, open the "eDocket" tab, click on "Search database" and input "FC 1144" as the case number and "51" as the item number. Copies of Pepco's Notice may also be purchased, at cost, by contacting the Commission Secretary at (202) 626-5150 or [PSC-CommissionSecretary@dc.gov](mailto:PSC-CommissionSecretary@dc.gov). Persons with questions concerning this Notice should call 202-626-5150.

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<sup>18</sup> See *Formal Case No. 1144*, NOC Certificate of Service. Pursuant to 15 DCMR § 2111.3 (2004), "All information shall be served on the affected Advisory Neighborhood Commission(s) and the Office of the People's Counsel on the same date it is filed with the Commission."

<sup>19</sup> *Formal Case No. 1144*, Order No. 19313, ¶ 8.

**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**  
**RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after August 15, 2018.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4<sup>th</sup> Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on July 20, 2018. Additional copies of this list are available at the above address or the website of the Office of the Secretary at [www.os.dc.gov](http://www.os.dc.gov).



**D.C. Office of the Secretary  
Recommendations for Appointments as DC Notaries Public**

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Abello	Cindy	Latin American Youth Center 1419 Columbia Road, NW	20009
Adhikari	Prabha	Bank of America, NA 1801 K Street, NW	20006
Adolphe	Shalimar	DC Housing Authority 1133 North Capitol Street, NE	20002
Almazan	Brenda H.	Steptoe & Johnson, LLP 1330 Connecticut Avenue, NW	20036
Alston	Jacqueline	District of Columbia Office of Tax and Revenue 1101 4th Street, SW, 6th Floor	20024
Auman	Benjamin	Self 1252 Evarts Street, NE	20018
Ball	Beth McKenzie	Premier Business Centers 601 13th Street, NW, Suite 900 South	20005
Barkley	Donna	DC Housing Authority 1133 North Capitol Street, NE	20002
Barringer	Lorna	Kirkland & Ellis, LLP 655 Fifteenth Street, NW, Suite 1200	20005
Bean	Alison Sarah Munger	Neal R. Gross & Co, Inc 1323 Rhode Island Avenue, NW	20005
Beckmann	Diana Wisler	Florida House on Capitol Hill 1 2nd Street, NE	20002
Bennett	Cherise O.	DC Housing Authority 1133 North Capitol Street, NE	20002
Biondi	Angela Nicole	Eric Colbert & Associates, PC 717 5th Street, NW	20001
Bjornson	Haley L.	Medstar Georgetown University Hospital 3800 Reservoir Road, NW	20007

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Recommendations for Appointments as DC Notaries Public****Effective: August 15, 2018****Page 3**

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Briscoe	Vernee	Department of Youth Rehabilitation Services 450 H Street, NW	20001
Brooks	Brian	Signal Financial Federal Credit Union 1101 New York Avenue, NW	20005
Brooks	Robin Ann	ICMARC 777 North Capitol Street, NE, 6th Floor	20002
Bruce	Trevor	Same Day Process 1413 K Street, NW	20005
Buchanan	Leayette Patrice	University of District of Columbia 4200 Connecticut Avenue, NW	20008
Buie	Nache	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Chaplin	Sharon	General Services Administration 1800 F Street, NW	20405
Cherner	Benjamin	Douglas Development Corporation 702 H Street, NW, #400	20001
Chile	Alejandro J.	Jacob Burns Community Legal Clinic 2000 G Street, NW	20052
Cook	Allison	Quercus, LLC 1010 Wisconsin Avenue, NW, Suite 550	20007
Denney	Shaunte	AAA Club Alliance 1405 G Street, NW	20005
DeValera	Karen	Self 1008 Rittenhouse Street, NW, Unit F	20011
Dickerson Jr.	James E.	Child and Family Services Agency 200 I Street, SE	20003
Doherty	Megan Hayes	FINCA International 1201 15th Street, NW	20005

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Recommendations for Appointments as DC Notaries Public****Effective: August 15, 2018****Page 4**

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Dumena	Maeva	Department of Public Works 1725 15th Street, NE	20002
Faison	LaShawn C.	EYP 1000 Potomac Street, NW, Suite L1	20007
Gannon	Eric Liam	Covington & Burling, LLP 850 10th Street, NW	20001
Garcia	Liliana	Eisen and Rome, PC 1 Thomas Circle, Suite 1010	20005
Graverson	Shelia	The Soho Group, Inc. 3000 Connecticut Avenue, NW, Suite 234	20008
Gray	Bonita A.	Curtin Law Roberson Dunigan & Salans 1900 M Street, NW, 6th Floor	20036
Gross	Eboni M.	Quadel Management, LLC 1200 G Street, NW, Suite 700	20005
Hagos	Simon T.	TD Bank 1489 P Street, NW	20005
Hardman	Larissa Danielle	Paragon Title & Escrow Company 1410 Q Street, NW	20009
Harris	Carolyn Jacobs	George Washington University Law School 2000 H Street, NW, 5th Floor	20052
Hill	Latisha	DC Housing Authority 1133 North Capitol Street, NE	20002
Hogan	Julie Lee	National Parks Conservation Association 777 6th Street, NW, Suite 700	20001
Horton	Alicia	Self (Dual) 5412 Colorado Avenue, NW	20011
Huang	Bejean	National Cathedral School 3612 Woodley Road, NW	20016

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Jackson	Courtney T.	District of Columbia Child and Family Services 200 I Street, SE	20003
Jenkins	Cheryln Joy	DMAT Services 2 M Street, NE, Suite 917	20002
Jenkins	Donna M.	Alderson Reporting 2020 K Street, NW	20006
Jones	Linda Marie	Association of Corporate Council 1001 G Street, NW, Suite 300W	20001
Jones	Veronica	US Department of Veteran Affairs, Office of Asset Enterprise Management 810 Vermont Avenue, NW 521E	20420
Jordan	Raynette	Equipment Leasing and Finance Association 1625 Eye Street, NW, Suite 850	20006
Kalomiris	Paul D.	Tiber Hudson, LLC 1900 M Street, NW, 4th Floor	20036
King	Rebecca	The Bernstein Companies 3299 K Street, NW, Suite 700	20007
King	Sonia S.	Cahn & Samuels, LLP 1100 17th Street, NW, Suite 401	20036
Klipp-Lockhart	Timothy D.	Lawyers' Committee for Civil Rights Under Law 1401 New York Avenue, NW, Suite 400	20005
Knox	Murphrey	Fay Law Group, PA 777 6th Street, NW, Suite 410	20001
Koester	Graham C.	Neal R. Gross 1323 Rhode Island Avenue, NW	20005
Kohlhepp	Andrew	Institute of International Education, Inc 1400 K Street, NW, Suite 700	20005
Koroma	Fatima	DC Housing Authority 1133 North Capitol Street, NE	20002

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Kouatchou Tchuitcha	Henri Joel	Self  1339 Fort Stevens Drive, NW, Apartment 304	20011
Lambeth	Alison Mathey	Lim Consulting Services, LLC 1700 Kalorama Road, NW, Suite 404	20009
Lawrence	Latichia	Self 2124 Minnesota Avenue, SE	20020
Lefranc	Jodelle	Department of Youth Rehabilitation Services 450 H Street, NW	20001
Lewin	Zandra	Self 1806 Fifth Street, NW	20001
Lewis	Lakisha	Department of Employment Services 4058 Minnesota Avenue, NE	20019
Locke	Carnell R.	Self 2904 Martin Luther King Jr. Avenue, SE	20032
Locke	Linda	Quercus, LLC 1010 Wisconsin Avenue, NW, Suite 550	20007
Lockwood	Lakeisha Renee	Department of Energy and Environment 1200 First Street, NE, 5th Floor	20002
Massey	Anna M.	Sandy Spring Bank 1146 19th Street, NW	20036
Matias Jr.	Jerson	Office of Personnel Management 1900 E Street, NW	20415
McCabe	Meredith	The Law Office of Giannina Lynn 1008 Pennsylvania Avenue, SE	20003
McCauley	Trenell A.	Omidyar Network 1200 17th Street, NW, Suite 500	20036
McGaskey	Shenella	Western Presbyterian Church 2401 Virginia Avenue, NW	20037

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Mckenzie	Marcus	DC Water & Sewer Authority 5000 Overlook Avenue, SW	20032
Mengiste	Elebat T.	Citibank 5250 MacArthur Boulevard, NW	20016
Mercedes Baird	Kilsy D.	Cooley, LLP 1299 Pennsylvania Avenue, NW, Suite 700	20004
Moon	Jeesun	International City/County Management Association 777 North Capitol Street, NE, Suite 500	20002
Moore	Teali	DC Housing Authority 1133 North Capitol Street, NE	20002
Murrell	Travis Anthony	Self (Dual) 3811 W Street, SE, Unit A	20020
Negash	Fetlework	Kia Travel&Business, LLP 1328 U Street, Suite #2W	20009
Ninat	Alheri A.	Self 4817 1st Street, SW, Unit A	20032
O'Leary	Judith Ramos	Sanabria and Associates 100 M Street, SE, Suite 600	20003
Oliver	Shizua	Self 5029 13th Place, NE	20017
Olney	Elizabeth J.	Mckinsey & Company 1200 19th Street, NW, Suite 1000	20036
Parker	Pamela G.	Wilson Sonsini Goodrich & Rosati 1700 K Street, NW, 5th Floor	20006
Patel	Dhelni	Paragon Title & Escrow Company 1410 Q Street, NW	20009
Payton	Valerie E.	Guerrieri, Bartos & Roma, PC 1900 M Street, NW, Suite 700	20036

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Pilsbury	Matthew C.	Self 3801 Macomb Street, NW, #3	20016
Pratt	Philip A.	Child and Family Services Agency 200 I Street, SE	20003
Quildon	Rena L.	DC Housing Authority 1133 North Capitol Street, NE	20002
Reynolds	Catherine	Stagwell Group 1700 K Street, NW	20006
Rice	Kuron Wyndie	Self 1601 Fairlawn Avenue, SE	20020
Rich	L. Lola	Foley & Lardner, LLP 3000 K Street, NW, Suite 600	20007
Richardson	Megan	Medstar Georgetown University Hospital 3800 Reservoir Road, NW	20007
Richardson	Tyler Erique	Capital One 4860 Massachusetts Avenue, NW	20016
Robinson	Alicia	DC Housing Authority 1133 North Capitol Street, NE	20002
Rodgers	Sheila M.	Boys Town Washington DC 4801 Sargent Road, NE	20017
Rothwell	Joy D.	Ankura (formerly ARPC) 1220 19th Street, NW, Suite 700	20036
Rutledge	Mary A.	Crowell & Moring, LLP 1001 Pennsylvania Avenue, NW	20004
Saintvil	James D.	Self 770 P Street, NW, Apartment 933	20001
Sanders	Toni N.	Self (Dual) 5210 E Street, SE, Apartment 7	20019
Santana	Kimberly A.	Vanda Pharmaceuticals, Inc 2200 Pennsylvania Avenue, NW, Suite 300E	20037

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Sawyer	Jacquelyn	NIH Federal Credit Union 2200 Pennsylvania Avenue, NW	20037
Seawright	Tina M.	Michael Best & Friedrich, LLP 601 Pennsylvania Avenue, NW, Suite 700	20004
Severson	Helen I.	D.C Office of Disciplinary Counsel 515 5th Street, NW, Room 117, Building A	20001
Sharp	Leyhbert Millan	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Siegall	Brigitte Tan	Travel The World Visas, Inc 1930 18th Street, NW, Unit #1	20009
Simion Apostol	Alina Norika	Signal Financial Federal Credit Union 1101 New York Avenue, NW	20005
Spuril	Keona K.	Self 2347 11th Street, NW	20001
Stroud	Charlene	DC Housing Authority 1133 North Capitol Street, NE	20002
Sultzer	Timothy	American Enterprise Institute 1789 Massachusetts Avenue, NW	20036
Taylor	Antoinette	Federal Bureau Of Prisons 320 First Street, NW	20534
Taylor	Joy	Title Forward 2001 S Street, NW, Suite 400	20009
Taylor	Karen R.	DC Water & Sewer Authority 80 M Street, SE, Suite 720	20003
Terry	Tiffany N.	Washington Hospital Center 110 Irving Street, NW	20010
Thornton	Leea J.	Department of Housing and Urban Development 451 7th Street, SW	20410



**D.C. Office of the Secretary  
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Troyano	Thomas E.	Tom Troyano Insurance Agency 3704 Macomb Street, NW, Suite 1	20016
Valencia	Leyla C.	DC Housing Authority 1133 North Capitol Street, NE	20002
Vastola	James J.	Federal Emergency Management Agency 500 C Street, SW, 8th Floor	20472
Walker	Keanee	Thycotic Software 1101 17th Street, NW, Suite 1102	20036
Washington	Sheila E.	US Department of Labor 200 Constitution Avenue, NW, N3419	20210
Welch Jr	Dewey L.	The Business Roundtable, Inc 300 New Jersey Avenue, NW, Suite 800	20001
Westfield	Angelo	Department of Youth Rehabilitation Services 450 H Street, NW	20001
Wiggins	Elizabeth Lynne Ellis	Crowell & Moring, LLP  1001 Pennsylvania Avenue, NW	20004
Young	Karen Ann	Medstar Georgetown University Hospital 3800 Reservoir Road, NW	20007
Zongo	Deborah L.	TD Bank 1275 First Street, NE	20002

## DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

*REVISED* NOTICE OF FUNDING AVAILABILITY (NOFA)

## CLEAN TEAM GRANTS

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to manage a **DC Clean Team Program** (“the Program”) in four service areas (listed below). This revised NOFA includes eligibility review and correction criteria. **The submission deadline is Thursday, July 19, 2018, 5:00 PM.**

Through this grant, DSLBD will fund clean teams, which will achieve the following objectives.

- Improve commercial district appearance to help increase foot traffic, and consequently, opportunity for customer sales.
- Provide jobs for DC residents.
- Reduce litter, graffiti, and posters, which contribute to the perception of an unsafe commercial area.
- Maintain a healthy tree canopy, including landscaping, along the corridor.
- Support Sustainable DC goals by recycling, mulching street trees, using eco-friendly supplies, and reducing stormwater pollution generated by DC’s commercial districts.

Eligible applicants are nonprofit organizations which are incorporated in the District of Columbia. All applicants must be current on all taxes. Applicants should have a demonstrated capacity with the following areas of expertise.

- Providing clean team services or related services to commercial districts or public spaces.
- Providing job-training services to its employees.
- Providing social support services to its Clean Team employees.

DSLBD will **award** one grant for **each** of the following **service areas** (i.e., a total of two grants). The size of grant is noted for each district.

- Bladensburg Road, NE - \$100,000.00
- Fort Lincoln Drive, NE - \$100,000.00
- Minnesota Avenue, NE - \$ 104,982.00
- South Dakota Avenue NE - \$100,000.00

The **grant performance period** to deliver clean team services is October 1, 2018 through September 30, 2019. Grants may be renewed for a second performance period of October 1, 2019 through September 30, 2020.

The **Request for Application** (RFA) includes a detailed description of clean team services, service area boundaries, and selection criteria. DSLBD will post the revised RFA on or before **Monday, July 9, 2018** at [www.dslbd.dc.gov](http://www.dslbd.dc.gov). Click on the *Our Programs* tab, then *Neighborhood Revitalization*, and then *Solicitations and Opportunities* on the left navigation column.

The online application will be available on or before **Thursday, June 14, 2018**. To open an application, applicants must complete and submit an **Expression of Interest** via the website address included in the Request for Applications. DSLBD will activate their online access within two business days and notify them via email.

DSLBD held a **pre-application meeting on Friday, June 22 at 2:00 PM** at 441 4<sup>th</sup> Street, NW, Washington, DC 20001, Room 805 South.

**Application Process:** Interested applicants must complete an online application on or before **Thursday July 19, 2018 at 5:00 PM**. DSLBD will not accept applications submitted via hand delivery, mail or courier service. **Late submissions and incomplete applications will not be forwarded to the review panel.**

**Eligibility Review and Correction:** After **July 16, 12:00 PM**, DSLBD will review applications to confirm if the Applicants meet the eligibility requirements listed in Section V of this document. If an Applicant Organization's eligibility requirement responses are incomplete, DSLBD will notify the Applicant's point of contact by **July 17, 2018**, which gives applicants 2 *business days* to upload any missing documents.

**Selection Criteria** for applications will include the following criteria.

- Applicant Organization's demonstrated capacity to provide clean team or related services, and managing grant funds.
- Proposed service delivery plan for basic clean team services.
- Proposed service delivery plan for additional clean team services.

**Selection Process:** DSLBD will select grant recipients through a competitive application process that will assess the Applicant's eligibility, experience, capacity, service delivery plan, and budget. Applicants may apply for one or more service areas by noting the number of service areas for which the applicant would like to be considered. DSLBD will determine grant award selection and notify all applicants of their status via email on or before **Tuesday, July 31, 2018**.

**Funding for this award is contingent on continued funding** from the DC Council. The RFA does not commit the Agency to make an award. DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

All applicants must attest to executing a DSLBD grant agreement as issued (sample document will be provided in online application) and to starting services on October 1, 2018.

For more information, contact Saba Fassil at the Department of Small and Local Business Development at [saba.fassil2@dc.gov](mailto:saba.fassil2@dc.gov).

**THE NEXT STEP PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Data Management Services**

The Next Step Public Charter School Solicits Proposals for Data Management Services for the 2018-2019 school year (July 1, 2018 – June 30, 2019).

The Request for Proposals (RFP) specifications such as scope and responsibilities can be obtained on Wednesday, July 20, 2018 from Taunya Melvin, TNSPCS Chief Operations Officer via email listed below.

**Bids must be received by Monday, August 20, 2018 midnight (EST) at the email address listed below. Any bids not addressing all areas as outlined in the Data Management Services (RFP) will not be considered.**

**SUBMITT BIDS** electronically to: [rfp@nextsteppcs.org](mailto:rfp@nextsteppcs.org)

**THE NEXT STEP PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Information Technology Services**

The Next Step Public Charter School Solicits Proposals for Information Technology Services for the 2018-2019 school year (July 1, 2018 – June 30, 2019).

The Request for Proposals (RFP) specifications such as scope and responsibilities can be obtained on Wednesday, July 20, 2018 from Taunya Melvin, TNSPCS Chief Operations Officer via email listed below.

**Bids must be received by Monday, August 20, 2018 midnight (EST) at the email address listed below. Any bids not addressing all areas as outlined in the Information Technology Services (RFP) will not be considered.**

**SUBMITT BIDS** electronically to: [rfp@nextsteppcs.org](mailto:rfp@nextsteppcs.org)

**THE NEXT STEP PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****School Security/Safety Services**

The Next Step Public Charter School Solicits Proposals for School Security/ Safety Services for the 2018-2019 school year (July 1, 2018 – June 30, 2019).

The Request for Proposals (RFP) specifications such as scope and responsibilities can be obtained on Wednesday, July 20, 2018 from Taunya Melvin, TNSPCS Chief Operations Officer via email listed below.

**Bids must be received by Monday, August 20, 2018 midnight (EST) at the email address listed below. Any bids not addressing all areas as outlined in the School Security/Safety Services (RFP) will not be considered.**

**SUBMITT BIDS** electronically to: [rfp@nextsteppcs.org](mailto:rfp@nextsteppcs.org)

**DISTRICT DEPARTMENT OF TRANSPORTATION****POSTPONEMENT OF MEETING NOTICE:  
PUBLIC SPACE COMMITTEE**

Please be advised that the monthly Public Space Committee meeting, scheduled for Thursday, July 26, 2018, at 9 a.m., has been postponed.

**The rescheduled July meeting will be held on Thursday, August 2, 2018, at 9 a.m.**

Be advised that the August meeting will be held as scheduled on Thursday, August 23, 2018, at 9 a.m. at 1100 4<sup>th</sup> Street SW, 2<sup>nd</sup> Floor Hearing Room.

For questions or additional information regarding this notice, please feel free to contact the Customer Relations Branch with the Public Space Regulation Division at (202) 442-4670.

**WASHINGTON LATIN PUBLIC CHARTER SCHOOL**  
**REQUEST FOR PROPOSALS**

Issued: July 20, 2018

The Washington Latin Public Charter School solicits expressions of interest in the form of proposals with references from qualified vendors for personal training services.

Questions and proposals may be e-mailed to [gizurieta@latinpcs.org](mailto:gizurieta@latinpcs.org) with the type of service in the subject line. Deadline for submissions is **COB July 27, 2018**. No phone calls please.

E-mail is the preferred method for responding but you can also mail (must arrive by deadline) proposals and supporting documents to the following address:

Washington Latin Public Charter School  
Attn: Finance Office  
5200 2<sup>nd</sup> Street NW  
Washington, DC 20011



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 19386-A of IREI 22<sup>nd</sup> Street, LLC**, as amended, pursuant to 11 DCMR Subtitle X, Chapter 10, for a variance from the lot width and area requirements of Subtitle D § 302.1, and a variance from the side yard requirements of Subtitle D § 307.1, to construct a new one-family dwelling in the R-1-B Zone at premises 3702 22nd Street, N.E. (Square 4226, Lot 42).

**HEARING DATES:** December 14, 2016, January 11, 2017, February 22, 2017<sup>1</sup>  
**DECISION DATE:** March 1, 2017

**CORRECTED<sup>2</sup> DECISION AND ORDER**

On October 5, 2016, IREI 22<sup>nd</sup> Street, LLC the property owner of the subject premises (the “Owner” or the “Applicant”) submitted an application for special exception relief to allow the construction of a new one-family dwelling located at premises 3702 22nd Street N.E. (Square 4226, Lot 42). (Exhibit 1.) However, the Applicant revised the application to request variances as noted in the caption above. (Exhibit 30.) For the reasons explained below, the Board of Zoning Adjustment (the “Board” or “BZA”) voted to approve the application on March 1, 2017, after the public hearing was completed on February 22, 2017 and based on additional materials submitted to the file on February 28, 2017.

**PRELIMINARY MATTERS**

Notice of Application and Notice of Public Hearing. By memoranda dated October 18, 2016, the Office of Zoning sent notice of the application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Councilmember for Ward 5; Advisory Neighborhood Commission (“ANC”) 5C, the ANC for the area within which the subject property is located; and the single-member district ANC 5C-01. Pursuant to 11-Y DCMR § 402.1, on August 31, 2017, the Office of Zoning mailed notice of the hearings to the Applicant, ANC 5C, and the owners of all property within 200 feet of the subject property. Notice was published in the *D.C. Register* on October 21, 2016 (63 DCR 44).

ANC Report. ANC 5C, an automatic party to this proceeding, submitted three reports regarding the application. The first report was submitted on November 15, 2016, by the Single Member

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<sup>1</sup> The application was originally scheduled for public hearing on December 14, 2016. The hearing was postponed to January 11, 2017 and continued to February 22, 2017.

<sup>2</sup> This order is issued to correct the exhibit number for the approved plans inadvertently cited as Exhibit 51 in BZA Order No. 19386 at p. 9, issued on April 18, 2018. The correct plans approved by the Board are at Exhibit **62**. In all other respects, this order remains the same as Order No. 19386.

District Commissioner, requesting a postponement of the hearing. The second report was an official report from the ANC, submitted on January 4, 2016. The second report indicated that, at a regularly scheduled monthly meeting with a quorum present, the ANC voted 6-0-1 to recommend denial. The third report also indicated that, at a regularly scheduled monthly meeting with a quorum present, the ANC voted 6-0-1 to recommend denial.

OP Report. In its memoranda dated December 2, 2016, OP recommended approval of the requested relief. The OP report states that the subject property is impacted by exceptional conditions in that the lots in this square were created prior to the adoption of the current zoning regulations and that requiring eight-foot setbacks would result in a seven-foot wide<sup>3</sup> house which would severely limit the available living space within the structure. The report also states that relief would not be a substantial detriment on the public good, nor would it be a substantial harm to the zoning regulations. At the hearing, OP testified that they would also support variance relief from the minimum lot width and lot area requirements.

DDOT Report. By memoranda dated December 2, 2016, DDOT indicated it had no objection to the approval of the application, noting that the proposal will have no adverse impacts on travel conditions of the District's transportation network.

Request for Party Status. There were no requests for party status.

Persons in Support/Opposition. The Board received a letter in opposition from Andrea Deadwyler, the adjacent neighbor at 3704 22<sup>nd</sup> Street, N.E. Ms. Deadwyler and her husband opposed the project because they did not believe that a side yard of three feet and five inches was enough space between the proposed dwelling and their dwelling. On December 20, 2016, the Board received a letter in opposition from Nicole Stevens, the adjacent neighbor at 3700 22<sup>nd</sup> Street, N.E. Both the Deadwylers and Ms. Stevens testified in opposition at the hearings on January 11, 2017 and February 22, 2017. The primary concerns of the adjacent neighbors were related to potential property damage from construction.

Robert Corletta and Councilmember Kenyan McDuffie submitted letters in opposition. At the hearing, Annette Scruggs, Valerie Boykin-Pair, and Enoch Thompson testified in opposition. The testimony in opposition focused primarily on concerns regarding the changing character of the neighborhood.

Sarah and Matthew Canzoneri and Jim Cronenburg submitted letters in support.

Applicant's Case. The Applicant provided evidence and testimony from Paul Deverger and Sam Cheng, Principals of IREI 22<sup>nd</sup> Street, LLC, the owner of the subject property. The Applicant also provided evidence and testimony from Charles Warren, a Principal of Teass/Warren

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<sup>3</sup> This was a typographical error in the OP report. Such a requirement would result in a nine-foot wide dwelling.

Architects. The evidence and testimony described how the proposed project met the burden of proof for the requested variance relief.

## **FINDINGS OF FACT**

### **The Subject Property and Nearby Properties**

1. The subject property is located at 3702 22<sup>nd</sup> Street, N.E. (Square 4226, Lot 42).
2. The subject property is a rectangular parcel measuring 2,500 square feet in land area and 25 feet in width.
3. The subject property is located in the R-1-B Zone District.
4. The subject property is currently unimproved.
5. Abutting the subject property to the north and south are one-family dwellings.
6. Abutting the subject property to the east and west are 22<sup>nd</sup> Street, N.E. and a public alley, respectively.
7. The majority of the properties in the area have substandard side yard setbacks.
8. The subject property was created prior to the adoption of the 1958 Zoning Regulations.

### **The BZA Application and Proceedings**

9. The BZA Application was submitted on October 5, 2016 under the 2016 Zoning Regulations as an application for special exception relief from the side yard setback requirements of 11-D DCMR § 307.1.
10. On November 14, 2016, the Application was revised to seek variance relief (in lieu of the special exception) and to include relief from the minimum lot dimensions of 11-D DCMR § 302.1. The Office of the Attorney General informed the Applicant that it would be required to request relief from 11-D DCMR § 302.1, so out of an abundance of caution, the Applicant requested relief from that requirement, as well. OP found that this relief was not necessary as it only applies to new lots, not existing lots.
11. The original hearing was scheduled for December 14, 2016. Prior to the hearing, on November 15, 2016, the Single Member District Commissioner for ANC 5C-01, Gail Brevard, requested that the hearing be postponed.

12. On December 2, 2016, the Office of Planning submitted a report granting approval to the request of side yard setback relief.
13. On December 7, 2016, John and Andrea Deadwyler, the adjacent neighbors to the north at 3704 22<sup>nd</sup> Street, N.E., submitted a letter in opposition.
14. At the scheduled hearing on December 14, 2016, the Board postponed the hearing to January 11, 2017.
15. Nicole Stevens, the adjacent neighbor to the south at 3700 22<sup>nd</sup> Street, N.E., submitted a letter in opposition on December 20, 2016.
16. The ANC submitted its report on January 4, 2017.
17. The Applicant submitted photographs of the tree stumps on the property and the surrounding area on January 4, 2017.
18. The hearing took place on January 11, 2017. The Board continued the hearing to February 22, 2017 and requested that the Applicant provide additional materials to the record.
19. The Applicant submitted updated plans and elevations on January 12, 2017.
20. Bartlett Tree Experts submitted comments to the record on January 13, 2017.
21. On February 14, 2017, the Applicant submitted a draft Construction Management Agreement, a Tree Removal Permit, and a set of revised plans and elevations.
22. On February 16, 2017, Ms. Stevens and Mr. and Mrs. Deadwyler submitted a joint petition in opposition.
23. The ANC submitted a third report, recommending denial of the requested relief 6-0-1.
24. After the continued hearing on February 22, 2017 the Applicant submitted an updated Construction Management Agreement, Revised Architectural Plans, and a Revised Self-Certification. (Exhibits 61-64.) The revised plans reflected the Board's request that the Applicant provide four-foot side yards instead of the originally proposed three-and-a-half-foot side yards.

### **The Requested Zoning Relief**

25. The proposed project will provide two, four-foot side yards.<sup>4</sup> Pursuant to 11-D DCMR § 307.1, a detached structure in the R-1-B Zone is required to provide a side yard of eight feet.

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<sup>4</sup> Originally requested relief for two, three and a half-foot side yards.

26. Accordingly, the Applicant requested a variance from the minimum side yard requirements of 11-D DCMR § 307.1.
27. The subject property is impacted by an exceptional condition and situation because it is an existing lot measuring 25 feet in width and 2,500 square feet in land area, constructed prior to the adoption of the 1958 Zoning Regulations.
28. Because it is an existing lot, there is no opportunity to meet the zoning regulations pertaining to minimum lot area or lot width.
29. If the Zoning Regulations were strictly applied, the Applicant would face a practical difficulty, because it would be required to provide two, eight-foot side yards, which would result in a dwelling measuring nine feet in width.
30. A dwelling measuring nine feet in width is not feasible, as it would severely limit the available living space within the structure.
31. The building to the south, at 3700 22<sup>nd</sup> Street, N.E., is approximately six feet from the shared lot line.
32. The building to the north, at 3704 22<sup>nd</sup> Street, N.E. is approximately 12 feet from the shared lot line.
33. The new structure will not cause any undue shadow on the adjacent properties.
34. The new structure will not impact airflow to the adjacent properties.
35. The proposed project will be consistent with the District objectives to provide opportunities for infill housing where appropriate while maintaining neighborhood development patterns.
36. The Regulations are intended to make the city livable for households of various sizes, and the proposed project would allow a one-family dwelling similar to other dwellings in the neighborhood.

## CONCLUSIONS OF LAW AND OPINION

The Board is authorized to grant variances from the strict application of the Zoning Regulations where “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property. . . or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,” the strict application of any zoning regulation “would result in peculiar and exceptional practical difficulties to or exceptional

and undue hardship upon the owner of the property.. ." D.C. Official Code 6-641.07(g)(3) (2008 Supp.); (11-X DCMR § 1002.)

A showing of "practical difficulties" must be made for an area variance, while the more difficult showing of "undue hardship" must be made for a use variance. *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972). The Applicant in this case is requesting area variances; therefore, it had to demonstrate an exceptional situation or condition of the property and that such exceptional condition results in a practical difficulty in complying with the Zoning Regulations. Lastly, the Applicant had to show that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map." (11-X DCMR § 1002.)

The "exceptional situation or condition" of a property can arise out of "events extraneous to the land," including the zoning history of the property. See, e.g. *De Azcarate v. Board of Zoning Adjustment*, 388 A.2d 1233, 1237 (D.C. 1978), and see *Monaco v. Board of Zoning Adjustment*, 407 A.2d 1091, 1097, and 1098 (D.C. 1979). See also *BZA Order No. 17264* (2005). The "exceptional situation or condition" can also arise out of the structures existing on the property itself. See, e.g., *Clerics of St. Viator v. D.C. Board of Zoning Adjustment*, 320 A.2d 291, 293-294 (D.C. 1974).

In order to prove "practical difficulties," an applicant must demonstrate first that compliance with the area restriction would be unnecessarily burdensome; and, second, that the practical difficulties are unique to the particular property. See *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 164, 170 (D.C. 1990).

### **Exceptional Situation Resulting in a Practical Difficulty**

As detailed in the Findings of Fact, the Board finds that the property faces an exceptional condition and situation in that the lot is only 25 feet wide, has only 2,500 square feet of land area, and it was created prior to the adoption of the 1958 Zoning Regulations. Due to the width of the lot, it would be practically difficult to provide a matter-of-right project, as providing two eight-foot side yards would result in a dwelling that is nine feet in width. A dwelling of that width is not feasible. Further, there is no opportunity to meet the minimum lot width and lot area requirements, as the lot was constructed prior to the adoption of the 1958 Zoning Regulations. Commissioner Rob Miller requested that the Applicant provide information on the difficulty of providing a building less than 17 feet wide. The Applicant testified that a 16-foot-wide dwelling would be out of context with the neighborhood, and a width of less than 17 feet would impact the layout of the dwelling, including the location of bathrooms and hallways. A width of less than 17 feet would force the building to extend back further than was originally proposed and would therefore impact the Applicant's ability to provide a compliant rear yard setback.

### **No Substantial Detriment to the Public Good**

The Board concludes that the requested variance can be granted without substantial detriment to the public good. As detailed in the findings of fact, the new structure would not cause undue shadow on the adjacent properties or greatly impact airflow. The property to the south has a six-foot side yard and the property to the north is approximately 12 feet from the shared property line. Further, the proposed project is consistent with District objectives to provide opportunities for infill housing where appropriate while maintaining neighborhood development patterns. The Applicant also agreed to work with the adjacent neighbors regarding window location on the north and south façades of the proposed building to mitigate any concerns regarding privacy. The Applicant also made significant efforts to satisfy concerns over the impacts of construction in Construction Management Agreements submitted to the record.

### **No Substantial Impairment to the Zoning Regulations**

The Board concludes that the requested variances can be granted without substantial impairment to the Zoning Regulations. As detailed in the findings of fact, the regulations are intended to make the city livable for households of various sizes. The requested relief would allow a single-family household similar to other houses in the neighborhood. The majority of the houses on this block do not meet the minimum side yard setback requirements of the R-1-B Zone.

### **ANC Great Weight**

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns raised in the written report of the affected ANC, which in this case is ANC 5C. To satisfy the great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).

In submissions to the record and at the hearings, the ANC and the persons in opposition raised the following concerns: (1) the owner had not met its burden of proof; (2) the proposed project is not in character with the neighborhood; (3) the proposed relief infringes on the adjacent neighbor’s property rights; (4) construction and excavation; (5) increased noise; and (6) tree removal.

#### **1. Burden of Proof**

As discussed below and in the findings of fact, the Applicant has met its burden of proof to show that, due to an exceptional situation or condition of the property, a strict application of the zoning

regulations would result in a practical difficulty to the Applicant. Ms. Stevens alleged that the hardship was self-imposed. However, the Board disagrees with that assertion, as the lot existed prior to the adoption of the zoning regulations. Any purchaser of the property would be in the same position as the Applicant.

## 2. Character of the Neighborhood

In her submission in Exhibit 41, Ms. Stevens alleges that the proposed project is “incompatible with the surrounding properties and will detract from the livability and character of the surrounding properties.” The Board finds that the proposed project is in character with the neighborhood, which has a mixture of semi-detached and detached dwellings, few - if any - of which meet the minimum required side yard setback of eight feet.

## 3. Adjacent Neighbor’s Property Rights

Ms. Stevens also states that “the potential cost to the neighborhood is an infringement of property rights for all surrounding properties, specifically my property to the south and the property of my neighbors to the north. If this exemption is granted, neither my neighbors nor I will be able to build any additions without also getting an exemption for ourselves as we remain subject to the eight-foot side yard requirement.” The Board finds that granting a variance request for the subject property will not impact the adjacent neighbors’ abilities to construct additions. The adjacent properties are subject to the side yard setback requirements of the R-1-B Zone regardless of whether the relief is granted for the subject property.

## 4. Construction and Excavation

Both neighbors and the ANC raised concerns over potential damage caused by construction and excavation. The majority of the testimony at the hearing focused on the potential impacts of construction. While it is not within the Board’s jurisdiction to review potential construction issues, the Applicant drafted and submitted several Construction Management Agreements (“CMAs”) in a show of good faith. (Exhibit 63.)

## 5. Noise

The adjacent neighbors had concerns regarding noise from potential residents of the proposed project, finding that three and a half feet was not enough of a buffer. The Board requested that the Applicant provide an additional six inches of side yard on either side of the proposed project. A four-foot side yard would provide at least 10 feet of distance between the proposed structure and the structure to the south, and 16 feet of distance between the proposed structure and the structure to the north. This distance is significantly more than the distances between other buildings in this area. The Board finds that the distance (four-foot side yards) was sufficient because this distance is significantly more than that distance between other buildings in this area.



## 6. Tree Removal

The parties in opposition also addressed concerns over tree removal, specifically, the fact that Applicant removed a large tree without a permit. The Applicant then received a permit after the fact, and paid an \$8,500 fine to the City Tree Fund to remedy the premature removal of the tree. In any event, the Applicant's compliance with the requirement to obtain a tree removal permit is not in and of itself relevant to the Board. Only if the removal of the tree would have an adverse impact on adjacent properties would its removal be relevant, and that would be true whether or not a permit was obtained. The record reflects no potential for such an impact.

## CONCLUSION

Based on the case record, the testimony at the hearing, and the findings of fact and conclusions of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for variance relief from the minimum lot area and lot width requirements of 11-D DCMR § 307.1 and the minimum side yard requirements of 11-D DCMR § 307.1, to allow for the construction of a new one-family dwelling on the property located at 3702 22<sup>nd</sup> Street, N.E. Accordingly, it is **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 62 – REVISED ARCHITECTURAL PLANS AND ELEVATIONS.**

**VOTE: 3-1-1** (Frederick L. Hill, Carlton E. Hart, and Lesylleé M. White to APPROVE; Robert E. Miller to deny; 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:** July 6, 2018

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

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PAGE NO. 9

§ 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.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**NOTICE OF FILING**  
**Z.C. Case No. 18-10**  
**(High Street, LLC – Map Amendment @ Square 5799)**  
**July 3, 2018**

**THIS CASE IS OF INTEREST TO ANC 8A**

On June 27, 2018, the Office of Zoning received a petition from High Street, LLC (“Petitioner”) for approval of a map amendment for the above-referenced property.

The property that is the subject of this petition consists of Lot 976 in Square 5799 in southeast Washington, D.C. (Ward 8), on property located at 2359 High Street, S.E. The property is currently zoned R-3. The Petitioner is proposing a map amendment to rezone the property to RA-2.

The purpose of the R-3 zone is to allow for row dwellings, while including areas within which row dwelling are mingled with detached dwellings, semi-attached dwellings, and groups of three or more row dwellings. It is intended to permit attached rowhouses on small lots. The R-3 zone allows a maximum height of 40 feet (three stories)<sup>1</sup>; maximum lot occupancy of 60% (for residential units, 40% for all other structures); and has minimum lot width and area requirements.

The purpose of the RA-2 zone is to permit flexibility of design by permitting all types of residential development if they conform to the height, density, and area requirements established for these zones; and to permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive residential zones. The RA-2 zone provides for areas developed with predominately moderate-density residential buildings. The RA-2 zone allows a maximum height of 50 feet<sup>2</sup>; maximum lot occupancy of 60%; and a maximum density of 1.8 floor area ratio (“FAR”).

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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<sup>1</sup> Institutional buildings may be built to a height of 90 feet, provided the required setback is maintained.

<sup>2</sup> Places of worship may be built to a height of 60 feet (three stories) and institutional buildings may be built to 90 feet, provided the required setback is maintained.

**Government of the District of Columbia  
Public Employee Relations Board**

<hr/>		)	
In the Matter of:		)	
		)	
American Federation of		)	
Government Employees, Local 3721		)	
		)	
Petitioner		)	PERB Case No. 17-N-03
		)	
v.		)	Opinion No. 1658
		)	
Department of Fire and Emergency		)	
Medical Services		)	
		)	
Respondent		)	
<hr/>		)	

**DECISION AND ORDER**

**I. Statement of the Case**

On April 10, 2017, the American Federation of Government Employees, Local 3721 (“Union”) filed the instant Negotiability Appeal (“Appeal”). The Appeal concerns two proposals made by the Union and declared nonnegotiable by the Department of Fire and Emergency Medical Services (“Department”). The Union and the Department are negotiating a successor collective bargaining agreement concerning non-compensation terms and conditions of employment.

The Union transmitted its proposals to the Department on July 8, 2016.<sup>1</sup> In an email on March 7, 2017, the Department declared two of the Union’s proposed articles related to impasse procedures and mid-term bargaining nonnegotiable and outside of the scope of bargaining.<sup>2</sup>

The Union timely filed the instant Appeal, asserting that the two proposed articles were negotiable, and requested that the Board order the Department to immediately commence negotiations with the Union over each of the contested articles.<sup>3</sup> In “Respondent’s Answer to the Negotiability Appeal” (“Answer”) filed on April 25, 2017, the Department withdrew its non-negotiability declarations with respect to two clauses of the Union’s “Existing Rights and Benefits” proposal and eight clauses of the “Union Initiated Midterm Bargaining” proposal.<sup>4</sup>

<sup>1</sup> Appeal at 1.

<sup>2</sup> Appeal at 3; Appeal, Exhibit 1.

<sup>3</sup> Appeal at 2.

<sup>4</sup> Answer at 1.

Decision and Order  
PERB Case No. 17-N-03  
Page 2

The Department reasserted the non-negotiability of the remaining four clauses and responded to arguments made by the Union in its Appeal.

The Union's Appeal and the Department's Answer are before the Board for disposition. For reasons stated herein, the Board concludes that both proposals are negotiable.

## II. Standard of Review

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.<sup>5</sup> A permissive subject of bargaining is nonnegotiable if either party declines to bargain on the subject.<sup>6</sup>

Management rights are permissive subjects of bargaining.<sup>7</sup> 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.<sup>8</sup>

Matters that do not contravene section 1-617.08(a) or other provisions of the Comprehensive Merit Personnel Act ("CMPA") are negotiable.<sup>9</sup> 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.<sup>10</sup>

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's jurisdiction to decide such questions is invoked by the party presenting a proposal that has been declared nonnegotiable by the party responding to the proposal.<sup>11</sup> The Board will separately consider the negotiability of each of the matters in a dispute.<sup>12</sup>

## III. Analysis

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<sup>5</sup> *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)).

<sup>6</sup> *Univ. of D.C. Faculty Ass'n v. Univ. of D.C.*, 64 D.C. Reg. 5132, Slip Op. 1617 at 2, PERB Case No. 16-N-01 (2017).

<sup>7</sup> *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).

<sup>8</sup> D.C. Official Code § 1-617.08(a).

<sup>9</sup> *Univ. of D.C. Faculty Ass'n*, Slip Op. 1617 at 2.

<sup>10</sup> D.C. Official Code § 1-617.08(b).

<sup>11</sup> *Fraternal Order of Police/Protective Serv. Police Dep't Labor Comm. v. Dep't of Gen. Serv.*, 62 D.C. Reg. 16505, Slip Op. 1551 at 1, PERB Case No. 15-N-04 (2015).

<sup>12</sup> *Univ. of D.C. Faculty Ass'n*, Slip Op. 1617 at 2-3.

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PERB Case No. 17-N-03  
Page 3

At issue are the following proposals: an unnumbered article regarding Existing Rights and Benefits and an unnumbered article regarding Union Initiated Midterm Bargaining.<sup>13</sup> The Union's proposals that were declared nonnegotiable by the Department are set forth below. The proposals are followed by: the Department's arguments in support of non-negotiability; the Union's arguments in support of negotiability; and the conclusion of the Board.

A. Existing Rights and Benefits

ARTICLE [ ] –EXISTING RIGHTS AND BENEFITS

All terms and conditions of employment not covered by the terms of this Agreement continue to be enforced in the event either party wishes to extinguish or modify the practices within the parties, notice and bargaining is required; provided that if the Agency desires to institute a change that impacts upon a term(s) or condition(s) of employment, the following procedure shall apply:

3. If the parties reach impasse, the parties may jointly request the assistance of a third-party to resolve the impasse, through mediation, fact-finding or other mutually agreeable process. Either party may invoke "last best offer" item by item interest arbitration within a reasonable period after reaching impasse.
4. Should an arbitrator's award issue pursuant to the terms of this Article, the arbitrator's award shall be final and binding on both parties, and, at the arbitrator's direction, may be retroactive.
5. No changes shall take effect until after all bargaining including impasse proceedings.

**Department:** The Department argues that the Union's proposal is nonnegotiable because it would require that the implementation of a management right be subject to impasse proceedings.<sup>14</sup> The Department further notes that the fifth clause is nonnegotiable pursuant to PERB Case 17-I-03, Slip Opinion 1612, which held that impacts and effects bargaining can never reach impasse and therefore, does not qualify for PERB impasse resolution procedures.<sup>15</sup> The Department also challenges the Union's argument that the parties may seek impasse resolution outside of PERB.<sup>16</sup> The Department contends that it is subject to PERB's jurisdiction and cannot circumvent the CMPA in matters related to collective bargaining.<sup>17</sup>

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<sup>13</sup> Appeal at 6.

<sup>14</sup> Answer at 3.

<sup>15</sup> Answer at 6.

<sup>16</sup> Answer at 7.

<sup>17</sup> Answer at 7.

Decision and Order  
PERB Case No. 17-N-03  
Page 4

**Union:** The Union argues that the Department's non-negotiability declaration fails to assert a basis for declaring part 3 and 4 of the proposal nonnegotiable.<sup>18</sup> The Union states that contrary to the Department's argument, part 3 and 4 of the Article does not relate to "whether the Department may implement a change to employee working conditions prior to the completion of impact and effects bargaining."<sup>19</sup> As to part 5, the Union contends that longstanding PERB jurisprudence supports its position that bargaining must take place before implementation of any changes to employee working conditions.<sup>20</sup> The Union cites to *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*<sup>21</sup> and *District of Columbia Nurses Association v. Department of Mental Health*,<sup>22</sup> wherein the Board held that upon request, management was required to engage in impact and effects bargaining prior to implementing a change to a management right.<sup>23</sup> Therefore, the Union argues, part 5 of the proposal is negotiable because commencing impact and effects negotiations before implementing a change in employee working conditions is required by D.C. Official Code § 1-617.04(a)(1) and (5).<sup>24</sup> The Union counters the Department's argument that the proposal defies the Board's holding in PERB Case No. 17-I-03. The Union asserts that PERB Case No. 17-I-03 did not address whether parties must complete negotiations prior to implementation of a change to employee working conditions.<sup>25</sup> Instead, the Union argues that in PERB Case No. 17-I-03 the Board's decision was limited to whether impasse procedures under the D.C. Official Code and PERB rules apply to impact and effects negotiations.<sup>26</sup> Further, the Union contends PERB Case No. 17-I-03 is not implicated in its proposal because the Article does not propose that the parties use impasse procedures under the D.C. Official Code or PERB rules.<sup>27</sup>

**Board:** The Board finds that this article concerns a mandatory subject of bargaining. The Union's proposal does not impact management rights listed in D.C. Official Code § 1-617.08(a). Additionally, the proposal does not contravene the Board's opinion in PERB Case No. 17-I-03 or PERB Rule 527. In PERB Case No. 17-I-03, Slip Opinion 1612, the Board concluded that PERB impasse procedures outlined in PERB Rule 527 were not available to parties engaged solely in impact and effects bargaining.<sup>28</sup> However, neither that case, nor D.C. Official Code § 1-617.08(a), prevents parties from seeking impasse resolution outside of PERB for impact and effects bargaining cases. The proposal here seeks to create impasse resolution procedures in the parties' collective bargaining agreement independent of those outlined in PERB Rule 527. Therefore, the proposed article is negotiable.

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<sup>18</sup> Appeal at 5.

<sup>19</sup> Appeal at 5.

<sup>20</sup> Appeal at 6.

<sup>21</sup> 47 D.C. Reg. 1149, Slip Op. No. 607, PERB Case No. 99-U-44 (2000).

<sup>22</sup> 59 D.C. Reg. 9763, Slip Op. No. 1259, PERB Case No. 12-U-14 (2012).

<sup>23</sup> Appeal at 6.

<sup>24</sup> Appeal at 6.

<sup>25</sup> Appeal at 6.

<sup>26</sup> Appeal at 6-7.

<sup>27</sup> Appeal at 7.

<sup>28</sup> *AFGE Locals 1000, 2725, 2741, 2978, 3444, and 3721 v. Dep't of Human Serv.*, 64 D.C. Reg. 4889, Slip Op. 1612, PERB Case No. 17-I-03 (2017).

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PERB Case No. 17-N-03  
Page 5

B. Union Initiated Midterm Bargaining

ARTICLE [ ] –UNION INITIATED MIDTERM BARGAINING

Section 1—General:

6. The Agency will not implement the proposed change prior to completing bargaining except as provided by law.

**Department:** The Department’s position that the proposal is nonnegotiable is again premised on its argument that the proposal would require that the implementation of a management right be subject to impasse proceedings in violation of PERB case law. The Department notes that in Case No. 17-I-03, PERB reaffirmed that “there is no obligation to reach an agreement during I&E [“impacts and effects”] bargaining. Thus I&E bargaining can never reach ‘impasse’ as defined in PERB Rule 599.17 and therefore does not qualify for the impasse resolution procedures in PERB Rule 526 and 527.”<sup>29</sup>

**Union:** The Union’s position is that the proposal is negotiable because the Article does not propose that the parties use impasse procedures under the D.C. Official Code or PERB rules.<sup>30</sup> Instead, the Union argues, it proposes that the parties utilize mediation and interest arbitration. Therefore, the Union argues that PERB’s holding in 17-I-03 is not relevant to the proposal at hand. Moreover, the Union argues that the Article is negotiable because the Department never challenged the negotiability of the Articles during the previous nine months of negotiations.<sup>31</sup> The Union argues that this delay is an attempt to circumvent the bargaining process and is evidence of bad faith bargaining.<sup>32</sup>

**Board:** The proposed clause is negotiable. The Union’s proposal here would require the Department to complete bargaining before implementing a proposed change. The proposal does not impact management rights listed in section 1-617.08(a) of the D.C. Official Code. Additionally, the Board has consistently held that an agency has a duty to bargain “upon request, over the impact and effects, which include the procedures for implementing a management right.”<sup>33</sup> Procedures concerning the implementation of management rights decision are appropriate as a subject of bargaining.<sup>34</sup> Finally, the Board rejects the Union’s argument that the

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<sup>29</sup> Answer at 5.

<sup>30</sup> Appeal at 7.

<sup>31</sup> Appeal at 8.

<sup>32</sup> Appeal at 8.

<sup>33</sup> *Univ. of D.C. Faculty Ass’n v. Univ. of D.C.*, 45 D.C. Reg. 4771, Slip Op. No. 517 at 2, PERB Case No. 97-U-12 (1997).

<sup>34</sup> *AFGE Locals 631, 383, 1000, 1403, 1975, 2725, 2741, 2978, 3444 and 3721 v. D.C. Gov’t*, 62 D.C. Reg. 14666, Slip Op. 1541 at 4, PERB Case No. 09-U-31 (2015).



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PERB Case No. 17-N-03  
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Department has waived its negotiability challenge to the proposal. There is no PERB or statutory deadline by which a party must make a non-negotiability declaration.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. Department of Fire and Emergency Medical Services is required to bargain upon request with respect to the proposals of American Federation of Government Employees, Local 3721 concerning:
  - a. Existing Rights and Benefits; and
  - b. Union Initiated Midterm Bargaining.
2. Pursuant to Board Rule 559.1, this Decision and Order shall become final thirty (30) days after issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By the unanimous vote of Board Chairperson Charles Murphy and Members Ann Hoffman, Mary Anne Gibbons, Barbara Somson, and Douglas Warshof.

March 27, 2018

Washington, D.C.

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 17-N-03, Op. No. 1658 was sent by File and ServeXpress to the following parties on this the 3<sup>rd</sup> day of April, 2018.

Keisha Williams, Esq.  
AFGE District 14  
444 North Capitol Street, NW, Suite 841  
Washington, DC 20010

Kevin Stokes  
District of Columbia Office of Labor  
Relations and Collective Bargaining  
441 4<sup>th</sup> Street, NW, Suite 820 North  
Washington, DC 20001

/s/ Sheryl Harrington  
Administrative Assistant

**Government of the District of Columbia  
Public Employee Relations Board**

<hr/>		)
In the Matter of:		)
		)
American Federation of State		)
County and Municipal Employees,		)
District Council 20, Local 1959		)
		)
	Petitioner	)
		)
	v.	)
		)
Office of the State Superintendent of		)
Education		)
		)
	Respondent	)
<hr/>		)

PERB Case No. 17-N-04  
Opinion No. 1659

**DECISION AND ORDER**

**I. Statement of the Case**

On August 4, 2017, the American Federation of State, County and Municipal Employees, District Council 20, Local 1959 (“Union”) filed this negotiability appeal (“Appeal”).<sup>1</sup> The Appeal concerns ten proposals made by the Union and declared nonnegotiable by the Office of the State Superintendent of Education (“OSSE”). The Union and OSSE are negotiating their successor collective bargaining agreement concerning compensation and terms and conditions of employment.

During negotiations, the Union transmitted to OSSE its initial proposals. On July 5, 2017, OSSE informed the Union that twenty-five of the Union’s proposals were nonnegotiable and outside of the scope of bargaining.<sup>2</sup> Thereafter, the Union withdrew several proposals and OSSE withdrew its declaration on non-negotiability of at least one previously disputed proposal.<sup>3</sup>

<sup>1</sup> The Union filed an Amended Negotiability Appeal on August 7, 2017, to correct a misquoted section of its annual leave proposal. The Union filed a Second Amended Negotiability Appeal on August 9, 2017 to add the names and contact information of the parties’ chief negotiators.

<sup>2</sup> Appeal, Exhibit: Declaration of Non-Negotiability

<sup>3</sup> Appeal at 1.

Decision and Order  
PERB Case No.17-N-04  
Page 2

Following these withdrawals, the Union timely filed the instant Appeal, asserting that the eleven remaining proposals were negotiable. In OSSE's "Answer to Negotiability Appeal" ("Answer") filed on August 18, 2017, OSSE asserts the non-negotiability of the proposals and responds to arguments made by the Union in its Appeal. OSSE also withdrew its opposition to one proposal.

The Union's Appeal and the Department's Answer are before the Board for disposition.

## II. Standard of Review

There are three categories of collective bargaining subjects: (1) mandatory subjects over which the parties must bargain; (2) permissive subjects over which the parties may bargain; and (3) illegal subjects over which the parties may not legally bargain.<sup>4</sup> A permissive subject of bargaining is nonnegotiable if either party declines to bargain on the subject.<sup>5</sup>

Management rights are permissive subjects of bargaining.<sup>6</sup> 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.<sup>7</sup>

Matters that do not contravene section 1-617.08(a) or other provisions of the Comprehensive Merit Personnel Act ("CMPA") are negotiable.<sup>8</sup> 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.<sup>9</sup>

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's jurisdiction to decide such questions is invoked by the party presenting a proposal that has been declared nonnegotiable by the party responding to the proposal.<sup>10</sup> The Board will separately consider the negotiability of each of the matters in a dispute.<sup>11</sup>

## III. Analysis

There remain ten proposals that OSSE alleges concern nonnegotiable subjects of bargaining. Those ten subjects, which are discussed below, are: (A) Disciplinary Records, (B)

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<sup>4</sup> *D.C. Nurses Ass'n v. D.C. Dep't of Pub. Health*, 59 D.C. Reg. 10,776, Slip Op. No. 1285 at p. 4, PERB Case No. 12-N-01 (2012) (citing *NLRB v. Wooster Div. of Borg-Warner Corp.*, 356 U.S. 342 (1975)).

<sup>5</sup> *Univ. of D.C. Faculty Ass'n v. Univ. of D.C.*, 64 D.C. Reg. 5132, Slip Op. 1617 at 2, PERB Case No. 16-N-01 (2017).

<sup>6</sup> *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).

<sup>7</sup> D.C. Official Code § 1-617.08(a).

<sup>8</sup> *Univ. of D.C. Faculty Ass'n*, Slip Op. 1617 at 2.

<sup>9</sup> D.C. Official Code § 1-617.08(b).

<sup>10</sup> *Fraternal Order of Police/Protective Serv. Police Dep't Labor Comm. v. Dep't of Gen. Serv.*, 62 D.C. Reg. 16505, Slip Op. 1551 at 1, PERB Case No. 15-N-04 (2015).

<sup>11</sup> *Univ. of D.C. Faculty Ass'n*, Slip Op. 1617 at 2-3.

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Safety and Health, (C) Work Force Changes, (D) Leave, (E) Compensation, (F) Contracting Out, (G) Overtime, (H) Uniforms, (I) Run/Bid Procedure, and (J) Department of Transportation Physicals. The Union's proposals that were declared nonnegotiable by OSSE are set forth below. The proposals are followed by: OSSE's arguments in support of non-negotiability; the Union's arguments in support of negotiability; and the conclusions of the Board.

### **A. Article V: Discipline & Adverse Action**

#### Section H. Disciplinary Records

Disciplinary actions shall be removed from an employee's personnel file not later than two (2) years after the effective date of the final decision and may not, thereafter, be relied upon in support of subsequent disciplinary action.

#### **Agency's Position**

OSSE argues that the proposal conflicts with section 1-631.05(c) of the D.C. Official Code and is therefore, nonnegotiable.<sup>12</sup> Section 1-631.05(c) of the D.C. Official Code provides that "information other than a record of official personnel action is untimely if it concerns an event more than 3 years in the past upon which an action adverse to an employee may be based."<sup>13</sup> Accordingly, OSSE asserts, this proposal alters the terms set forth in the statute and denies management its statutory right to consider disciplinary actions within a three-year period.<sup>14</sup> Further, citing to *Fraternal Order of Police/Protective Services Police Department v. D.C. Department of General Services*<sup>15</sup> and *Washington Teachers' Union, Local 6 v. D.C. Public Schools*,<sup>16</sup> OSSE argues that PERB has consistently declared nonnegotiable proposals that alter the criteria set forth in D.C. Official Code § 1-631.05(c).<sup>17</sup>

#### **Union's Position**

The Union contends that OSSE's declaration of non-negotiability fails to explain how the proposal violates section 1-631.05(c) of the D.C. Official Code.<sup>18</sup> The Union states that it cannot envision any conflict between the cited statute and the Union's proposal.<sup>19</sup> The Union notes that the statute does not preclude a negotiated provision that would allow records to be deemed untimely after less than three years.<sup>20</sup>

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<sup>12</sup> Answer at 2-3.

<sup>13</sup> Answer at 2-3.

<sup>14</sup> Answer at 3.

<sup>15</sup> 63 D.C. Reg. 8960, Slip Op. 1532 at 2, PERB Case No. 15-N-02 (2015).

<sup>16</sup> 46 D.C. Reg. 8090, Slip Op. 450 at 9-10, PERB Case No. 95-N-01 (1995).

<sup>17</sup> Answer at 3.

<sup>18</sup> Second Amended Appeal at 2.

<sup>19</sup> Second Amended Appeal at 2.

<sup>20</sup> Second Amended Appeal at 2.

Decision and Order  
PERB Case No.17-N-04  
Page 4

### Analysis

The Board finds that the issue raised here regarding the timeliness of disciplinary records is negotiable. The proposed article would remove disciplinary action from an employee's record after two years. The proposed article does not interfere with management rights set forth in section 1-617.08(a) of the D.C. Official Code. Contrary to OSSE's contentions, this proposal does not alter section 1-631.05(c) of the D.C. Official Code's three-year limitation on disciplinary records being considered in adverse actions. The proposed time limitation of two years is not more than the three-year limitation in the statute.

Further, the Board finds that the present proposal is not comparable to the proposals presented in the cases cited by OSSE. In both *Fraternal Order of Police/Protective Services Police Department v. D.C. Department of General Service* and *Washington Teachers' Union, Local 6 v. D.C. Public Schools*, the Board concluded that the proposals were nonnegotiable because they allowed for the removal of certain information from employee's personnel files to occur on demand rather than upon a finding by the agency that the statutory criteria for removal had been met. The present proposal does not interfere with the statutory criteria.

### B. Article VIII: Safety and Health

#### Section E:

Unless the Safety Committee jointly agrees to an alternative approach, the Agency agrees to provide the following safety measures:

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3. The Department will equip all busses with thermometers to be placed in the back of the bus. Employees will not be required to operate or ride on a bus where the temperature reflected on the thermometer at the back of the bus dips below 60 degrees Fahrenheit or climbs above 80 degrees Fahrenheit for a sustained period of more than five minutes.

4. Employees will be provided training in safe behavioral management techniques with the goal of lessening employee injuries caused by student assault.

#### Agency's Position

OSSE objects to Section E, Part 3 of the proposal because it conflicts with its sole right to direct employees and determine its technology.<sup>21</sup> OSSE contends that this section requires it to purchase thermometers, directs OSSE to the placement of the thermometers, and directs employees not to work in certain situations.<sup>22</sup> Additionally, OSSE contends that Section E, Part 4

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<sup>21</sup> Answer at 4.

<sup>22</sup> Answer at 4.

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PERB Case No.17-N-04  
Page 5

of the proposal requires that it provide employees with certain training that “requires action by OSSE and leaves no discretion or determination by OSSE as to the provision or nature of employee training.”<sup>23</sup>

Further, OSSE contends that the Union’s proposal is “problematic” because management rights would be impeded unless the Safety Committee jointly agrees to an alternative approach.<sup>24</sup> OSSE explains that Section D, which was omitted from the Union’s negotiability appeal, provides that “the parties agree to establish a Safety Committee comprised of one Union representative from each lot, the Union’s president, and an equal number of representatives from Management.”<sup>25</sup> OSSE argues that Sections E, Part 3 and Part 4 of the Union’s proposal grant this Safety Commission the authority to make decisions regarding the equipment on busses and nature of employee training.<sup>26</sup> Therefore, OSSE requests that PERB declare the proposed Sections E, Part 3 and Part 4 nonnegotiable.

### Union Position

The Union counters that OSSE’s declaration that Part 3 of the proposal is nonnegotiable is a “gross over-reading of the concept of technology.”<sup>27</sup> Citing to *International Brotherhood of Police Officers, Local 446 v. D.C. General Hospital*,<sup>28</sup> the Union argues that the Board has stated that the concept of determining technology as a management right should be read narrowly as pertaining only to the technology used to perform the agency’s mission.<sup>29</sup> The Union argues that installing thermometers on busses as a safety measure falls short of the agency’s mission of transporting students.<sup>30</sup>

The Union disagrees with OSSE’s declaration that Part 4 of the proposal is nonnegotiable.<sup>31</sup> The Union contends that safety training is a mandatory subject of bargaining.<sup>32</sup> Citing to *Teamsters Local Union No. 639 v. D.C. Public Schools*,<sup>33</sup> the Union argues that the Board has determined that other proposals involving training are negotiable.<sup>34</sup>

### Analysis

The Board finds that the first sentence of Part 3 is negotiable. The proposed thermometer installation does not impede the management right to determine the technology of performing its work. OSSE’s assertion that the proposal conflicts with management rights is an overbroad

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<sup>23</sup> Answer at 4.

<sup>24</sup> Answer at 4.

<sup>25</sup> Answer at 4.

<sup>26</sup> Answer at 4.

<sup>27</sup> Second Amended Proposal at 3.

<sup>28</sup> 42 D.C. Reg. 5482, Slip Op. No. 336 at 3-4, PERB Case No. 92-N-05 (1992).

<sup>29</sup> Second Amended Proposal at 3.

<sup>30</sup> Second Amended Proposal at 4.

<sup>31</sup> Second Amended Proposal at 4.

<sup>32</sup> Second Amended Proposal at 4.

<sup>33</sup> 38 D.C. Reg. 6693, Slip Op. No. 263 at 24, PERB Case Nos. 90-N-02, 90-N-03 and 90-N-04 (1990).

<sup>34</sup> Second Amended Proposal at 4.

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reading of the applicable case law.<sup>35</sup> The Board finds the second sentence of Part 3 is nonnegotiable. The proposal's stipulation that employees must not work in certain temperatures contravenes the management right to direct employees.

The Board also finds that the issue raised in Part 4 regarding safety training is a negotiable subject of bargaining. Training does not interfere with management rights set forth in section 1-617.08(a) of the D.C. Official Code.

Regarding OSSE's argument that the omitted section establishing a "Safety Committee" impedes management rights, the Board notes that this section is not part of the Union's Negotiability Appeal. Therefore, this matter will not be addressed in this opinion.

### **C. Article XII: Work Force Changes**

#### Section A: Involuntary

3. Involuntary transfers shall not be made for reasons of disciplinary action.

4. Involuntary transfers shall be made in accordance with seniority. The least senior employee will be the first to be subject to an involuntary transfer, provided however, that if an employee has been subject to an involuntary transfer, he or she shall be removed from the pool of employees eligible to be involuntarily transferred for a period of ninety (90) calendar days. If the need arises for additional involuntary transfers during that time period, the next most junior employee will be transferred and then afforded the same ninety day (90) protection from involuntary transfer.

#### **Agency's Position**

OSSE contends that the proposals are contrary to section 1-617.08 of the D.C. Official Code, particularly the management right to transfer, assign, and discipline employees. OSSE notes that in *Washington Teachers' Union, Local 6 v. D.C. Public Schools*<sup>36</sup> and *Teamsters, Local Union 639 et al v. D.C. Public Schools*,<sup>37</sup> the Board declared nonnegotiable similar proposals regarding involuntary transfers because the proposals limited the management sole right to transfer pursuant to section 1-617.8(a)(2) of the D.C. Official Code.<sup>38</sup> Additionally, OSSE notes that the Board has declared nonnegotiable a proposal that required an involuntary transfer to be made in accordance with seniority. In *Washington Teachers' Union, Local 6, supra*, the Board held that limiting the management right to transfer employees according to

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<sup>35</sup> See *International Brotherhood of Police Officers, Local 446 v. D.C. General Hospital*, 42 D.C. Reg. 5482, Slip Op. No. 336 at 3-4, PERB Case No. 92-N-05 (1992).

<sup>36</sup> 46 D.C. Reg. 8090, Slip Op. 450, PERB Case No. 95-N-01 (1995).

<sup>37</sup> 38 D.C. Reg. 6693, Slip Op. 263, PERB Case Nos. 90-N-02, 90-N-03, and 90-N-04 (1990).

<sup>38</sup> Answer at 5-6.



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seniority places an improper restraint on management.<sup>39</sup> For the same reasons as the cited case, OSSE contends that the Union's proposals here are nonnegotiable.<sup>40</sup>

### Union's Position

The Union contends that the language in the proposed Section A, Part 3 has been in the parties' agreement and that both Part 3 and 4 do not interfere with management rights.<sup>41</sup> The Union also notes that the Board has held that procedures for using seniority to transfer employees to vacant positions for which they are qualified is negotiable.<sup>42</sup> Further, the Union states that in the federal sector, the subject of bidding procedures based on seniority is treated as a mandatory subject of bargaining that may ultimately be resolved through impasse.<sup>43</sup> The Union notes that according to the Federal Labor Relations Authority, a proposal requiring selection based on seniority does not affect the management right to assign work or assign employees, where management determines that the employees are equally qualified.<sup>44</sup> The Union argues that because managers retain the right to define the qualifications for all bus drivers and attendants, the proposal is not an interference in management rights.<sup>45</sup>

### Analysis

The Board has held that management's decision to exercise its sole right under section 1-617.08(a)(2) of the D.C. Official Code to transfer employees is not compromised when the proposal is limited to procedures that place no limitations on the right to transfer.<sup>46</sup> Accordingly, where the proposal limits the management right to transfer, the proposal is nonnegotiable. Therefore, Part 3 of the Union's proposal is nonnegotiable. The proposal is incompatible with the management right to transfer and assign employees in positions within the agency and to take disciplinary action against employees. Part 4 of the Union's proposal is also nonnegotiable. The proposal interferes with the management right to transfer by requiring that involuntary transfers be made based on seniority. Part 4 also impedes the management right to transfer employees by limiting the period during which an employee is eligible to transfer.

Regarding the Union's assertion that the inclusion of such transfer provision in prior agreements has made the subject negotiable, PERB has held that if management has waived a management right in the past by bargaining over that right this does not mean that it has waived that right in any subsequent negotiations.<sup>47</sup>

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<sup>39</sup> Answer at 6.

<sup>40</sup> Answer at 6-7.

<sup>41</sup> Second Amended Appeal at 4-5.

<sup>42</sup> Second Amended Appeal at 5 (citing *Teamsters Local Union No. 639 v. D.C. Pub. Sch.*, Slip Op. 263 at 10-11, PERB Case Nos. 90-N-02, 90-N-03, and 90-N-04 (1990)).

<sup>43</sup> Second Amended Appeal at 5.

<sup>44</sup> Second Amended Appeal at 5.

<sup>45</sup> Second Amended Appeal at 5.

<sup>46</sup> *Teamsters Local Union No. 639 v. D.C. Pub. Sch.*, Slip Op. 263 at 10-11, PERB Case Nos. 90-N-02, 90-N-03, and 90-N-04 (1990).

<sup>47</sup> *AFGE, Local 631 v. D.C. Pub. Works*, 59 D.C. Reg. 4968, Slip Op. 965 at 2, PERB Case No. 08-N-02 (2009).

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#### **D. Article XVI: Leave**

1. Starting on the first full pay period of their employment employees covered by the terms of this agreement shall accrue annual leave as follows:
  - a. Less than three (3) full-time equivalent years of service: Two (2) hours annual leave earned for every twenty (20) hours of work;
  - b. Three (3) years full-time-equivalent years of service but fewer than ten (10) full-time-equivalent years of service: One and one half (1 and ½) Three (3) hours annual leave earned for every twenty (20) hours of work;
  - c. Ten (10) or more full-time-equivalent years of service: Four (4) hours annual leave earned for every twenty (20) hours of work.
2. Request for annual leave shall be submitted by the employee, on a form provided by the Department, to the employee's Assistant Terminal Manager. The Assistant Terminal Manager shall approve or disapprove, pursuant to Section C. of this Article, prior to the date such leave is to begin.
3. The rate of annual pay shall be the employee's regular straight time rate of pay at the time the leave is earned.
4. Annual leave that is not used by an employee shall be accumulated from year to year for use in succeeding year. The maximum allowable leave balance shall not exceed three hundred twenty (320) hours.
5. Upon the execution of this agreement, an employee's "use or lose" annual leave balance will not be reduced to the maximum number of carryover hours until the beginning of the first full pay period after the pay period that includes January 10 of each year.

#### **Agency's Position**

OSSE contends that the proposed section conflicts with District law that sets forth the accumulation of annual leave. OSSE notes that pursuant to sections 1-612.03(e)(1)(B) and (C) of the D.C. Official Code, employees earn three-fourths of a day of leave each pay period if the employee has more than three but less than fifteen years of service, and a full day of leave each pay period if the employee has at least fifteen years of service.<sup>48</sup> OSSE counters that the Union's proposal contravenes the "preemptory statutory criteria set forth in D.C. Official Code § 1-612.03, which provides that 'all employees shall be entitled to earn annual and sick leave as

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<sup>48</sup> Answer at 7.

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provided herein.”<sup>49</sup> Additionally, OSSE contends that the Union’s proposal allowing employees to carry over a maximum balance of 320 hours of leave exceeds the 240 hour limit prescribed in section 1-612.03(h) of the D.C. Official Code.<sup>50</sup> Finally, OSSE objects to the proposed paragraph 5, that alters the date at which the employee’s excess annual leave is reduced from the standard set forth in section 1-612.03(h)(1) of the D.C. Official Code.<sup>51</sup> Under the D.C. Official Code, OSSE notes, excess annual leave is reduced at the beginning of the first full biweekly pay period each year.<sup>52</sup> Accordingly, OSSE requests that PERB declare the Union’s proposal nonnegotiable.

### **Union’s Position**

The Union contends that the proposed Article XVI “sets a floor for the accrual of leave by public employees, but does not preclude a negotiation for a more generous benefit.”<sup>53</sup> The Union argues that unlike other statutory benefits, such as the health care, there is no explicit statutory restriction on the rate at which employees may accrue leave.<sup>54</sup> Therefore, the Union argues that the proposed Article is negotiable.

### **Analysis**

The proposal is negotiable. Section 1-612.03(a) of the D.C. Official Code outlines employee annual and sick leave, and is only applicable to employees first hired before September 30, 1987. All employees hired thereafter are exempt from that section.<sup>55</sup> The District government has not adopted a leave program for employees who were first hired on or after October 1, 1987. Accordingly, there is no explicit statutory restriction on employee leave for all employees. Therefore, the proposal is negotiable.

### **E. Article XVII: Compensation**

#### **Section B:**

Each Motor Vehicle Operator and Bus Attendant covered by this Agreement is guaranteed at least seven (7.0) hours of work at the employee’s regular hourly rate for each regularly scheduled shift.

### **Agency’s Position**

OSSE objects that the proposed section violates its management right to establish tours of duty.<sup>56</sup> OSSE notes that the proposed section is similar to proposals that PERB declared

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<sup>49</sup> Answer at 7.

<sup>50</sup> Answer at 8.

<sup>51</sup> Answer at 8-9.

<sup>52</sup> Answer at 8.

<sup>53</sup> Second Amended Appeal at 6.

<sup>54</sup> Second Amended Appeal at 6.

<sup>55</sup> Section 1-612.03(a)(6).

<sup>56</sup> Answer at 9.

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nonnegotiable in *International Association of Firefighters v. D.C. Department of Fire and Emergency Medical Services* (Slip Op. 1445)<sup>57</sup> and *International Association of Firefighters v. D.C. Department of Fire and Emergency Medical Services*<sup>58</sup> (Slip Op. 1466).<sup>59</sup> In Slip Opinion No. 1445, OSSE asserts, PERB explained that tours of duty includes hours of work, work schedules, and shifts.<sup>60</sup> OSSE contends that PERB expressly held nonnegotiable a union proposal that established the number of hours of work for an employee's regularly scheduled shift in Slip Opinion No. 1466. Additionally, OSSE argues that bargaining unit employees are not guaranteed a minimum amount of work, except that their hourly wage must be consistent with the law, as indicated in Union's certification determination by PERB.<sup>61</sup> Therefore, OSSE requests that the Board declare the Union's proposal nonnegotiable.

### **Union's Position**

The Union objects that OSSE's position that the proposed section B violates the management right to establish a tour of duty is incorrect.<sup>62</sup> The Union asserts that a guaranteed minimum number of hours per shift do not require management to schedule particular hours of days of work.<sup>63</sup> The Union notes that a tour of duty, as defined by the District Personnel Manual is: "the period within an administrative workweek, within which employees are required to be on duty regularly."<sup>64</sup> The Union argues that nothing in the existing proposed language interferes with management's ability to set the hours and days of work.<sup>65</sup> The Union states that this proposed section is a matter of minimum compensation and is negotiable.<sup>66</sup>

### **Analysis**

The Board finds that the proposals regarding minimum work hours in a scheduled shift infringes upon the management right to establish the tour of duty provided by section 1-617.08(a)(5)(A). As a result, the proposal is nonnegotiable. Contrary to the Union's position, scheduling a particular minimum hours per shift is squarely within the management right to establish a tour of duty.

## **F. Article XVIII: Contracting Out**

### **Section A: Contracting Out Conditions**

During the term of this Agreement, the Agency shall not contract out work normally performed by employees covered by this Agreement, except

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<sup>57</sup> 60 D.C. Reg. 17359, Slip Op. 1445 at 16, PERB Case No. 13-N-04 (2013).

<sup>58</sup> 61 D.C. Reg. 5632, Slip Op. 1466, PERB Case No. 13-N-04 (2014).

<sup>59</sup> Answer at 9.

<sup>60</sup> Answer at 9.

<sup>61</sup> Answer at 10.

<sup>62</sup> Second Amended Appeal at 7.

<sup>63</sup> Second Amended Appeal at 7.

<sup>64</sup> Second Amended Appeal at 7; 6B DCMR § 1299.1.

<sup>65</sup> Second Amended Appeal at 7.

<sup>66</sup> Second Amended Appeal at 7.

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where the Director of the Division determines that manpower or equipment in the Agency is not available to perform such work on a regular or overtime basis; provided the total cost to the Agency shall not be more than the cost of contracting out or when it is determined by the Director of the Division that emergency condition do not exist, the Agency agrees to inform the Union of its proposed contracting out and consult with the Union regarding any adverse impact (and effects) of such contracting out on employees covered by this Agreement and shall give the Union simultaneous notice of invitations to bids or request for proposals to contract out.

#### Section B: Employee Rights

The Agency agrees to place employees who have been displaced by such action in other available vacant positions within the Agency for which they are qualified and able to perform with minimum training. The Agency agrees that prior to the Agency's contracting out or privatizing a service or activity performed by employees of the Agency, through established standards developed by rules and regulations, the Agency shall establish that the contracting out shall achieve increased efficiencies and cost savings to the Agency; provided further, that any contractor who is awarded a contract that displaces any employees of the Agency shall offer any displaced employee a right-of-first-refusal to employment by the contractor, in a comparable available position for which the employee is qualified, for at least a six (6) month period during which time the employee shall not be discharged without cause. If the employee's performance during the six (6) months' transition employment period is satisfactory, the new contractor shall offer the employee continued employment under the terms and conditions established by the new contractor. Any employee of the Agency who is displaced as a result of a contract and is hired by the contractor who was awarded the contract which displaced the employee shall be entitled to the benefits provided by the Service Contract Act of 1965, 41 U.S.C. §§ 351 et seq., notwithstanding any exclusion of applicability of the Service Contract Act of 1965 to the employee. Non-displaced employees covered by this Agreement shall not be under the supervision of a contractor employee in the event work is contracted out.

#### Section C: Analysis

Prior to contracting out any bargaining unit work, the Agency shall conduct a cost analysis to determine any possible savings. The assessment of the cost of retaining the function in-house versus the cost of contracting shall be based upon a reasonable and realistic assessment of the costs related to both. The Agency shall include the costs of quality control and

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contract administration in assessing the cost of the contractor. The Agency shall give appropriate consideration to the impact and effects of loss of continuity and institutional knowledge in contracting out bargaining unit work.

#### Section D: Union Notification

In any case in which the Agency wishes to contract out, in accordance with Section A of this Article, it shall notify the Union ninety (90) calendar days prior to implementation of such contract. Such notification shall set forth the purpose of contracting out the work and shall include the information, data, calculations, and other material relied upon by the Agency, and an evaluation of the following:

1. The financial savings to be realized by the Agency, to be provided after the receipts of all bids and prior to the awarding of the contract;
2. The impact and effects of the action on the unit employees, including job loss;
3. The actual and potential skills of the employees presently doing the work;
4. The equipment, facilities and/or machinery needed for the work;
5. The likelihood that the work shall have to be done on a long-term or recurrent basis; and/or
6. Such other factors as may be deemed applicable by the Agency or by the Union, per their request, as a result of a need for clarification related to the notification to contracting out

#### Section E: Union-Management Meeting

Upon being provided the information required in Section D, and at the request of the Union, the Agency shall meet with the Union within eight (8) calendar days to discuss, clarify, and respond to the questions regarding the contents of the contracting out notification.

#### Section F: Bargaining

Thereafter, the Union shall be permitted to bargain over any contracting out to the full extent allowed by law.

#### Section G: Employee Impact

Any employee covered by the Agreement who is involuntarily reassigned or laid off, as a result of contracting out, shall be involuntarily reassigned or laid off in accordance with the provisions of this Article.

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### Agency's Position

OSSE objects to Section A of the Union's proposal because it is nearly identical to a proposal the Board determined to be nonnegotiable in *AFGE, Local 631 v. D.C. Department of Public Works et al.*<sup>67</sup> In that case, OSSE contends that the Board concluded that the proposal contravened the management right to "maintain the efficiency of the District government operations" under section 1-617.08 of the D.C. Official Code.<sup>68</sup>

Additionally, OSSE objects to Section B of the Union's proposal because it requires that OSSE establish that contracting out will achieve increased efficiencies. OSSE asserts that this requirement exceeds the criteria set forth in section 2-352.05 of the D.C. Official Code.<sup>69</sup> OSSE notes that District law only requires that contracting out will achieve cost savings.<sup>70</sup> Moreover, OSSE contends that Section B alters the statutory requirement regarding a displaced employee's entitlement to benefits by giving the employee an entitlement to benefits "notwithstanding any exclusion of applicability to the Service Contract Act of 1965."<sup>71</sup> OSSE argues that this proposal alters the statutory criteria and "creates a contractual exception to federal law even though no such exception is authorized."<sup>72</sup> Lastly, OSSE contends that Section B of the Union's proposal providing that "non-displaced employees covered by this Agreement shall not be under the supervision of a contractor employee in the event work is contracted out" violates OSSE's statutory right under section 1-617.08(a) of the D.C. Official Code to direct employees.<sup>73</sup>

Further, OSSE counters that Section C of the Union's proposal is "word-for-word" identical to a proposal the Board previously rejected in *AFGE, Local 631*.<sup>74</sup> OSSE notes that the Board concluded that the proposal in that case infringed on the management rights to maintain the efficiency of the governmental operations and was therefore, nonnegotiable.<sup>75</sup> Similarly, OSSE contends that Union's proposed Section E is also identical to a proposal regarding contracting out that that Board declared nonnegotiable *AFGE, Local 631*.<sup>76</sup> OSSE objects that Section D of the Union's proposal is nonnegotiable inasmuch as the proposal relates to Section C.<sup>77</sup> OSSE also notes that this proposal is identical to a proposal that the Board previously determined was nonnegotiable in *AFGE, Local 631*.

Finally, OSSE objects to Sections F and G on the grounds that the proposals relate back to nonnegotiable procedural provisions in Sections A through E.<sup>78</sup>

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<sup>67</sup> Slip Op. No 965 at 9, PERB Case No. 08-N-02 (September 30, 2009).

<sup>68</sup> Answer at 11-12.

<sup>69</sup> Answer at 12.

<sup>70</sup> Answer at 12.

<sup>71</sup> Answer at 13.

<sup>72</sup> Answer at 13.

<sup>73</sup> Answer at 13.

<sup>74</sup> Slip Op. 965 at 11, PERB Case No. 08-N-02 (September 30, 2009).

<sup>75</sup> Answer at 14.

<sup>76</sup> Answer at 15.

<sup>77</sup> Answer at 15.

<sup>78</sup> Answer at 15-16.

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### **Union's Position**

The Union objects to OSSE's declaration of non-negotiability pursuant to section 2-352.05 of the D.C. Official Code, because the cited statute does not conflict with the Union's proposal.<sup>79</sup> Instead, the Union states that the cited statute establishes requirements for the District in privatizing.<sup>80</sup> The Union contends that it cannot respond to OSSE's declaration of non-negotiability without further explanation of its position.<sup>81</sup> The Union argues that the proposal is negotiable due to the presumption in favor of negotiability.<sup>82</sup>

### **Analysis**

Section 1-617.08 of the D.C. Official Code protects the management right to "maintain the efficiency of the District government operations." The Board concludes that Sections A, C, and E of the Union's proposal are nonnegotiable. The proposals at issue here are identical to the proposals presented before the Board in *American Federation of Government Employees, Local 631 v. D.C. Department of Public Works*.<sup>83</sup> In that case, the Board held that the proposed sections infringed on the management right to maintain the efficiency of government operations. For the same reasons stated in *American Federation of Government Employees, Local 631*, the Board finds that Sections A, C, and E are nonnegotiable. Additionally, the Board finds that Sections D, F, and G are nonnegotiable. Section D is a notice provision that incorporates Sections A and C. Section F and G are nonnegotiable as they relate to Sections A through E.

Finally, the Board concludes that section B regarding employee rights in the event of displacement due to contracting out is negotiable. This provision concerns the impact and effects of a management right and is therefore negotiable.

### **G. Article XXIII: Overtime**

#### **Section C:**

Members of AFSCME's bargaining unit shall be guaranteed access to a minimum of seventy (70%) percent of all overtime hours available to drivers and attendants within the Division.

### **Agency's Position**

OSSE contends that the Union's proposed Section C interferes with OSSE's sole management right to assign employees and to determine the number of employees assigned to an

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<sup>79</sup> Second Amended Appeal at 10.

<sup>80</sup> Second Amended Appeal at 10.

<sup>81</sup> Second Amended Appeal at 10.

<sup>82</sup> Second Amended Appeal at 10.

<sup>83</sup> Slip Op. 965 at 11, PERB Case No. 08-N-02 (September 30, 2009).



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agency's work project.<sup>84</sup> Moreover, OSSE contends that the Union's proposal violates a separate collective bargaining agreement approved by the D.C. Council this year between OSSE and the International Brotherhood of Teamsters, which states, in pertinent part:

[F]or the purpose of assigning and awarding overtime, OSSE agrees to maintain, at each terminal, a list of employees represented by the Union. The Employees will be ranked in order of seniority. For each overtime assignment available at a terminal, OSSE agree that every other overtime assignment shall be offered to an employee represented by Local 639.<sup>85</sup>

OSSE contends that the Union's proposal and the foregoing provision directly conflict with one another.<sup>86</sup>

### **Union's Position**

It is the Union's position that the proposed section does not interfere with the management right to assign employees because the proposal does not require OSSE to assign overtime to anyone at all.<sup>87</sup> Rather, the Union contends, the proposal simply says that a certain percentage of available overtime hours shall be made available to the bargaining unit.<sup>88</sup> The Union notes that it represents approximately 90% of the drivers and all of the attendants employed by OSSE.<sup>89</sup>

### **Analysis**

The Board concludes that the proposal is nonnegotiable. Management has the sole right to assign employees within the agency under section 1-678.08(a)(2) of the D.C. Official Code. The proposed section would impede the management right to assign employees to overtime work.

## **H. Article XXXII: Uniforms**

### **Section B:**

A Uniform Labor-Management Committee comprised of equal numbers of labor and management representatives shall determine the types of uniforms and equipment needed.

### **Section F:**

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<sup>84</sup> Answer at 16.

<sup>85</sup> Answer at 17.

<sup>86</sup> Answer at 17.

<sup>87</sup> Second Amended Appeal at 11.

<sup>88</sup> Second Amended Appeal at 11.

<sup>89</sup> Second Amended Appeal at 11.

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A Uniform Labor-Management Committee comprised of equal numbers of labor and management representatives shall determine the types of uniforms and equipment needed.

### **Agency's Position**

OSSE objects to the Union's proposed Sections B and F on the grounds that the proposals violate the management right to determine the technology of performing the agency's work pursuant to section 1-617.08(a)(5)(C) of the D.C. Official Code.<sup>90</sup> OSSE contends that by the terms of the proposal, management alone can no longer determine the equipment needed to perform OSSE's work.<sup>91</sup> Instead, OSSE states that it must make such determination jointly with the Union, via a subcommittee in which the Union has an equal number of votes.<sup>92</sup> If effectuated, OSSE warns that Union representative could always create a "deadlocked situation."<sup>93</sup> Accordingly, OSSE contends that this proposed section infringes on the management right to determine the technology of performing its work.<sup>94</sup>

### **Union's Position**

Without addressing the composition of the Uniform Labor-Management Committee, the Union disputes OSSE's assertion of non-negotiability on the ground that uniforms are not technology.<sup>95</sup> Even if uniforms could be considered technology, the Union asserts that a broad reading of "technology" is contrary to the law.<sup>96</sup> The Union contends that the Board has held that technology as a management right should be read narrowly as pertaining only to the technology used to perform the agency's mission.<sup>97</sup>

### **Analysis**

The Board finds that the proposed Sections B and F are negotiable. The proposals do not contravene the management right to determine the technology of performing the agency's work under the D.C. Official Code 1-617.08(a)(5)(C). The composition of the committee does not contravene the management right to determine the technology used to perform the agency's mission.

## **I. Article XXXVII: Run/Bid Procedure**

### **Section A:**

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<sup>90</sup> Answer at 17.

<sup>91</sup> Answer at 17.

<sup>92</sup> Answer at 17-18.

<sup>93</sup> Answer at 18.

<sup>94</sup> Answer at 18.

<sup>95</sup> Second Amended Appeal at 12.

<sup>96</sup> Second Amended Appeal at 12.

<sup>97</sup> Second Amended Appeal at 12.

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Bus Routes shall be assigned in accordance with the following procedure and assignments shall be based on bargaining unit seniority as described herein.

#### Section B: Summer Run/Bid

1. Before the end of each school year, the employer shall notify employees of the requirement to state whether it is their preference to work during the summer months or whether they wish to use leave during this time period. After the responses to this inquiry are collected, but not later than the last day of school, the Employer will issue a letter to all employees who did not express a desire to take leave informing those employees of their seniority ranking/bid position. The letter will also inform employees of the time scheduled for them to participate in the run/bid for summer routes.
2. Employees must appear in person to participate in the bidding process, which will be scheduled to take place within five (5) business days of the last day of school. Prior to participating in the bid, employees will be given access to the bid book containing the various routes available for bid. The employees may use this book to rank their most favored routes. The employee will then present to the bid clerk their preferred ranked routes. In accordance with seniority, employees will be assigned their most favored available route and provided written certification of their assignment to the route. Employees who are not assigned a route or whose route is subsequently cancelled shall be placed in a swing status.
3. If a route becomes available during the summer after the summer bid process has been completed, it will be offered to the most senior swing driver available.

#### Section C: Swing-Slot Temporary Bid

1. Between August 1<sup>st</sup> and 15<sup>th</sup>, the Employer shall issue all bargaining unit employees a letter directing them that, regardless of summer leave or assignments, they will be returned to the same lot where they were last assigned at the close of the preceding school year. The letter will also inform employees of their seniority rankings for the purpose of a bid on starting times for a swing status. The letter will notify employees when and where they should appear to bid on their

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preferred starting time. This time-slot bid will take place prior to the first day of school.

2. At the time-slot bid, employees will bid on their preferred starting times and will be awarded their preferences in accordance with seniority. Employees shall not bid on particular routes at this time and all employees shall be considered to be in swing status as of the first day of school.
3. During the period between the first day of the school year and the first working day of October, all employees shall be considered swing and management may assign the employees to any route, regardless of seniority, so long as that route accommodates the starting time upon which that employees successfully bid. No employee shall be paid a swing premium during the time period beginning with the first day of school and extending until the first working day of October.

#### Section D: Fall Run/Bid for Regular Yearly Routes

1. By no later than the second week of September, the Employer will send notification to employees providing the employee's seniority ranking for purposes of bidding on regular routes. The notice will also include the scheduled time and place at which the employee must appear in order to participate in the run/bid process. The notice will inform employees when and where the bid book containing available routes will be available for their review. The bid book will be made available no later than five business days prior to the start of bidding in the run/bid process.
2. Employees must appear in person to participate in the bidding process, which will be scheduled to be completed prior to the first working day in October. Prior to participating in the bid, employees may use the bid book to rank their most favored routes. At the appointed time, the employee will then present to the bid clerk their preferred ranked routes. In accordance with seniority, employees will be assigned their most favored available route and provided with certification of their assignment to the route. Employees who are not assigned a route shall be placed in swing status no later than thirty (30) calendar days from the date of the decision to cancel the route.

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3. Employees who bid on routes that are scheduled to extend for eleven or twelve months must do so with the expectation and understanding that they are committing to complete the route for its full duration and may not abandon the route in order to participate in the summer run/bid.
4. Employees who are on an approved leave status at the time of the fall bid may designate a Union official to stand as their proxy and submit their bid preference in the employee's absence. Such designation shall be in writing and shall be signed by the employee. The designated Union official may present proxy designation to the bid clerk at the employee's designated time for bidding and shall be permitted to bid on the employee's behalf.

#### Section E: Mid-Year Routes and Mini-bidding

In the event a route becomes available after the fall run/bid for regular routes, such route shall be filled through the conduct of a mini-bid of available swing drivers and attendants. The route shall be awarded based on seniority.

#### Agency's Position

OSSE asserts that the Union's proposed article infringes upon the management right to assign and direct employees.<sup>98</sup> OSSE notes that the Board has held that the principle of seniority is negotiable "only when all other factors, as determined by management, were equal and its application was not inconsistent with law."<sup>99</sup> No such qualification is contained in the instant proposal. Additionally, OSSE contends that Section B is nonnegotiable because OSSE does not "have any discretion in the assignment of bus routes."<sup>100</sup> Similarly, OSSE argues that Section C of the proposed article interferes with management's sole right to assign employees to particular work locations and set forth a tour of duty.<sup>101</sup> OSSE also argues that Section D of the Union's proposal infringes on OSSE's statutory right to assign employees by "dictating the only means by which employee route assignments can be made."<sup>102</sup> Finally, OSSE contends that Section E of the proposed article further prevents OSSE management from determining who may receive newly available routes on any basis other than seniority.<sup>103</sup>

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<sup>98</sup> Answer at 18.

<sup>99</sup> Answer at 18 (*citing Wash. Teachers' Union, Local 6 v. D.C. Pub. Sch.*, 46 D.C. Reg. 8090, Slip Op. No 450 at 6, PERB Case No. 95-N-01 (1995) (Emphasis added by OSSE).

<sup>100</sup> Answer at 19.

<sup>101</sup> Answer at 19.

<sup>102</sup> Answer at 20.

<sup>103</sup> Answer at 20.

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### **Union's Position**

The Union counters that the proposal does not interfere with management rights and is negotiable. The Union argues that the Board held in *Teamsters Local Union No. 639 and D.C. Public Schools*<sup>104</sup> that procedures for using seniority to transfer employees to vacant positions for which they are qualified are negotiable.<sup>105</sup> Further, the Union contends, in the federal sector, the subject of bidding procedures based on seniority are treated as a mandatory subject of bargaining that may ultimately be resolved through impasse.<sup>106</sup> The Union again notes that according to the Federal Labor Relations Authority, a proposal requiring selection based on seniority does not affect the management right to assign work or assign employees, where management determines that the employees are equally qualified.<sup>107</sup> The Union also again argues that because managers retain the right to define the qualifications for all bus drivers and attendants, the proposal is not an interference in management rights.<sup>108</sup>

### **Analysis**

The Board concludes that the proposal is nonnegotiable. Management retains the sole right to assign and direct employees within the agency under section 1-617.08(a)(1) and (2). The proposal would compel OSSE to assign particular work to certain employees based upon employee input. Therefore, the proposal is nonnegotiable.

### **J. Article [ ]: Department of Transportation Physicals**

The Department shall pay the full costs associated with any and all physical examination required by the U.S. Department of Transportation in order to renew an employee's Commercial Driver's License. This commitment applies to all employees on the Agency's roles regardless of whether the employee's status is active or inactive at the time the examination is due.

### **Agency's Position**

OSSE contends that the Union's proposed article regarding the payment of physical examinations conflicts with the U.S. [Government] Accountability Office's holding that "[f]ees incident to obtaining a license or certificates necessary to qualify a federal employee to perform the duties of his position are considered, generally, to be personal expenses not properly chargeable to agency appropriations."<sup>109</sup> OSSE contends that the District is governed by federal

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<sup>104</sup> 38 D.C. Reg. 6693, Slip Op. 263 at 10-11, PERB Case Nos. 90-N-02, 90-N-03 and 90-N-04 (1990).

<sup>105</sup> Second Amended Appeal at 14-15.

<sup>106</sup> Second Amended Appeal at 15.

<sup>107</sup> Second Amended Appeal at 15.

<sup>108</sup> Second Amended Appeal at 15.

<sup>109</sup> Answer at 20-21.

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appropriations law and section 1-206.03(e) of the D.C. Official Code.<sup>110</sup> Accordingly, OSSE argues that the proposed article is in violation of appropriations law and is therefore, nonnegotiable.<sup>111</sup>

### **Union's Position**

The Union asserts that there is no legal support for OSSE's argument that requiring it to pay for employees' annual renewal costs is "impermissible." The Union also notes that the Board has held that procedures for implementing a management right are negotiable.<sup>112</sup>

### **Analysis**

The Board concludes that the Union's proposal is negotiable. The proposal does not impede management rights pursuant to the D.C. Official Code nor does it violate federal appropriations law. The U.S. Government Accountability Office's holding cited by OSSE only specifies that federal employees pay fees incident to obtaining a license. As such, the cited case does not render the Union's proposal nonnegotiable.

## **ORDER**

### **IT IS HEREBY ORDERED THAT:**

1. The following proposals are nonnegotiable
  - a. Article XVII, Section B
  - b. Article XXIII, Section C
  - c. Article XXXVII, Section A, Section B, Section C, Section D, Section E
  - d. Article XII, Section A, Part 3 and Part 4
2. The following proposals are negotiable:
  - a. Article V, Section H: Disciplinary Records
  - b. Article XXXII, Section B, Section F
  - c. Article [ ]: Department of Transportation Physicals
  - d. Article XVI: Leave
3. The following proposals are negotiable in part, and nonnegotiable, in part:
  - a. Article VIII, Section E: Safety and Health
    - i. Section E, Part 3 is nonnegotiable, with the exception of the first sentence: The Department will equip all buses with thermometers to be placed in the back of the bus.

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<sup>110</sup> Answer at 21.

<sup>111</sup> Answer at 21.

<sup>112</sup> Second Amended Appeal at 16 (*citing AFGE, Local 631 v. D.C. Water and Sewer Authority*, Slip Op 1435 at 7, PERB Case No. 13-N-05 (2013)).

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- ii. Section E, Part 4 is negotiable.
- b. Article XVIII: Contracting Out
  - i. Section A is nonnegotiable.
  - ii. Section B: Employee Rights is negotiable.
  - iii. Section C is nonnegotiable.
  - iv. Section D is nonnegotiable.
  - v. Section E is nonnegotiable.
  - vi. Section F is nonnegotiable.
  - vii. Section G is nonnegotiable.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By unanimous vote of Board Chairperson Charles Murphy and Board Members Ann Hoffman, Mary Anne Gibbons, Barbara Somson, and Douglas Warshof.

Washington, D.C.

March 27, 2018



**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 17-N-04, Op. No. 1659 was transmitted to the following parties on this the 3rd day of April, 2018.

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