

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a performance oversight hearing on the Commission on Fathers, Men, and Boys
- D.C. Council schedules a public hearing on the implementation of the “Sentence Review Provisions of the Incarceration Reduction Amendment Act of 2016”
- D.C. Commission on the Arts and Humanities announces funding availability for the FY 2020 Public Art Building Communities Grant
- Office of the State Superintendent of Education announces availability of the Fiscal Year 2019-2020 Pre-Kindergarten Enhancement and Expansion Funding
- Department of Energy and Environment announces funding availability for defining energy measures and practices for implementing affordable electrification in the District of Columbia
- Board of Ethics and Government Accountability publishes an advisory opinion on post-employment that involves testifying as an expert witness
- Department of Health announces funding for developing a comprehensive screening process for identifying and treating persons with substance use disorder
- Department of Small and Local Business Development announces availability of grants to help activate a cultural arts district in the Deanwood neighborhood of the District

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances publishes the *District of Columbia Register* (ISSN 0419-439X) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979, D.C. Official Code § 611 *et seq.* (2012 Repl.). The policies which govern the publication of the *Register* are set forth in the Rules of the Office of Documents and Administrative Issuances (1 DCMR §§300, *et seq.*). The Rules of the Office of Documents and Administrative Issuances are available online at dcregs.dc.gov. Rulemaking documents are also subject to the requirements of the *D.C. Administrative Procedure Act*, D.C. Official Code §§2-501 *et seq.* (2012 Repl.).

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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT
D.C. ACT 23-16

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 28, 2019

To amend, on an emergency basis, 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 Emergency Amendment Act of 2019”.

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 February 13, 2019.

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

UNSIGNED

Mayor
District of Columbia
February 25, 2019

ENROLLED ORIGINAL

AN ACT
D.C. ACT 23-17

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 28, 2019

To approve, on an emergency basis, Modification Nos. 7 and 8 to Contract No. CW40855 with CELLCO Partnership dba Verizon Wireless to provide District-wide wireless services, 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. CW40855 Approval and Payment Authorization Emergency Act of 2019”.

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. 7 and 8 to Contract No. CW40855 with CELLCO Partnership dba Verizon Wireless to provide District-wide wireless services, and authorizes payment in the not-to-exceed amount of \$10 million for 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 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
February 28, 2019

ENROLLED ORIGINAL

AN ACT
D.C. ACT 23-18

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 28, 2019

To approve, on an emergency basis, Modification Nos. 9, 10, and 11 to Contract No. CW46486 with Tandem Conglomerate, LLC, to provide mission-oriented business integrated services, 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. CW46486 Approval and Payment Authorization Emergency Act of 2019”.

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, 10, and 11 to Contract No. CW46486 with Tandem Conglomerate, LLC, to provide mission-oriented business integrated services, and authorizes payment in the not-to-exceed amount of \$10 million for 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.

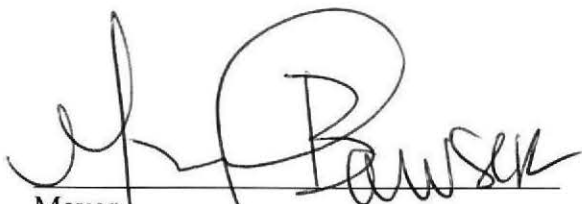
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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
February 28, 2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-19

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 28, 2019

To amend, on a temporary basis, the Sports Wagering Lottery Amendment Act of 2018 and Title III of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia to clarify a waiver procedure and the amount of a Class A and Class B license application fee.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Sports Wagering Lottery Clarification Temporary Amendment Act of 2019”.

Sec. 2. Section 2(e) of the Sports Wagering Lottery Amendment Act of 2018, enacted on January 23, 2019 (D.C. Act 22-594; 66 DCR 1402), adding a new Title III to the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code § 3-1301 *passim*), is amended as follows:

(a) The new section 305(g)(3) is amended to read as follows:

“(3) Obtains a waiver from DSLBD of the contracting or joint venture requirements of the CBE act; provided, that if DSLBD neither approves nor denies the request for waiver within 30 days of the submission of the request, the waiver shall be deemed approved as a matter of law.”.

(b) The new section 306 is amended as follows:

(1) Subsection (b)(3)(A) is amended by striking the figure “\$250,000” and inserting the figure “\$500,000” in its place.

(2) Subsection (c)(4)(A) is amended by striking the figure “\$50,000” and inserting the figure “\$100,000” in its place.

Sec. 3 Title III of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, passed on emergency basis on December 18, 2018 (Enrolled version of Bill 22-1071), is amended as follows:

(a) Section 305(g)(3) is amended to read as follows:

“(3) Obtains a waiver from DSLBD of the contracting or joint venture

ENROLLED ORIGINAL

requirements of the CBE act; provided, that if DSLBD neither approves nor denies the request for waiver within 30 days of the submission of the request, the waiver shall be deemed approved as a matter of law.”.

(b) Section 306 is amended as follows:

(1) Subsection (b)(3)(A) is amended by striking the figure “\$250,000” and inserting the figure “\$500,000” in its place.

(2) Subsection (c)(4)(A) is amended by striking the figure “\$50,000” and inserting the figure “\$100,000” in its place.

Sec. 4. Fiscal impact statement.

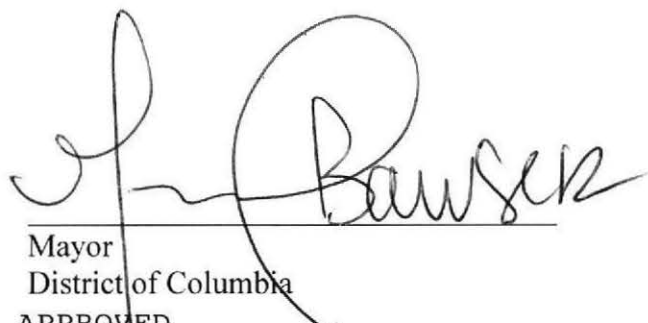
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

(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
February 28, 2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-20

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 28, 2019

To amend, on a temporary basis, the Bryant Street Tax Increment Financing Act of 2016 to extend the deadline to terminate the Bryant Street TIF Area from March 1, 2019, to March 1, 2020, and to clarify the District's ability to refund bonds.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Bryant Street Tax Increment Financing Temporary Amendment Act of 2019".

Sec. 2. The Bryant Street Tax Increment Financing Act of 2016, effective April 7, 2017 (D.C. Law 21-262; D.C. Official Code § 2-1217.37a *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 2-1217.37a) is amended as follows:

(1) Paragraph (7) is amended by striking the phrase "(including refunding Bonds, notes, and other obligations)".

(2) Paragraph (9) is amended by striking the word "Bonds" and inserting the phrase "Bonds and Refunding Bonds" in its place.

(3) Paragraph (11) is amended by striking the word "Bonds" and inserting the phrase "Bonds and Refunding Bonds" in its place.

(4) Paragraph (15) is amended by striking the word "Bonds" and inserting the phrase "Bonds and Refunding Bonds" in its place.

(5) A new paragraph (17A) is added to read as follows:

"(17A) "Refunding Bonds" means the District of Columbia bonds, notes, or other obligations, in one or more series, authorized to be issued pursuant to this act to refund the Bonds."

(b) Section 3(b) and (c) (D.C. Official Code § 2-1217.37b(b) and (c)) is amended by striking the word "Bonds" wherever it appears and inserting the phrase "Bonds and Refunding Bonds" in its place.

(c) Section 4(d) (D.C. Official Code § 2-1217.37c(d)) is amended as follows:

(1) Paragraph (2) is amended by striking the word "Bonds" and inserting the phrase "Bonds and Refunding Bonds" in its place.

(2) Paragraph (3) is amended by striking the phrase "March 1, 2019, if no Bonds are issued." and inserting the phrase "March 1, 2020, if no Bonds are issued (excluding

ENROLLED ORIGINAL

Refunding Bonds).” in its place.

(d) Section 5(c) and (d) (D.C. Official Code § 2-1217.37d(c) and (d)) is amended by striking the word “Bonds” wherever it appears and inserting the phrase “Bonds and Refunding Bonds” in its place.

(e) Sections 6 through 14 ((D.C. Official Code §§ 2-1217.37e, 2-1217.37f, 2-1217.37g, 2-1217.37h, 2-1217.37i, 2-1217.37j, 2-1217.37k, 2-1217.37l, and 2-1217.37m) are amended by striking the word “Bonds” wherever it appears and inserting the phrase “Bonds and Refunding Bonds” in its place.

(f) Section 15 (D.C. Official Code § 2-1217.37n) is amended by striking the phrase “shall expire on March 1, 2019;” and inserting the phrase “(excluding Refunding Bonds) shall expire on March 1, 2020;” 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.

(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
February 28, 2019

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

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

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

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

- | | |
|---------|--|
| B23-165 | Initiative and Referendum Process Improvement Amendment Act of 2019

Intro. 2-26-19 by Councilmembers Allen Silverman, and Chairman Mendelson and referred to the Committee on Judiciary and Public Safety |
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| B23-166 | Potomac River Bridges Towing Compact Amendment Act of 2019

Intro. 2-28-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole |
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| B23-169 | Old Hardy School Disposition and Lease Approval Act of 2019

Intro. 2-28-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development |
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| B23-170 | Revision of Guardianship of Minors and Creation of Supplemental Needs Trusts Act of 2019

Intro. 2-28-19 by Councilmember Evans and referred to the Committee on Judiciary and Public Safety |
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PROPOSED RESOLUTIONS

PR23-126 Department of For-Hire Vehicles David Do Confirmation Resolution of 2019
Intro. 2-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development

PR23-127 Department of Public Works Christopher Geldart Confirmation Resolution of 2019
Intro. 2-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

PR23-128 Interstate Medical Licensure Compact Commission Vikisha Fripp Confirmation Resolution of 2019
Intro. 2-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR23-129 Department of Consumer and Regulatory Affairs Ernest Chrappah Confirmation Resolution of 2019
Intro. 2-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR23-143 Director of the Office of Nightlife and Culture Shawn Townsend Confirmation Resolution of 2019
Intro. 2-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

PR23-144 Board of Physical Therapy Nicholas Caylor Confirmation Resolution of 2019
Intro. 2-27-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR23-145 Real Estate Commission Ericka S. Black Confirmation Resolution of 2019
Intro. 2-27-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization

- PR23-146 Green Finance Authority Board Brandi Colander Confirmation Resolution of 2019
- Intro. 2-28-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment
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- PR23-147 Green Finance Authority Board Hannah Hawkins Confirmation Resolution of 2019
- Intro. 2-28-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment
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- PR23-148 Green Finance Authority Board Edward Hubbard Confirmation Resolution of 2019
- Intro. 2-28-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment
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- PR23-149 The Army Distaff Foundation Revenue Bonds Project Approval Resolution of 2019
- Intro. 2-28-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue
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- PR23-151 Rulemaking for Paid Family Leave Collections Approval Resolution of 2019
- Intro. 2-28-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Labor and Workforce Development
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- PR23-152 District of Columbia Commission on Human Rights Mark Herzog Confirmation Resolution of 2019
- Intro. 2-28-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations
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- PR23-153 Board of Social Work Wanda Wheeler Confirmation Resolution of 2019
- Intro. 3-1-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
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PR23-154 Board of Dietetics and Nutrition India James Confirmation Resolution of 2019
Intro. 3-1-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR23-155 Board of Nursing Thedith Moore Confirmation Resolution of 2019
Intro. 3-1-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR23-156 Board of Chiropractic Marsha Johnson Confirmation Resolution of 2019
Intro. 3-1-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR23-157 Board of Physical Therapy Carol Walls Confirmation Resolution of 2019
Intro. 3-1-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR23-158 Director of the Office of Veterans Affairs Elliot J. Tommingo Confirmation Resolution of 2019
Intro. 3-1-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

PR23-159 Director of the Department of Parks and Recreation Delano Hunter Confirmation Resolution of 2019
Intro. 3-1-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Recreation and Youth Affairs

PR23-160 Real Property Tax Commission John Woods Jr. Confirmation Resolution of 2019
Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue

- PR23-161 Real Property Tax Commission Trent T. Williams Confirmation Resolution of 2019
- Intro. 3-1-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue
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- PR23-162 Real Property Tax Commission Stacie Scott Turner Confirmation Resolution of 2019
- Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue
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- PR23-163 Historic Preservation Review Board Linda Greene Confirmation Resolution of 2019
- Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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- PR23-164 Historic Preservation Review Board Outerbridge Horsey Confirmation Resolution of 2019
- Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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- PR23-165 Historic Preservation Review Board Chris Landis Confirmation Resolution of 2019
- Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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- PR23-166 Commission on Nightlife and Culture Anwan Glover Confirmation Resolution of 2019
- Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations
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PR23-167 Commission on Nightlife and Culture Maggie O'Neill Confirmation Resolution of 2019

Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

PR23-168 Commission on Nightlife and Culture Ris Lacoste Confirmation Resolution of 2019

Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

PR23-169 Commission on Nightlife and Culture Ian Callender Confirmation Resolution of 2019

Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

PR23-170 Commission on Nightlife and Culture Collen Hawkinson Confirmation Resolution of 2019

Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

PR23-171 Commission on Nightlife and Culture Vinoda Basnayake Confirmation Resolution of 2019

Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

PR23-172 Commission on Nightlife and Culture Kenneth Holmes Confirmation Resolution of 2019

Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

- PR23-173 Board of Professional Engineering Barry Lucas Confirmation Resolution of 2019
Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
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- PR23-174 Board of Professional Engineering Mary Jean Pajak Confirmation Resolution of 2019
Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
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- PR23-175 Board of Professional Engineering Michael McKenna Confirmation Resolution of 2019
Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
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- PR23-176 District of Columbia Combat Sports Commission Andrew Huff Confirmation Resolution of 2019
Intro. 3-4-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
-
- PR23-177 Not-For-Profit Hospital Corporation Board of Directors Konrad Dawson Reappointment Resolution of 2019
Intro. 3-4-19 by Chairman Mendelson and referred to the Committee of the Whole
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- PR23-178 District of Columbia Uniform Law Commission Heidi Tseu Appointment Resolution of 2019
Intro. 3-4-19 by Chairman Mendelson and referred to the Committee of the Whole
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- PR23-179 Council Reprimand of Councilmember Jack Evans Resolution of 2019 Intro. 3-5-19 by Chairman Mendelson and Retained by the Council
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**Council of the District of Columbia
COMMITTEE ON RECREATION AND YOUTH AFFAIRS
NOTICE OF PERFORMANCE OVERSIGHT HEARING
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

Abbreviated Notice

**COUNCILMEMBER TRAYON WHITE, SR., CHAIRPERSON
COMMITTEE ON RECREATION AND YOUTH AFFAIRS ANNOUNCES A
PERFORMANCE OVERSIGHT HEARING ON THE
Commission on Fathers, Men, and Boys**

**Wednesday, March 13, 2019, 11 a.m.
Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Wednesday, March 13th, 2019, Councilmember Trayon White, Sr., Chair of the Committee on Recreation and Youth Affairs, will hold a Performance Oversight Hearing on the Commission on Fathers, Men, and Boys. The Performance Oversight Hearing will take place at 11:00 AM in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. **Abbreviated notice is being provided as the hearing was previously scheduled for February 20th, a day when there was an unscheduled closing of the government.**

The Committee invites the public to testify in person or to submit written testimony. Anyone wishing to testify should contact the Committee via e-mail at nfleming@dccouncil.us or at (202) 727-8285, and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **close of business Tuesday, March 12th, 2019**. If you require translation or interpretation services, please notify the Committee.

All public witnesses will be allowed a maximum of three minutes for oral testimony, while witnesses representing organizations will have a maximum of five minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced if there are a large number of witnesses. Witnesses are encouraged, but not required, to bring **five single-sided copies** of their testimony in writing and submit their written testimony electronically in advance to nfleming@dccouncil.us

For witnesses who are unable to testify at the hearing, written testimony will be made part of the official record. Copies of written testimony should be submitted to the Committee at nfleming@dccouncil.us or to Nyasha Smith, Secretary of the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, DC 20004. **The record will close at the close of business on Friday, March 15th, 2019.**

Please contact Nathan Fleming, Committee Director, at (202) 724-8045 or nfleming@dccouncil.us if you have any questions.

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

ANNOUNCES A PUBLIC HEARING ON

BILL 23-0127, THE “SECOND LOOK AMENDMENT ACT OF 2019”

AND

**THE IMPLEMENTATION OF THE SENTENCE REVIEW PROVISIONS OF THE
INCARCERATION REDUCTION AMENDMENT ACT OF 2016**

**Tuesday, March 26, 2019, 1:00 p.m.
Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Tuesday, March 26, 2019, Councilmember Charles Allen, Chairperson of the Committee on the Judiciary and Public Safety, will convene a public hearing to consider Bill 23-0127, the “[Second Look Amendment Act of 2019](#)”, and to discuss the implementation of the sentence review provisions of the Incarceration Reduction Amendment Act of 2016 (section 306(b) of D.C. Law 21-238; D.C. Official Code § 24-403.03). The hearing will take place in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 1:00 p.m.

In 2016, the Council passed the [Comprehensive Youth Justice Amendment Act of 2016](#) (“CYJAA”) (D.C. Law 21-238), which took effect in April 2017. One section of the CYJAA – titled the “Incarceration Reduction Amendment Act of 2016” or “IRAA” – created a new procedure for individuals who have been sentenced for D.C. Code offenses as juveniles, have served twenty years in prison, and have not yet come up for parole, to petition the D.C. Superior Court to have their sentences reviewed. A number of individuals currently serving lengthy sentences have begun the petition process, and several have been released following a thorough judicial review.

Three months ago, the D.C. Council passed, and the Mayor signed, Bill 22-0255, the “[Omnibus Public Safety and Justice Amendment Act of 2018](#)”, one section of which amends IRAA to decrease the number of years required to be served before petitioning from 20 to 15 and include

individuals who have come up for parole. This bill is now undergoing congressional review and is expected to become law in three months.

The purpose of Bill 23-0127, the “Second Look Amendment Act of 2019”, is to align the age before which individuals must have committed an IRAA-eligible offense with similar criminal justice sentencing reforms for young adults passed by the Council and jurisdictions across the country. Instead of individuals having to have committed an eligible offense before age 18, the proposed legislation would raise the age to before age 25. The bill also would require all individuals brought back to the District from the Bureau of Prisons for their IRAA hearing to be housed in the Department of Corrections’ (“DOC”) Correctional Treatment Facility, rather than in the Central Detention Facility.

In addition, the hearing will review the status of IRAA’s implementation, including the statute itself, the assignment of legal representation to petitioners, the petition process, the experiences of those held in DOC on writs while their petition is pending, reentry planning for those in DOC’s care, and the post-release reentry experience. The goal of the Committee’s IRAA oversight is to reflect on the statute since its passage and create opportunities for partnerships and improvements to support successful reentry for those released.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact the Committee via email at judiciary@dccouncil.us and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Friday, March 22**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses should bring **twenty copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to judiciary@dccouncil.us.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted to the Committee at judiciary@dccouncil.us. **The record will close at the end of the business day on April 9.**

COUNCIL OF THE DISTRICT OF COLUMBIA
CONSIDERATION OF TEMPORARY LEGISLATION

B23-100, Small and Certified Business Enterprise Development and Assistance Temporary Amendment Act of 2019 was adopted on first reading on March 5, 2019. This temporary measure was considered in accordance with Council Rule 413. A final reading on this measure will occur on April 2, 2019.

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Grant Budget Modifications

Pursuant to the Consolidated Appropriations Act of 2017, approved May 5, 2017 (P.L. 115-31), the Council of the District of Columbia gives notice that the Mayor has transmitted the following Grant Budget Modification (GBM).

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

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

GBM 23-15: FY 2019 Grant Budget Modifications of December 5, 2018

RECEIVED: 14-day review begins March 1, 2019

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: March 8, 2019
Protest Petition Deadline: April 22, 2019
Roll Call Hearing Date: May 6, 2019

License No.: ABRA-025796
Licensee: Chinatown Garden, Inc.
Trade Name: Chinatown Garden Restaurant
License Class: Retailer’s Class “C” Restaurant
Address: 618 H Street, N.W.
Contact: Yeni Wong: (202) 438-4772

WARD 2

ANC 2C

SMD 2C01

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 May 6, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF SUBSTANTIAL CHANGE

Request to add an Entertainment Endorsement to provide live entertainment with Dancing and Cover Charge.

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

Sunday through Thursday 10:20am – 2am
Friday and Saturday 10:20am – 3am

PROPOSED HOURS OF LIVE ENTERTAINMENT

Friday 7pm – 10pm, and Saturday 8pm – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-008946

License Class/Type: C Restaurant

Applicant: Trattoria Alberto Inc.

Trade Name: Trattoria Alberto

ANC: 6B04

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

504 8TH ST SE, Washington, DC 20003

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Sidewalk Cafe

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

	Hours Of Sidewalk Cafe	Hours Of Sales Sidewalk Cafe
Sunday	11:30 am - 10:30 pm	11:30 am - 10:30 pm
Monday	11:30 am - 10:30 pm	11:30 am - 10:30 pm
Tuesday	11:30 am - 10:30 pm	11:30 am - 10:30 pm
Wednesday	11:30 am - 10:30 pm	11:30 am - 10:30 pm
Thursday:	11:30 am - 10:30 pm	11:30 am - 10:30 pm
Friday:	11:30 am - 10:30 pm	11:30 am - 10:30 pm
Saturday:	11:30 am - 10:30 pm	11:30 am - 10:30 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-060422

License Class/Type: C Restaurant

Applicant: La Goulu, Inc.

Trade Name: Montmartre/7th Hill

ANC: 6B02

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

327 7TH ST SE, WASHINGTON, DC 20003

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of
Sunday:	10:30 am - 10:30 pm	10:30 am - 10:30 pm	-
Monday:	11:30am - 11:00pm	11:30am - 11:00pm	-
Tuesday:	11:30 am - 11:00 pm	11:30 am - 11:00 pm	-
Wednesday:	11:30 am - 11:00 pm	11:30 am - 11:00 pm	-
Thursday:	11:30 am - 11:00 pm	11:30 am - 11:00 pm	-
Friday:	11:30 am - 11:30 pm	11:30 am - 11:30 pm	-
Saturday:	10:30 am - 11:30 pm	10:30 am - 11:30 pm	-

	Hours Of Sidewalk Cafe	Hours Of Sales Sidewalk Cafe
Sunday	10:30 am - 10:30 nm	10:30 am - 10:30 pm
Monda	11:30am - 11:00pm	11:30 am - 11:00pm
Tuesda	11:30 am - 11:00pm	11:30 am - 11:00pm
Wednesda	11:30 am - 11:00pm	11:30 am - 11:00pm
Thursday:	11:30 am - 11:00pm	11:30 am - 11:00pm
Friday:	11:30 am - 11:30 pm	11:30 am - 11:30 pm
Saturday:	10:30 am - 11:30 pm	10:30 am - 11:30 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-095433

License Class/Type: C Restaurant

Applicant: Biricoco, LLC

Trade Name: Al Crostino

ANC: 1B02

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

1926 9TH ST NW, WASHINGTON, DC 20001

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of
Sunday:	11 am - 1:30 am	11 am - 1:30 am	8 pm - 1:30 am
Monday:	11 am - 1:30 am	11 am - 1:30 am	8 pm - 1:30 am
Tuesday:	11 am - 1:30 am	11 am - 1:30 am	8 pm - 1:30 am
Wednesday:	11 am - 1:30 am	11 am - 1:30 am	8 pm - 1:30 am
Thursday:	11 am - 1:30 am	11 am - 1:30 am	8 pm - 1:30 am
Friday:	11 am - 2:30 am	11 am - 2:30 am	8 pm - 2:30 am
Saturday:	11 am - 2:30 am	11 am - 2:30 am	8 pm - 2:30 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-090369

License Class/Type: C Restaurant

Applicant: Tacos El Chilango (DC) LLC

Trade Name: Tacos El Chilango

ANC: 1B02

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

1119 V ST NW, WASHINGTON, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-112073

License Class/Type: D Restaurant

Applicant: Navy Yard Wise LLC

Trade Name: Wiseguy Pizza & Altani Gelato

ANC: 6D07

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

202 M ST SE, WASHINGTON, DC 20003

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of
Sunday:	11 am - 2 am	11 am - 1 am	-
Monday:	11 am - 2 am	11 am - 1 am	-
Tuesday:	11 am - 2 am	11 am - 1 am	-
Wednesday:	11 am - 2 am	11 am - 1 am	-
Thursday:	11 am - 3 am	11 am - 1 am	-
Friday:	11 am - 5 am	11 am - 1 am	-
Saturday:	11 am - 5 am	11 am - 1 am	-

	Hours of Summer Garden	Hours of Sales Summer
Sunday	11 am - 2 am	11 am - 1 am
Monda	11 am - 2 am	11 am - 1 am
Tuesda	11 am - 2 am	11 am - 1 am
Wednesda	11 am - 2 am	11 am - 1 am
Thursday:	11 am - 3 am	11 am - 1 am
Friday:	11 am - 5 am	11 am - 1 am
Saturday:	11 am - 5 am	11 am - 1 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-106997

License Class/Type: C Restaurant

Applicant: Wheelhouse LLC

Trade Name: Chloe

ANC: 6D07

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

1331 4TH ST SE, WASHINGTON, DC 20003

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Sidewalk Cafe Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of
Sunday:	8 am - 2 am	8 am - 2 am	-
Monday:	8 am - 2 am	8 am - 2 am	-
Tuesday:	8 am - 2 am	8 am - 2 am	-
Wednesday:	8 am - 2 am	8 am - 2 am	-
Thursday:	8 am - 2 am	8 am - 2 am	-
Friday:	8 am - 3 am	8 am - 3 am	-
Saturday:	8 am - 3 am	8 am - 3 am	-

	Hours Of Sidewalk Cafe	Hours of Summer Garden
Sunday	9 am - 12 am	9 am - 12 am
Monda	8 am - 12 am	8 am - 12 am
Tuesda	8 am - 12 am	8 am - 12 am
Wednesda	8 am - 12 am	8 am - 12 am
Thursday:	8 am - 12 am	8 am - 12 am
Friday:	8 am - 12 am	8 am - 12 am
Saturday:	9 am - 12 am	9 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-090412

License Class/Type: C Restaurant

Applicant: Froggy Times Inc

Trade Name: Froggy Bottom Pub

ANC: 2A06

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

2021 K ST NW, WASHINGTON, DC 20006

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of
Sunday:	11am - 2am	11am - 2am	-
Monday:	11am - 2am	11am - 2am	-
Tuesday:	11am - 2am	11am - 2am	-
Wednesday:	11am - 2am	11am - 2am	-
Thursday:	11am - 2am	11am - 2am	-
Friday:	11am - 3am	11am - 3am	-
Saturday:	11am - 3am	11am - 3am	-

	Hours of Summer Garden	Hours of Sales Summer
Sunday	11am - 1am	11am - 1am
Monda	11am - 1am	11am - 1am
Tuesda	11am - 1am	11am - 1am
Wednesda	11am - 1am	11am - 1am
Thursday:	11am - 1am	11am - 1am
Friday:	11am - 2am	11am - 2am
Saturday:	11am - 2am	11am - 2am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-095362

License Class/Type: C Restaurant

Applicant: 7th Hill Restaurant Inc.

Trade Name: 7th Pizza

ANC: 3D05

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

4885 MACARTHUR BLVD NW, WASHINGTON, DC 20007

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of
Sunday:	10:30AM - 11PM	10:30AM - 11PM	-
Monday:	10:30AM - 11PM	10:30AM - 11PM	-
Tuesday:	10:30AM - 11PM	10:30AM - 11PM	-
Wednesday:	10:30AM - 11PM	10:30AM - 11PM	-
Thursday:	10:30AM - 11PM	10:30AM - 11PM	-
Friday:	11AM - 11PM	11AM - 11PM	-
Saturday:	11AM - 11PM	11AM - 11PM	-

	Hours Of Sidewalk Cafe	Hours Of Sales Sidewalk Cafe
Sunday	1030AM - 9PM	10:30AM - 9PM
Monda	10:30AM - 9PM	10:30AM - 9PM
Tuesda	10:30AM - 9PM	1030AM - 9PM
Wednesda	10:30AM - 9PM	1030AM - 9PM
Thursday:	10:30AM - 9PM	10:30AM - 9PM
Friday:	11:30AM - 10PM	11:30AM - 10PM
Saturday:	11:30AM - 10PM	11:30AM - 10PM

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-060080

License Class/Type: C Restaurant

Applicant: Haile G. Binosai

Trade Name: Selam Restaurant/Gold Room

ANC: 2B09

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

1524 - 1526 U ST NW, WASHINGTON, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of
Sunday:	9 am - 2 am	11 am - 2 am	9 pm - 1 am
Monday:	9 am - 2 am	11 am - 2 am	9 pm - 1 am
Tuesday:	9 am - 2 am	11 am - 2 am	9 pm - 1 am
Wednesday:	9 am - 2 am	11 am - 2 am	9 pm - 1 am
Thursday:	9 am - 2 am	11 am - 2 am	9 pm - 1 am
Friday:	9 am - 3 am	11 am - 3 am	9 pm - 2 am
Saturday:	9 am - 3 am	11 am - 3 am	9 pm - 2 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-100249

License Class/Type: C Restaurant

Applicant: Colorado & Cohen LLC

Trade Name: Bullfrog Bagels

ANC: 6B02

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

317 7th ST SE, WASHINGTON, DC 20003

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Sidewalk Cafe

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

	Hours Of Sidewalk Cafe	Hours Of Sales Sidewalk Cafe
Sunday	7 am - 10 pm	10 am - 10 pm
Monda	7 am - 10 pm	10 am - 10 pm
Tuesda	7 am - 10 pm	10 am - 10 pm
Wednesda	7 am - 10 pm	10 am - 10 pm
Thursday:	7 am - 10 pm	10 am - 10 pm
Friday:	7 am - 10:30 pm	10 am - 10:30 pm
Saturday:	7 am - 10:30 pm	10 am - 10:30 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-072438

License Class/Type: C Restaurant

Applicant: RCJ, Inc.

Trade Name: Stan's Restaurant

ANC: 2F05

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

1029 VERMONT AVE NW, Washington, DC 20005

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

4/22/2019

A HEARING WILL BE

5/6/2019

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

Days	Hours of Operation	Hours of Sales/Service	Hours of
Sunday:	12 pm - 12 am	12 pm - 12 am	-
Monday:	11 am - 2 am	11 am - 2 am	-
Tuesday:	11 am - 2 am	11 am - 2 am	-
Wednesday:	11 am - 2 am	11 am - 2 am	-
Thursday:	11 am - 2 am	11 am - 2 am	-
Friday:	11 am - 2 am	11 am - 2 am	-
Saturday:	11 am - 2 am	11 am - 2 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-111837

License Class/Type: C Restaurant

Applicant: Olive Bistro Cafe LLC

Trade Name: Olive Bistro Cafe/ Olive Restaurant

ANC: 3E01

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

4619 41ST ST NW, STE 100, WASHINGTON, DC 2

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of
Sunday:	10am - 2am	10am - 2am	6pm - 2am
Monday:	11am - 2am	11am - 2am	6pm - 2am
Tuesday:	11am - 2am	11am - 2am	6pm - 2am
Wednesday:	11am - 2am	11am - 2am	6pm - 2am
Thursday:	11am - 2am	11am - 2am	6pm - 2am
Friday:	11am - 3am	11am - 3am	6pm - 3am
Saturday:	10am - 3am	10am - 3am	6pm - 3am

	Hours Of Sidewalk Cafe	Hours Of Sales Sidewalk Cafe
Sunday	10am - 2am	10am - 2am
Monda	11am - 2am	11am - 2am
Tuesda	11am - 2am	11am - 2am
Wednesda	11am - 2am	11am - 2am
Thursday:	11am - 2am	11am - 2am
Friday:	11am - 3am	11am - 3am
Saturday:	10am - 3am	10am - 3am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-072469

License Class/Type: C Restaurant

Applicant: Zewdie, Inc.

Trade Name: Dukem Ethiopian Restaurant & Market/Apple Lounge

ANC: 1B02

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

1114 - 1118 U ST NW, WASHINGTON, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of
Sunday:	9:30 am - 2 am	10 am - 2 am	10 am - 2 am
Monday:	9:30 am - 2 am	9:30 am - 2 am	10 am - 2 am
Tuesday:	9:30 am - 2 am	9:30 am - 2 am	10 am - 2 am
Wednesday:	9:30 am - 2 am	9:30 am - 2 am	10 am - 2 am
Thursday:	9:30 am - 2 am	9:30 am - 2 am	10 am - 2 am
Friday:	9:30 am - 3 am	9:30 am - 3 am	10 am - 3 am
Saturday:	9:30 am - 3 am	9:30 am - 3 am	10 am - 3 am

	Hours Of Sidewalk Cafe	Hours Of Sales Sidewalk Cafe
Sunday	10 am - 2 am	10 am - 2 am
Monda	9:30 am - 2 am	9:30 am - 2 am
Tuesda	9:30 am - 2 am	9:30 am - 2 am
Wednesda	9:30 am - 2 am	9:30 am - 2 am
Thursday:	9:30 am - 2 am	9:30 am - 2 am
Friday:	9:30 am - 3 am	9:30 am - 3 am
Saturday:	9:30 am - 3 am	9:30 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-019017

License Class/Type: C Multipurpose

Applicant: The Phillips Collection

Trade Name: The Phillips Collection

ANC: 2B02

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

1600 21ST ST NW, Washington, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Summer Garden

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

	Hours of Summer Garden	Hours of Sales Summer
Sunday	12 noon - 6 pm	12 noon - 6 pm
Monda	10:45 am - 4:30 pm	10:45 am - 4:30 pm
Tuesda	10:45 am - 4:30 pm	10:45 am - 4:30 pm
Wednesda	10:45 am - 4:30 pm	10:45 am - 4:30 pm
Thursday:	10:45 am - 8:30 pm	10:45 am - 8:30 pm
Friday:	10:45 am - 4:30 pm	10:45 am - 4:30 pm
Saturday:	10:45 am - 4:30 pm	10:45 am - 4:30 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-111952

License Class/Type: C Restaurant

Applicant: Papardelle 1068, Inc.

Trade Name: Ristorante Piccolo

ANC: 2E05

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

1068 31ST ST NW, WASHINGTON, DC 20007

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of
Sunday:	11:30 am - 12 am	11:30 am - 12 am	-
Monday:	11:30 am - 11 pm	11:30 am - 11 pm	6 pm - 11 pm
Tuesday:	11:30 am - 11 pm	11:30 am - 11 pm	6 pm - 11 pm
Wednesday:	11:30 am - 11 pm	11:30 am - 11 pm	6 pm - 11 pm
Thursday:	11:30 am - 11 pm	11:30 am - 11 pm	6 pm - 11 pm
Friday:	11:30 am - 11 pm	11:30 am - 11 pm	6 pm - 11 pm
Saturday:	11:30 am - 12 am	11:30 am - 12 am	6 pm - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/8/2019

Notice is hereby given that:

License Number: ABRA-096613

License Class/Type: C Restaurant

Applicant: Mi Cuba Cafe, Inc.

Trade Name: Mi Cuba Cafe

ANC: 1A05

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

1424 PARK RD NW, WASHINGTON, DC 20010

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
4/22/2019

A HEARING WILL BE
5/6/2019

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

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

Placard Posting Date: March 8, 2019
Protest Petition Deadline: April 22, 2019
Roll Call Hearing Date: May 6, 2019
Protest Hearing Date: June 26, 2019

License No.: ABRA-112932
Licensee: Philly Wing Fry, LLC
Trade Name: Philly Wing Fry
License Class: Retailer's Class "C" Tavern
Address: 1309 5th Street, N.E., Space 420
Contact: Risa Hirao, Esq.: (202) 544-2200

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 May 6, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **June 26, 2019 at 1:30 p.m.**

NATURE OF OPERATION

A new quick-service restaurant in the Union Market complex that will serve Philly cheese steaks. Occupancy Load of 99 with no seats. Joint use of common area with other Union Market merchants consisting of 85 indoor seats and a Summer Garden with 80 seats.

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

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

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

Sunday through Saturday 8am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: March 8, 2019
Protest Petition Deadline: April 22, 2019
Roll Call Hearing Date: May 6, 2019
Protest Hearing Date: June 26, 2019

License No.: ABRA-112892
Licensee: Southwest Capitol Associates, LLC
Trade Name: Residence Inn Capitol
License Class: Retailer Class "C" Tavern
Address: 333 E Street, S.W.
Contact: Stephen J. O'Brien: (202) 625-7700

WARD 6

ANC 6D

SMD 6D03

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 May 6, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The Protest Hearing date is scheduled on June 26, 2019 at 4:30 p.m.

NATURE OF OPERATION

A Tavern that will serve alcoholic beverages for special events, such as weddings, meetings, and manager receptions. Also requesting an Entertainment Endorsement to provide live entertainment. Interior seating for 344, with a Total Occupancy Load of 399.

HOURS OF OPERATION

Sunday through Saturday 12am – 12am (24-hour operations)

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION AND LIVE ENTERTAINMENT

Sunday through Saturday 4pm – 12am

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, MAY 1, 2019
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

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

TIME: 9:30 A.M.

WARD EIGHT

19983
ANC 8E **Application of District Properties.com**, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension and lot width requirements of Subtitle D § 302.1, and the side yard requirements of Subtitle D § 307.1, to construct a new detached principal dwelling unit in the R-2 Zone at the premises at 2028 Jasper Street, S.E. (Square 5848, Lot 4).

WARD SEVEN

19984
ANC 7B **Application of Rupsha 2011 LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the use provision of Subtitle U § 421.1 to construct a multi-family dwelling unit in the RA-1 Zone at premises 1326 Anacostia Road, S.E. (Square 5507, Lot 2).

WARD SEVEN

19985
ANC 7C **Application of District Properties.com**, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension and lot width requirements of Subtitle D § 302.1, and the side yard requirements of Subtitle D § 307.1, to construct a new detached principal dwelling unit in the R-2 Zone at the premises at 419 57th Street, N.E. (Square 5228, Lot 14).

BZA PUBLIC HEARING NOTICE

MAY 1, 2019

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WARD SEVEN

19988
ANC 7D **Application of Rupsha 2011 LLC**, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension and lot width requirements of Subtitle D § 302.1, and the side yard requirements of Subtitle D § 307.1, to construct a new detached principal dwelling unit in the R-2 Zone at the premises at 4417 Foote Street, N.E. (Square 5131, Lot 40).

WARD SEVEN

19990
ANC 7C **Application of Thomas Houston**, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension and lot width requirements of Subtitle D § 302.1, and the side yard requirements of Subtitle D § 307.1, to construct a two (2) new semi-detached principal dwelling units in the R-2 Zone at the premises at 919 47th Place, N.E. (Square 5151, Lot 105).

WARD SIX

19997
ANC 6A **Application of Kathryn Mitchell**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle D § 5201 from the lot occupancy requirements of Subtitle E § 304.1, and from the nonconforming structure requirements of Subtitle C § 202.2, to construct a rear addition to an existing, attached principal dwelling unit in the RF-1 Zone at premises 1348 Constitution Avenue N.E. (Square 1033, Lot 802).

PLEASE NOTE:

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

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the

BZA PUBLIC HEARING NOTICE

MAY 1, 2019

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testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

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

**Note that party status is not permitted in Foreign Missions cases.*

Do you need assistance to participate?

Amharic

ለመከተሉ ዕርዳታ ያስፈልግዎታል?

የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጓሚ) ካስፈለገዎት እባክዎን ከሰብሳቢው አገልግሎት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

您需要有人帮助参加活动吗?

如果您需要特殊便利设施或语言协助服务（翻译或口译），请在见面之前提前五天与 Zee Hill 联系，电话号码 (202) 727-0312，电子邮件 Zelalem.Hill@dc.gov。这些是免费提供的服务。

French

Avez-vous besoin d’assistance pour pouvoir participer ? Si vous avez besoin d’aménagements spéciaux ou d’une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au (202) 727-0312 ou à Zelalem.Hill@dc.gov cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

Korean

참여하시는데 도움이 필요하세요?

특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

Spanish

¿Necesita ayuda para participar?

Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o

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MAY 1, 2019

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interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Vietnamese

Quý vị có cần trợ giúp gì để tham gia không?

Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

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

FREDERICK L. HILL, CHAIRPERSON
LESYLLEÉ M. WHITE, MEMBER
LORNA L. JOHN, MEMBER
CARLTON HART, VICE-CHAIRPERSON,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Monday, April 22, 2019, @ 6:30 p.m.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 07-08C (District of Columbia Housing Authority – Text Amendment to Subtitle C §§ 718.3 and 718.7(a) re: Extending Expiration Dates for Certificates of Occupancy for Temporary Surface Parking Lots in the Proximity of Nationals Ballpark)

THIS CASE IS OF INTEREST TO ALL ANCs

On September 14, 2018, as amended and restated on November 15, 2018, the Office of Zoning received a Petition from the District of Columbia Housing Authority (“Petitioner”) proposing a text amendment to the Zoning Regulations of 2016 (11 DCMR) to Subtitle C §§ 718.3 and 718.7(a) of the Zoning Regulations, specifically to extend the expiration dates for certificates of occupancy for temporary surface parking lots on Square 767, Lots 44-47, Square 768, Lots 19-22, and Square 882, Lot 77 (collectively, the “Property”) until April 1, 2023. On November 9, 2018, the Office of Planning (“OP”) filed its setdown report recommending the petition be set down for a public hearing subject to clarification and/or correction of relevant square and lot information. On November 15, 2018, the Petitioner filed an amended petition in response to OP’s report. On December 11, 2018, ANC 6D filed a letter supporting the proposed text amendment with comments. Thereafter, on December 17, 2018, the Commission voted to setdown the petition as a rulemaking case for public hearing. On February 1, 2019, the Petitioner filed its Pre-Hearing Statement.

The following amendments to Title 11 DCMR: Zoning Regulations, Subtitle C: General Rules, Chapter 7: Vehicle Parking, are proposed (additions are shown in **bold and underlined text** and deleted text is shown ~~strikethrough~~ text).

Amend the text of Subtitle C § 718, Temporary Surface Parking Lots for Ballpark, by revising §§ 718.3 and 718.7(a) as follows:

718.3 Any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2018, **except that, with respect to Square 767, Lots 44-47, Square 768, Lots 19-22, and Square 882, Lot 77, any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2023.**

718.7(a) Any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2018, **except that, with respect to Square 767, Lots 44-47, Square 768, Lots 19-22, and Square 882, Lot 77, any certificate of occupancy**

issued pursuant to this subsection shall expire no later than April 1, 2023.

Proposed amendments to the Zoning Regulations of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat. 797), as amended, D.C. Official Code § 6-641.01, *et seq.*

This public hearing will be conducted in accordance with the rulemaking case provisions of the Zoning Regulations, 11 DCMR Subtitle Z, Chapter 5.

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- | | | |
|----|---------------|----------------|
| 1. | Organizations | 5 minutes each |
| 2. | Individuals | 3 minutes each |

The Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <http://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, ROBERT E. MILLER, PETER A. SHAPIRO, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION

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Quý vị có cần trợ giúp gì để tham gia không? Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

ለመከተል ዕርዳታ ያስፈልግዎታል? የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጓጃ) ካስፈለገዎት እባክዎን ከስብሰባው አጭኩት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡ በነጻ ናቸው።

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING

TIME AND PLACE: Thursday, April 25, 2019, @ 6:30 p.m.
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Z.C. CASE NO. 18-21 (Hanover R.S. Limited Partnership – Consolidated PUD & Related Map Amendment @ Square 3835, Lot 804 and Square 3832, Lot 15 [3135 and 3201 8th St. N.E.]

THIS CASE IS OF INTEREST TO ANC 5E

On October 30, 2018, the Office of Zoning received an application from Hanover R.S. Limited Partnership (the "Applicant") requesting approval of a consolidated planned unit development ("PUD") and related zoning map amendment from the PDR-1 District to the MU-4 District for property located at Square 3835, Lot 804 and Square 3832, Lot 15 (the "Property"). The Office of Planning submitted a report to the Zoning Commission, dated December 7, 2018. At its December 17, 2018, public meeting, the Zoning Commission voted to set down the application for a public hearing. The Applicant provided its prehearing statement on February 25, 2019.

The Property has a total land area of 90,293 square feet and is bounded by the Washington Metropolitan Area Transit Authority ("WMATA") tracks to the east and 8th Street, N.E. to the west. Kearny Street, N.E. is located to the northwest of the Site, and Irving Street, N.E. is located to the southwest of the Property. The Property is located in Ward 5 and is within the boundaries of Advisory Neighborhood Commission ("ANC") 5E.

The PUD includes the construction of two multifamily residential buildings separated by a landscaped entry plaza, with a total of approximately 377 units. The two buildings will include approximately 325,050 square feet of gross floor area, or 3.6 floor area ratio ("FAR"). The maximum height of the both buildings is 65 feet as measured to the top of the parapet, with penthouse habitable space and mechanical equipment above. The buildings include setbacks at the 6th story, as recommended by the Brookland-CUA Small Area Plan. The PUD includes approximately 186 parking spaces in a below-grade parking garage that will be shared between the two buildings. The parking garage will also include indoor bicycle storage facilities with parking for approximately 125 bikes. Each building will include one 30-foot loading berth and a related platform. A single 20-foot service-delivery space will be shared by the buildings.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11 DCMR Subtitle Z, Chapter 4.

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of Subtitle Z § 404.1.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

Except for an affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, or 14 days prior to a scheduled public meeting if seeking advanced party status consideration, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning's website at: <https://app.dcoz.dc.gov/Help/Forms.html>.** This form may also be obtained from the Office of Zoning at the address stated below.

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, if an ANC wishes to participate in the hearing, it must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

1. Applicant and parties in support 60 minutes collectively

- 2. Parties in opposition 60 minutes collectively
- 3. Organizations 5 minutes each
- 4. Individuals 3 minutes each

Pursuant to Subtitle Z § 408.4, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <http://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

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Quý vị có cần trợ giúp gì để tham gia không? Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

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OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF PROPOSED RULEMAKING

The Chief Procurement Officer 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. & 2018 Supp.)) (the “Act”), hereby gives notice of the intent to amend Sections 2602, 2626, and 2699 of Chapter 26 (Construction and Architect-Engineer Contracts), of Title 27 (Contracts and Procurement), of the District of Columbia Municipal Regulations (DCMR).

This rulemaking implements Section 3(l) of the Procurement Integrity, Transparency, and Accountability Amendment Act of 2016 (PITAAA), effective October 8, 2016 (D.C. Law 21-158; D.C. Official Code § 2-356.05 (2016 Repl. & 2018 Supp.)) that requires government cost estimates of proposed contracts, contract modification, or change orders involving construction or architecture-engineering projects in excess of one hundred thousand dollars (\$100,000). The existing regulations regarding construction cost estimates are presently inconsistent with the Act. This rulemaking will eliminate those inconsistencies and is necessary to provide legal certainty to contracting officers, programmatic staff, and other stakeholders regarding District procurement.

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

Chapter 26, CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS, of Title 27 DCMR, CONTRACTS AND PROCUREMENT, is amended as follows:

Section 2602, ESTIMATE OF CONSTRUCTION COSTS, is amended to read as follows:

2602 ESTIMATE OF CONSTRUCTION COSTS

- 2602.1 An estimate of costs shall be prepared for each proposed contract, contract modification, or change order issued in connection with a construction project that is anticipated to exceed one hundred thousand dollars (\$100,000).
- 2602.2 The estimate shall be prepared by the agency requesting the proposed contract, contract modification, or change order, or by a contractor or District employee under the direction of the contracting officer at the request of that agency.
- 2602.3 Each estimate shall be prepared in detail, as though the District were competing for the contract, and shall not be based solely on the estimates or actual costs of similar construction contracts.
- 2602.4 The estimate shall be made available to the contracting officer for use in the preparation of the contract solicitation and in the determination of price reasonableness in awarding or modifying a contract.

- 2602.5 If two-step sealed bidding is used, the estimate shall be prepared after step one is completed, in accordance with Chapter 15 of this title.
- 2602.6 Contractors or consultants who assisted or advised the District in estimating construction costs shall be considered ineligible to bid on the proposed contract, contract modification, or change order for which assistance or advice was provided.
- 2602.7 The materials gathered or created for the estimate, and the overall amount of the estimate is confidential information, access to which shall be limited to District personnel or agents of the District whose official duties require knowledge regarding the estimate, and shall not be disclosed, in whole or in part, except as otherwise permitted by this title.
- 2602.8 The contracting officer may make an exception to § 2602.7 of this chapter during contract negotiations to allow the contracting officer to identify a specialized task and disclose the associated cost breakdown figures in the cost estimate, but only to the extent deemed necessary to arrive at a fair and reasonable price. The overall amount of the District's estimate shall not be disclosed.

Section 2626, COST ESTIMATE FOR ARCHITECT-ENGINEER CONTRACTS, is amended to read as follows:

2626 COST ESTIMATE FOR ARCHITECT-ENGINEER CONTRACTS

- 2626.1 An independent District estimate of costs of architect-engineer services shall be prepared by or under the direction of the contracting officer before commencing negotiations in accordance with § 2627 of this chapter for each proposed contract, contract modification, or change order anticipated to exceed one hundred thousand dollars (\$100,000).
- 2626.2 The estimate shall be prepared by the agency requesting the services, or under the direction of the contracting officer at the request of that agency.
- 2626.3 The estimate shall be made available to the contracting officer for use in the preparation of the contract solicitation and in the determination of price reasonableness in awarding or modifying the contract.
- 2626.4 Information concerning the independent District estimate is confidential information, access to which shall be limited to District personnel and agents whose official duties require knowledge of the estimate. The overall amount of the District's estimate shall not be disclosed except as permitted by this title.
- 2626.5 The contracting officer may make an exception to § 2626.4 of this chapter during contract negotiations to allow the contracting officer to identify a specialized task

and disclose the associated cost breakdown figures in the District's estimate, but only to the extent deemed necessary to arrive at a fair and reasonable price. The overall amount of the District's estimate shall not be disclosed.

Section 2699, DEFINITIONS, is amended to read as follows:

2699 DEFINITIONS

2699.1 When used in this chapter, the following words and terms shall have the meanings ascribed:

Affiliate – an individual or firm that controls, is controlled by, or is under common control with another individual or firm.

Award information – information regarding the name of the contractor and the amount of the contract award.

Confidential information – any information which is available to an employee of the District of Columbia only because of the employee's status as an employee of the District of Columbia and is not a matter of public knowledge or available to the public upon request.

Contract administrator – the individual or individuals, other than the contracting officer, responsible for overseeing the progress of a contract after it is awarded. The contract administrator does not give instructions to the contractor that will alter terms, conditions, or costs of the contract.

Design competition – that part of the architect-engineer solicitation which relates to the requirement for a conceptual design only.

Firm – any individual, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture or engineering.

Notice of intent to award – a written notice to the apparent awardee advising of intent to award the contract contingent upon the execution of required bonds and the formal contract, and the obtaining of all necessary approvals.

Plans and specifications – drawings, text, and other descriptions of the physical or functional characteristics required for and preliminary to the construction.

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.

All persons desiring to comment on the subject matter of this proposed rulemaking should submit comments to the Chief Procurement Officer, 441 4th Street N.W., 700 South, Washington, D.C. 20001. Comments may be sent by email to OCPRulemaking@dc.gov, by postal mail or hand delivery to the address above. Comments must be received no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. A copy of this proposed rulemaking may be requested at the same address, e-mail, or telephone number as above.

DEPARTMENT OF HEALTH

NOTICE OF THIRD PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to amend Chapter 47 (Acupuncture) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The amendments to Chapter 47 will replace paragraphs, subsections, and sections of the chapter, including, *inter alia*, removing physicians who collaborate with acupuncturists from the dominion of the chapter; amending reference, educational, and credential requirements for licensure; citing to an additional section for education requirements; incorporating the existing separate section for applicants educated in foreign countries into the existing educational requirements section; removing the section entitled “Acupuncture Practice” and replacing it with a section entitled “Scope of Practice;” adding sections for Chinese herbology, mandatory use of disposable needles, and disposal of needles; and removing the requirement that the acupuncture advisory committee be the entity responsible for reviewing applications.

The first Notice of Proposed Rulemaking was published on November 27, 2015, in the *D.C. Register* at 62 DCR 015342. Numerous comments were received by the Department of Health following the publication, and following substantive changes to the proposed regulation, a Notice of Second Proposed Rulemaking was published on June 8, 2018 in the *D.C. Register* at 65 DCR 006160. Comments were received from the Acupuncture Society of Washington D.C. (ASDC); the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM); the Council of Colleges of Acupuncture and Oriental Medicine (CCAOM); the American Society of Acupuncturists (ASA); the American Academy of Medical Acupuncture (AAMA); and Diane Shandor, L.Ac. The Board of Medicine (Board) reviewed the comments and agreed to some of them, thus necessitating a Notice of Third Proposed Rulemaking. The ASDC, NCCAOM, CCAOM, and the ASA all commented that chiropractors receiving an ancillary license in acupuncture pursuant to 17 DCMR § 4702 should be required to have at least as many hours in training of acupuncture as physicians; the comment was relayed to the Board of Chiropractic as a suggested edit to 17 DCMR Chapter 48 (Chiropractic). The AAMA suggested that physicians and chiropractors had at least two hundred fifty (250) hours of training of which at least 100 should be clinical in nature. The Board agreed and determined that the acupuncture license for physicians will require certification by the American Board of Medical Acupuncture which maintains those requirements.

The ASDC and CCAOM recommended that Section 4704 (Prohibited Titles) include the statement “No person who has not met the requirements of this chapter may represent that they are providing acupuncture.” This comment was suggested to ensure that the public does not believe that health practitioners who are not licensed acupuncturists but are authorized to practice “dry needling,” a technique also used by acupuncturists, are authorized to practice acupuncture although they do practice a specific treatment with acupuncture needles. The Board

agreed with the recommendation but changed the wording for greater clarity. The AAMA commented that no other health practitioner be able to practice any technique using invasive needling without meeting the specific hours of training required by this chapter; however, the Board declined to adopt the suggestion as it impacts health practitioners not under the authority of the Board. Ms. Shandor submitted a comment that the new requirements for licensure were more restrictive than the current standards that may affect those people already licensed; however the new requirements do not affect re-licensure except for the new requirements for continuing education. The ASDC also requested that Section 4705 be amended to indicate that a single form can be used for both consent and notice requirements; as the proposed rule does not prohibit the use of a single form, the Board did not feel a change was needed.

The ASDC and CCAOM recommended that Subsection 4706.1 regarding the Scope of Practice be amended to ensure that other individuals not licensed to practice acupuncture but allowed to use specific treatments that use needles be identified as “permitted to use these devices” instead of “permitted to practice acupuncture”, a comment which the Board agreed with. The Board also agreed with the ASDC to eliminate the language “utilizing electrodes on the surface of the skin” since Electroacupuncture (utilizing electrodes on the surface of the skin) was not a treatment limited to acupuncture. ASDC and the ASA recommended that the phrase “botanical, mineral, or animal substances” be added to the nutritional or dietary supplements that Acupuncture Level I licensees are allowed to recommend to ensure there is no confusion that they could recommend such products; the Board agreed with the change. The ASDC, CCAOM, ASA, and NCCAOM also recommended that Acupuncture Level II be re-named “Acupuncture/Chinese Herbology” to ensure there is no confusion about the type of license; the Board agreed with the change. The ASDC and NCCAOM also recommended that § 4707.2(d) be deleted as it is the same requirement as § 4707.2(c); the Board agreed with the change. The ASDC also recommended requiring patient permission prior to releasing any information to another health professional, except in cases where the patient is threatening harm to him or herself or others; the Board rejected this change as more restrictive than federal HIPAA laws regarding sharing protected health information.

Additional comments were received that did not suggest a change. For instance, the NCCAOM provided information that the apprenticeship program will be eliminated as of December 31, 2021, and provided information regarding its reinstatement examination. The AAMA commented that the regulation does not distinguish between the performance of acupuncture and the clinical practice of acupuncture. The Board accepted these comments as informational.

Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended by removing the existing Chapter 47, and adding a new Chapter 47 by the same name, ACUPUNCTURE, to read as follows:

CHAPTER 47 ACUPUNCTURE

- Secs.**
- 4700 GENERAL PROVISIONS
- 4701 TERM OF LICENSE
- 4702 EDUCATIONAL REQUIREMENTS
- 4703 CREDENTIALS REQUIRED FOR LICENSURE

4704	PROHIBITED TITLES
4705	INFORMED CONSENT
4706	SCOPE OF PRACTICE
4707	CHINESE HERBOLOGY (ACUPUNCTURE/CHINESE HERBOLOGY)
4708	MANDATORY USE OF DISPOSABLE NEEDLES
4709	PREPARATION OF PATIENT RECORDS; ELECTRONIC RECORDS; ACCESS TO OR RELEASE OF INFORMATION; CONFIDENTIALITY; TRANSFER OR DISPOSAL OF RECORDS
4710	CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS
4711	REENTRY TO PRACTICE
4712	[RESERVED]
4713	[RESERVED]
4714	[RESERVED]
4715	[RESERVED]
4716	DUTIES OF ADVISORY COMMITTEE ON ACUPUNCTURE
4799	DEFINITIONS

4700 GENERAL PROVISIONS

- 4700.1 This chapter shall apply to applicants for and holders of a license to practice acupuncture.
- 4700.2 Chapters 40 (Health Occupations: General Rules), 41 (Health Occupations: Administrative Procedures), and 46 (Medicine) of this title shall supplement this chapter.
- 4700.3 An applicant for a license under this chapter shall submit with a completed application one letter of reference from a physician or acupuncturist licensed in the United States, who has personal knowledge of the applicant's abilities and qualifications to practice acupuncture.
- 4700.4 The Board shall maintain a registry of licensed acupuncturists and shall make the registry available to the public for inspection.

4701 TERM OF LICENSE

- 4701.1 Subject to § 4701.2, a license issued pursuant to this chapter shall expire at 12:00 midnight of December 31st of each even-numbered year.
- 4701.2 If the Director changes the renewal system pursuant to § 4006.3 of Chapter 40 of this title, a license issued pursuant to this chapter shall expire in accordance with the system adopted by the Director.

4702 EDUCATIONAL REQUIREMENTS

- 4702.1 An applicant under this section shall meet the education and training requirements for licensure by furnishing proof satisfactory to the Board that the applicant has met the requirements of §§ 4702 and 4703 in their entirety, unless the applicant is a licensed physician or chiropractor.
- 4702.2 In order to qualify for licensure, an applicant shall meet one of the following education requirements:
- (a) Graduate from an acupuncture program, which meets the requirements of § 4702.5; or
 - (b) Complete either:
 - (1) An acupuncture program in another country that is the equivalent of an acupuncture program pursuant to § 4702.5; or
 - (2) An apprenticeship program approved by NCCAOM; and
 - (c) Successfully complete the Clean Needle Technique (CNT) course administered by the Council of Colleges of Acupuncture and Oriental Medicine (CCAOM).
- 4702.3 An individual who obtains his or her education in another country shall arrange for a transcript evaluating company recognized by NCCAOM to submit a credential evaluation directly to the Board.
- 4702.4 The credential evaluation required by § 4702.3 shall demonstrate that the applicant obtained a degree that is equivalent to an acupuncture program from a college or university in another country that is accredited in that country.
- 4702.5 An acupuncture program sufficient for licensure shall be accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) or another accrediting body recognized by the United States Department of Education. An applicant shall arrange for the acupuncture program to submit a certified transcript directly to the Board confirming that a diploma was awarded to the applicant.
- 4702.6 Any credentials required to be submitted pursuant to §§ 4702.2, 4702.3, or 4702.4, which are written in a language other than English shall be accompanied by a certified English translation prepared at the applicant's expense.
- 4702.7 A physician licensed in good standing in the District of Columbia may receive a license for acupuncture if he or she is certified in medical acupuncture by the American Board of Medical Acupuncture.

4702.8 A chiropractor licensed in good standing in the District of Columbia may receive an ancillary procedures certification for acupuncture pursuant to the requirements of § 4803 of Chapter 48 (Chiropractic), of this title.

4703 CREDENTIALS REQUIRED FOR LICENSURE

4703.1 At the time of application, an applicant shall submit to the Board:

- (a) A completed application form prescribed by the Board; and
- (b) For applicants who are not licensed physicians in the District of Columbia, proof that the applicant has passed the English version of the NCCAOM examination prior to June 1, 2004, or if taken after June 1, 2004, proof that the applicant has passed each of the following modules of the NCCAOM examination:
 - (1) Foundations of Oriental Medicine;
 - (2) Acupuncture with point location; and
 - (3) Biomedicine.
- (c) If an applicant's entire education (high school, college, or university and acupuncture program) was conducted in a language other than in English, proof that the applicant has achieved a passing score on the Test of English as a Foreign Language (TOEFL) examination; and
- (d) Proof that the applicant has completed the educational requirements of § 4702.

4703.2 Any credentials required to be submitted pursuant to § 4703.1, which are written in a language other than in English shall be accompanied by a certified English translation prepared at the applicant's expense.

4704 PROHIBITED TITLES

4704.1 An acupuncturist who is not a licensed physician shall not represent that he or she has a doctoral degree in the field of acupuncture and/or Oriental medicine, or use the title "doctor" or "Dr.," unless the educational program that awarded the person's doctoral degree is:

- (a) Approved by the ACAOM or is a college or university that is accredited by a regional accrediting agency recognized by the United States Department of Education; or

(b) Approved by the ministry of education of a foreign country to grant doctoral degrees.

4704.2 A person who uses the title “doctor” or “Dr.” pursuant to § 4704.1 shall indicate that the doctoral degree is in acupuncture and/or Oriental medicine.

4704.3 An acupuncturist shall not represent that he or she has a master’s degree in the field of acupuncture and/or Oriental medicine unless the education program that awarded his or her master’s degree is:

(a) Approved by the ACAOM or is a college or university that is accredited by a regional agency recognized by the United States Department of Education; or

(b) Approved by the ministry of education of a foreign country to grant master’s degrees.

4704.4 An acupuncturist who has a doctoral or master’s degree in a field other than acupuncture and/or oriental medicine may, in advertising or other materials visible to the public pertaining to the acupuncturist's practice, include this degree provided that the field in which the degree was awarded is specified without using an abbreviation and the doctoral or master’s degree was obtained from an educational program, which meets the requirements of §§ 4704.1 or 4704.3.

4704.5 An acupuncturist who is not a licensed physician and has a doctorate in a field other than acupuncture or oriental medicine shall not use the title "doctor" in advertising or other materials visible to the public pertaining to the acupuncturist's acupuncture practice.

4704.6 An acupuncturist who does not have an Acupuncture/Chinese Herbology license shall not identify him or herself as practicing Chinese Herbology unless they are a person who qualifies for Acupuncture/Chinese Herbology under the requirements of § 4707.2 and they are within the two-year period following the implementation of these rules.

4704.7 Only individuals who have met the requirements of this chapter and are licensed acupuncturists may represent themselves as providing acupuncture or acupuncture treatment.

4705 INFORMED CONSENT

4705.1 The acupuncturist shall fully disclose to the patient such information as will enable the patient to make an evaluation of the nature of the treatment and of any attendant risks. The acupuncturist shall obtain, and maintain as part of his or her patient records, informed written consent from the patient before beginning acupuncture treatment.

4705.2 A licensed acupuncturist shall advise every patient that any care, treatment and services provided within the scope of the acupuncturist's practice is not a substitute for care, treatment and services provided by a licensed physician regarding the patient's condition.

4705.3 A licensed acupuncturist shall maintain as part of his or her patient records a form, with the date and the signatures of the patient and the licensed acupuncturist, indicating that the licensed acupuncturist has advised the patient as required under § 4705.2 and shall provide a copy of this form to the patient.

4706 SCOPE OF PRACTICE

4706.1 The use of any of the following to effect therapeutic change is within the scope of practice of licensed acupuncturists and shall be performed only by acupuncturists licensed by the Board, or individuals otherwise permitted to use these devices pursuant to D.C. Official Code §§ 3-1201 *et seq.*:

- (a) Needles;
- (b) Moxibustion;
- (c) Teishin (pressure needles); and
- (d) Electroacupuncture (current applied to inserted needles).

4706.2 Licensed acupuncturists may, in addition to the methods listed in § 4706.1, use any of the following as part of his or her professional practice:

- (a) Acupatches;
- (b) Acuform;
- (c) Manual acutotement (stimulation by an instrument that does not pierce the skin);
- (d) Acupressure;
- (e) Cupping;
- (f) Gua sha scraping techniques;
- (g) Cold laser used for needle-less acupuncture;
- (h) Tuina;

- (i) Massage, bodywork and somatic therapy;
- (j) Ultrasonic;
- (k) Thermal methods;
- (l) Magnetic stimulation;
- (m) Breathing techniques;
- (n) Therapeutic exercise and techniques;
- (o) Oriental dietary therapy;
- (p) Lifestyle and behavioral education;
- (q) Percutaneous and transcutaneous electrical nerve stimulation;
- (r) Qigong;
- (s) Biofeedback and other devices that utilize color, light, sound, and electromagnetic energy for therapeutic purposes;
- (t) Diagnostic, assessment and treatment techniques that are taught in ACAOM-approved schools and through NCCAOM-approved continuing education courses and which assist in acupuncture and Oriental medicine diagnosis, corroboration, and monitoring of a treatment plan or in making a determination to refer a patient to another healthcare provider;
- (u) Taiji;
- (v) Energetic therapy; and
- (w) Ashi acupuncture/dry needling.

4706.3 Licensed acupuncturists may recommend to patients the use of:

- (a) Meditation; and
- (b) Legal products intended to facilitate health, such as:
 - (1) Homeopathic medicine that is recognized in the official Homeopathic Pharmacopoeia of the United States;
 - (2) Vitamins;

- (3) Minerals;
- (4) Enzymes;
- (5) Glandulars;
- (6) Amino acids;
- (7) Nonprescription substances; and
- (8) Nutritional or dietary supplements including botanical, mineral, or animal substances that meet Food and Drug Administration labeling requirements, 21 CFR part 101.36, unless otherwise prohibited by State or Federal law.

4706.4 Licensed acupuncturists may use the following when providing acupuncture:

- (a) Solid filiform needles;
- (b) Dermal needles;
- (c) Plum blossom needles;
- (d) Intradermal/press needles;
- (e) Prismatic needles;
- (f) Lancets; and
- (g) Non-insertive pressure needles.

4706.5 Licensed acupuncturists shall not use the following when providing acupuncture:

- (a) Staples;
- (b) Hypodermic needles; and
- (c) Subcutaneous permanently implanted needles or sutures.

4706.6 The only licensed acupuncturists who may practice Chinese Herbology are those qualified to do so under § 4707.

4706.7 Licensed acupuncturists may offer and provide to a patient, at fair market value, goods and devices related to the practice of acupuncture.

4707 CHINESE HERBOLOGY (ACUPUNCTURE/CHINESE HERBOLOGY)

4707.1 Except as set forth in § 4707.2, a licensed acupuncturist shall practice Chinese Herbology only if he is licensed by the Board in Acupuncture/Chinese Herbology.

4707.2 Except for those who qualify as set forth in § 4707.3, licensure as Acupuncture/Chinese Herbology requires the following:

- (a) Current certification in Chinese Herbology or Oriental Medicine from the NCCAOM; or
- (b) Successful completion of an acupuncture program and an herbology program accredited by the ACAOM, or can provide proof satisfactory to the Board that he or she has completed four hundred fifty (450) hours of education and/or training in Herbology, one hundred twenty (120) hours of which must have been in supervised clinical practice; and
- (c) Successfully passed the NCCAOM Chinese Herbology examination.

4707.3 A licensed acupuncturist who obtained his or her license on or before the effective date of these regulations may obtain an Acupuncture/Chinese Herbology license to practice Chinese Herbology if he or she:

- (a) Was educated outside the United States and can provide transcripts from a foreign institution that documents training in Chinese Herbology; or
- (b) Has practiced Chinese Herbology for a minimum of five (5) years prior to the effective date of these regulations and has completed at least ten (10) hours of continuing education in Chinese Herbology or related courses in the two (2) year period prior to receiving the Acupuncture/Chinese Herbology license; and
- (c) Applies for and receives his or her Acupuncture/Chinese Herbology license within two (2) years of the effective date of these regulations.

4707.4 A licensed acupuncturist who is permitted to practice Chinese Herbology pursuant to § 4707.1 shall complete at least ten (10) hours of continuing education related to the practice of Chinese Herbology as part of the thirty (30) hours of continuing education he or she is required to complete pursuant to § 4710.

4708 MANDATORY USE OF DISPOSABLE NEEDLES

4708.1 A licensed acupuncturist shall use only sterile, disposable needles in performing any care, treatment or service on a patient.

4708.2 Used disposable acupuncture needles shall be placed in a rigid, puncture-proof, sealable container. The container shall be sealed and labeled as a disposal

container and shall be labeled as bio-hazardous material. The disposal container shall be wiped with a disinfectant if blood or other bodily fluids are spilled on the outside of the container. The acupuncturist shall dispose of the container pursuant to the requirements of the District of Columbia and federal laws governing the disposal of medical waste and biohazard materials.

4709 PREPARATION OF PATIENT RECORDS; ELECTRONIC RECORDS; ACCESS TO OR RELEASE OF INFORMATION; CONFIDENTIALITY; TRANSFER OR DISPOSAL OF RECORDS

4709.1 The following words and terms, as used in this section, shall have the following meanings unless the context clearly indicates otherwise:

(a) "Authorized representative" means a person who has been designated by the patient or a court to exercise rights under this section. An authorized representative may be the patient's attorney or an employee of an insurance carrier with whom the patient has a contract which provides that the carrier be given access to records to assess a claim for monetary benefits or reimbursement. If the patient is a minor, a parent or guardian who has custody (whether sole or joint) shall be deemed to be an authorized representative.

(b) "Patient" means any person who is the recipient of acupuncture.

4709.2 Acupuncturists shall prepare contemporaneous, permanent professional treatment records. Acupuncturists shall also maintain records relating to billings made to patients and third party carriers for professional services. All treatment records, bills, and claim forms shall accurately reflect the treatment or services rendered. Treatment records shall be maintained for a period of three years from the date of the most recent entry.

(a) To the extent applicable, professional treatment records shall reflect:

(1) The dates of all treatments;

(2) The patient complaint;

(3) The history;

(4) Progress notes;

(5) Any orders for tests or consultations and the results thereof;

(6) Documentation indicating that informed consent was given by the patient;

- (7) Findings from examinations;
 - (8) If a physician or other licensed health care practitioner has referred a patient for acupuncture, an indication that a referral or diagnosis was made, including the name of the referring professional; and
 - (9) Documentation of any recommendations made to a patient for the use of practices or products that facilitate health.
- (b) Corrections or additions may be made to an existing record, provided that each change is clearly identified as such, dated and initialed by the licensee;
- (c) A patient record that is prepared and maintained electronically shall be prepared and maintained as follows:
- (1) The patient record shall contain at least two forms of identification, for example, name and record number or any other specific identifying information;
 - (2) The entry made by the acupuncturist shall be made contemporaneously with the treatment and shall contain the date of service, date of entry, and full printed name of the treatment provider. The acupuncturist shall finalize or "sign" the entry by means of a confidential personal code ("CPC") and include date of the "signing";
 - (3) The acupuncturist may dictate a dated entry for later transcription. The transcription shall be dated and identified as "preliminary" until reviewed, finalized and dated by the acupuncturist as provided in § 4709.2(c)(2);
 - (4) The electronic record system shall contain an internal permanently activated date and time recordation for all entries, and shall automatically prepare a back-up copy of the file;
 - (5) The electronic record system shall be designed in such manner that after "signing" by means of the CPC, the existing entry cannot be changed in any manner. Notwithstanding the permanent status of a prior entry, a new entry may be made at any time and may indicate correction to a prior entry;
 - (6) Where more than one acupuncturist is authorized to make entries into the electronic record of a patient, the acupuncturist responsible for the acupuncture practice shall assure that each such person obtains a CPC and uses the file program in the same manner; and

- (7) A copy of each day's entry, identified as preliminary or final as applicable, shall be made available to a physician responsible for the patient's care or to a representative of the Board, no later than ten (10) days after a request for the record, or to a patient within thirty (30) days of the request or promptly in the event of emergency.

4709.3 Acupuncturists shall provide access to professional treatment records to a patient or the patient's authorized representative in accordance with the following:

- (a) No later than thirty (30) days from receipt of a request from a patient or an authorized representative, the acupuncturist shall provide a copy of the professional treatment record, and/or billing records as may be requested. The record shall include all pertinent objective data including test results as applicable, as well as any subjective information.
- (b) Unless otherwise required by law, an acupuncturist may, if a patient requests, provide a summary of the record in lieu of providing a photocopy of the actual record, so long as that summary adequately reflects the patient's history and treatment. An acupuncturist may charge a reasonable fee for the preparation of a summary, which has been provided in lieu of the actual record, which shall not exceed the cost allowed by § 4709.3(c) for that specific record.
- (c) Acupuncturists may require that a record request be in writing and may charge a reasonable fee for the reproduction of records.
- (d) If the patient or a subsequent treating health care professional is unable to read the treatment record, either because it is illegible or prepared in a language other than English, the acupuncturist shall provide a transcription at no cost to the patient.
- (e) The acupuncturist shall not refuse to provide a professional treatment record on the grounds that the patient owes the licensee an unpaid balance if the record is needed by another health care professional for the purpose of rendering care.

4709.4 Acupuncturists shall maintain the confidentiality of professional treatment records, except that:

- (a) The acupuncturist shall release patient records as directed by a subpoena issued by the Board. Such records shall be originals, unless otherwise specified, and shall be unedited, with full patient names. To the extent that the record is illegible, the acupuncturist, upon request, shall provide a

typed transcription of the record. If the record is in a language other than English, the acupuncturist shall also provide a certified translation.

- (b) The acupuncturist shall release information as required by law or regulation.
- (c) The acupuncturist, in the exercise of professional judgment and in the best interests of the patient (even absent the patient's request), may release pertinent information about the patient's treatment to another licensed health care professional who is providing or has been asked to provide treatment to the patient, or whose expertise may assist the acupuncturist in his or her rendition of professional services.

4709.5 Where the patient has requested the release of a professional treatment record or a portion thereof to a specified individual or entity, in order to protect the confidentiality of the records, the acupuncturist shall:

- (a) Secure and maintain a current written authorization, bearing the signature of the patient or an authorized representative;
- (b) Assure that the scope of the release is consistent with the request; and
- (c) Forward the records to the attention of the specific individual identified or mark the material "Confidential."

4709.6 If an acupuncturist ceases to engage in practice or it is anticipated that he or she will remain out of practice for more than three months, the acupuncturist or designee shall:

- (a) Establish a procedure by which patients can obtain a copy of the treatment records or acquiesce in the transfer of those records to another licensee who is assuming responsibilities of the practice. However, an acupuncturist shall not charge a patient, pursuant to § 4709.3(c), for a copy of the records, when the records will be used for purposes of continuing treatment or care.
- (b) Make reasonable efforts to directly notify any patient treated during the six months preceding the cessation, providing information concerning the established procedure for retrieval of records.

4710 CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS

4710.1 In order to renew a license, an acupuncturist shall confirm on the renewal application that he or she has completed at least thirty (30) hours of continuing education through any of the following continuing education methods:

- (a) Successfully completing a continuing education course that has been approved by NCCAOM or by boards or committees regulating acupuncture in other states;
- (b) Successfully completing up to fifteen (15) hours of a distance learning course approved by NCCAOM; or
- (c) Successfully completing continuing education courses or programs that are pre-approved by the Board.

4710.2

Beginning with the renewal period ending December 31, 2018, two (2) of the thirty (30) hours of approved continuing education shall relate to cultural competence or appropriate clinical treatment specifically for individuals who are lesbian, gay, bisexual, transgender, gender nonconforming, queer, or questioning their sexual orientation or gender identity and expression (LGBTQ) and shall meet the requirement of § 4710.1. Continuing education hours that are completed in cultural competence and appropriate clinical treatment specifically for individuals who are LGBTQ shall, at a minimum, provide information and skills to enable a licensed acupuncturist to care effectively and respectfully for patients who identify as LGBTQ, which may include:

- (a) Specialized clinical training relevant to patients who identify as LGBTQ, including training on how to use cultural information and terminology to establish clinical relationships;
- (b) Training that improves the understanding and application, in a clinical setting, of relevant data concerning health disparities and risk factors for patients who identify as LGBTQ;
- (c) Training that outlines the legal obligations associated with treating patients who identify as LGBTQ;
- (d) Best practices for collecting, storing, using, and keeping confidential, information regarding sexual orientation and gender identity;
- (e) Best practices for training support staff regarding the treatment of patients who identify as LGBTQ and their families;
- (f) Training that improves the understanding of the intersections between systems of oppression and discrimination and improves the recognition that those who identify as LGBTQ may experience these systems in varying degrees of intensity; and
- (g) Training that addresses underlying cultural biases aimed at improving the provision of nondiscriminatory care for patients who identify as LGBTQ.

- 4710.3 The Board may approve upon consultation with, and advice from, the Advisory Committee on Acupuncture continuing education credits obtained through methods other than described in § 4710.1.
- (a) A licensed acupuncturist may accrue no more than a combined total of six hours of continuing education credits under § 4710.3(b) as part of the overall requirement of thirty (30) hours of continuing education required in § 4710.1;
 - (b) The methods through which a licensed acupuncturist may obtain continuing education credits other than as described in § 4710.1 are as follows:
 - (1) *Pro bono* activities consisting of work for the provision of acupuncture services provided through an organization offering humanitarian services to:
 - (A) Victims of an emergency situation or catastrophic disaster area;
 - (B) Low income or underserved areas or populations in the District;
 - (C) Special needs populations in the District; or
 - (D) Active duty military personnel in the United States Armed Services.
 - (2) A licensed acupuncturist may accrue a maximum of three (3) hours of continuing education credit for *pro bono* activities, only upon the following conditions:
 - (A) Upon completion of the *pro bono* activity, the licensed acupuncturist shall obtain from the facility written documentation of completion of pro bono hours including:
 - (i) The name of the facility;
 - (ii) The address where the *pro bono* work was provided;
 - (iii) The type of work that was done;
 - (iv) The number of hours of actual work provided for which the licensee desires credit hours; and

(v) A statement guaranteeing that the work provided no financial benefit to licensee.

(3) Publishing a research-based article in a nationally recognized, peer-reviewed journal for which a licensed acupuncturist may accrue no more than three hours of continuing education credit.

4711 REENTRY TO PRACTICE

4711.1 In the event a licensed acupuncturist is absent from the clinical practice of acupuncture for more than two consecutive years, the acupuncturist shall comply with a re-entry plan as determined by the Board according to the Board’s policy (as amended from time to time) on re-entry to active practice.

4712 [RESERVED]

4713 [RESERVED]

4714 [RESERVED]

4715 [RESERVED]

4716 DUTIES OF ADVISORY COMMITTEE ON ACUPUNCTURE

4716.1 The Committee shall advise the Board on all matters pertaining to this chapter.

4716.2 The Committee shall provide the Board with substantive assistance in the Board’s review of complaints and further assist the Board in responding to questions about acupuncturists and acupuncture practice referred to the Committee by the Board and make recommendations to the Board regarding the appropriate action to be taken.

4716.3 At the request of the Board, the Committee shall make its members available to testify at hearings and participate in settlement conferences involving an acupuncturist.

4716.4 The Committee shall submit to the Board an annual report of its activities.

4799 DEFINITIONS

4799.1 As used in this chapter, the following terms shall have the meanings ascribed:

ACAOM - Accreditation Commission for Acupuncture and Oriental Medicine.

Act - the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*).

Acupuncture program - a course of study in acupuncture that is at least three (3) years long and which is in addition to and separate from a baccalaureate degree program.

Acupuncturist - an individual licensed by the Board to perform acupuncture services.

Adjunctive therapies - those practices taught in ACAOM-approved schools and through NCCAOM-approved continuing education courses that are complementary to the performance of acupuncture.

Applicant - a person applying for a license to practice acupuncture under this chapter.

Board - the Board of Medicine, established by § 203(a) of the Act (D.C. Official Code § 3-1202.03(a)).

Chinese Herbology - the administration or recommendation of botanical, mineral, or animal substances, including prepared and raw forms of single herbs or formulas tailored to the individual patient, which often uses all parts of a plant. Chinese Herbology does not include the injection of herbs.

Committee - the Advisory Committee on Acupuncture, established by § 203(a)(2) of the Act (D.C. Official Code § 3-1202.03(a)(2)).

Electroacupuncture - the therapeutic use of weak electric currents at acupuncture loci to diagnose or to treat diseases or conditions.

Glandulars - non-prescriptive supplements that are derived from glands.

Gua sha - scraping applied to the surface of the skin with a round edged tool for therapeutic purposes.

Mechanical stimulation - stimulation on or near the surface of the body according to principles of Oriental medicine by means of apparatus or instrument.

Moxibustion - the therapeutic use of thermal stimulus on or near the surface of the body according to principles of Oriental medicine by burning artemisia alone or artemisia formulations.

NCCAOM - National Certification Commission for Acupuncture and Oriental Medicine.

Oriental dietary therapy - dietary and nutritional counseling and the recommendation of foods for therapeutic purposes.

Oriental medicine - a whole medical system originating in East Asia that aims to treat disease and support the body's ability to heal itself with a diverse range of traditional and modern therapeutic interventions.

Qigong - breathing techniques and exercises that promote health.

Sterilize or **sterilization** - the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

Surface stimulation - the application of purposeful stimuli to the surface of the body.

Tuina - a form of massage therapy based on traditional Oriental medical theories using or incorporating traction, manipulation of acupressure points, acupoint stimulation, and joint mobilization for therapeutic purposes.

4799.2 The definitions in § 4099 of Chapter 40 of this title are incorporated by reference into and are applicable to this chapter.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Paralegal Specialist, at Angli.Black@dc.gov, (202) 442-5977.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to amend Chapter 62 (Nursing Home Administration) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the continuing education requirements for nursing home administrators to include continuing education in public health priorities as determined and amended from time to time by the Director.

Chapter 62, NURSING HOME ADMINISTRATION, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 6206, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

Subsection 6206.4 is amended to read as follows:

6206.4 To qualify for the renewal of a license, an applicant shall have completed, during the two (2)-year period preceding the date the license expires, forty (40) hours of approved continuing education credit, which shall include:

- (a) At least ten (10) hours of the required forty (40) hours shall have been in one (1) or more of the following areas:
 - (1) Staff management;
 - (2) Continuity in assigning the same nursing staff to the same residents as often as practicable;
 - (3) Creating a resident-centered environment;
 - (4) Activities of daily living and instrumental activities of daily living;
 - (5) Wound care;
 - (6) Pain management;
 - (7) Prevention and treatment of depression;
 - (8) Prevention of pressure ulcers;

- (9) Urinary incontinence management;
 - (10) Discharge planning and community transitioning;
 - (11) Fall prevention;
 - (12) Geriatric social services and individual competency; or
 - (13) Behavior management;
- (b) An applicant seeking to renew his or her license on or after June 30, 2018 shall also have completed two (2) hours of LGBTQ continuing education; and
- (c) At least ten percent (10%) of the total required continuing education shall be in the subjects determined by the Director as public health priorities of the District, which shall be duly published every five (5) years or as deemed appropriate.

Subsection 6206.5 is amended to read as follows:

6206.5 To qualify for a license, a person in inactive status within the meaning of § 511 of the Act (D.C. Official Code § 3-1205.11 (2016 Repl.)) who submits an application to reactivate a license shall submit proof of having completed twenty (20) hours of approved continuing education credit for each year after June 30, 2003 that the applicant was not actively licensed, up to a maximum of one hundred (100) hours. At least twenty (20) hours of approved continuing education credit shall have been completed in the one (1)-year period prior to the application date and ten percent (10%) of the total required continuing education shall be in the subjects determined by the Director as public health priorities of the District, which shall be duly published every five (5) years or as deemed appropriate.

Subsection 6206.6 is amended to read as follows:

6206.6 To qualify for a license, an applicant for reinstatement of a license shall submit proof of having completed twenty (20) hours of approved continuing education credit for each year after June 30, 2003 that the applicant was not licensed, up to a maximum of one hundred (100) hours. At least twenty (20) hours of approved continuing education credit shall have been completed in the one (1)-year period prior to the application date and ten percent (10%) of the total required continuing education shall be in the subjects determined by the Director as public health priorities of the District, which shall be duly published every five (5) years or as deemed appropriate.

Subsection 6206.9 is amended to read as follows:

6206.9 A licensee who is selected to participate in the Board’s continuing education audit shall, within thirty (30) days after being deemed served notice of the selection, submit proof pursuant to § 6206.7 of having completed the required approved continuing education credits during the two (2)-year period immediately preceding the date the license expires.

Section 6299, DEFINITIONS, is amended as follows:**Subsection 6299.1 is amended as follows:****The following definition is added before the definition of “LGBTQ continuing education”:**

Director – The Director of the Department of Health, or the Director’s designee.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays by contacting Angli Black, Paralegal Specialist, at (202) 442-5977 or Angli.Black@dc.gov.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to amend Chapter 75 (Massage Therapy) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to amend the continuing education requirements for massage therapists to include continuing education in public health priorities as determined and amended from time to time by the Director.

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

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

Subsection 7506.3 is amended to read as follows:

- 7506.3 To qualify for the renewal of a license, an applicant shall have completed the following continuing education during the two (2)-year period preceding the date the license expires:
- (a) An applicant seeking to renew a license expiring on or before January 31, 2019 shall have completed twelve (12) hours of approved continuing education, which shall include three (3) hours of professional ethics and nine (9) hours of massage-related course work, six (6) of which shall be hands-on, massage technique course(s) completed in a live classroom setting; or
 - (b) An applicant seeking to renew a license expiring on or after January 31, 2021 shall have completed fourteen (14) hours of approved continuing education, which shall include three (3) hours of professional ethics, nine (9) hours of massage-related course work, six (6) of which shall be hands-on, massage technique course(s) completed in a live classroom setting, and two (2) hours of LGBTQ continuing education; and
 - (c) An applicant seeking to renew a license at any time shall have completed ten percent (10%) of the total required continuing education in the subjects determined by the Director as public health priorities of the District, which shall be duly published every five (5) years or as deemed appropriate.

Subsection 7506.4 is amended to read as follows:

7506.4 To qualify for the reactivation of a license, an applicant whose license has been in inactive status in accordance with Section 511 of the Act, D.C. Official Code § 3-1205.11, and who does not possess a current and valid license to practice massage therapy in another jurisdiction in the United States, shall have completed, during the two (2) years before the date of the application, fourteen (14) hours of approved continuing education, which shall include three (3) hours of professional ethics, nine (9) hours of massage-related course work, six (6) of which shall be hands-on, massage technique course(s) completed in a live classroom setting, and two (2) hours of LGBTQ continuing education, provided further that ten percent (10%) of the total required continuing education in the subjects determined by the Director as public health priorities of the District, which shall be duly published every five (5) years or as deemed appropriate.

Subsection 7506.7 is amended to read as follows:

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

- (a) An applicant whose license has expired two (2) years or less shall have completed fourteen (14) hours of continuing education as enumerated in § 7506.3(b) during the two (2) years' period preceding the date of the application; or
- (b) An applicant whose license has expired more than two (2) years but less than five (5) years shall have completed twenty-six (26) hours of the following continuing education during the two (2) years' period preceding the date of the application:
 - (1) Six (6) hours of professional ethics;
 - (2) Eighteen (18) hours of massage-related course work provided by a Board approved provider of which twelve (12) hours shall be hands-on, massage-technique course(s) completed in a live classroom setting taught by appropriate instructors; and
 - (3) Two (2) hours of LGBTQ continuing education; and
- (c) An applicant seeking to reinstate a license under this subsection shall have completed ten percent (10%) of the total required continuing education in the subjects determined by the Director as public health priorities of the District, which shall be duly published every five (5) years or as deemed appropriate.

Section 7599, DEFINITIONS, is amended as follows:

Subsection 7599.1 is amended as follows:

The following definition is added after the definition of “Board”:

Director – The Director of the Department of Health, or the Director’s designee.

The definitions of “Full time” and “Substantially full time” are repealed.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays by contacting Angli Black, Paralegal Specialist, at (202) 442-5977 or Angli.Black@dc.gov.

OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-1802.02 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; Pub.L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to amend Chapter 1 (Income and Franchise Taxes), of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The newly amended Section 102 (Exempt Organizations) provides updated technical guidance regarding the exemptions from income and franchise taxes. The guidance in this regulation is necessary to amend exemption certificate expiration periods as related to exempt entities organized exclusively for religious purposes.

OTR gives notice of its intent to take final rulemaking action to adopt these regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 1, INCOME AND FRANCHISE TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:**102 EXEMPT ORGANIZATIONS**

102.1 The responsibility for establishing the right to exemption from the tax shall rest upon the organization claiming the exemption.

102.2 An organization shall not be exempt merely because it is not organized and operated for profit.

102.3 The granting of exempt status to any organization shall not relieve that organization of its responsibility to withhold tax from its employees as required by law.

102.4 Franchise tax exemptions shall only be valid for the period stated on the franchise tax exemption certificate. An exemption will only be allowed for a period during which the exemption certificate is unexpired for the entirety of the relevant filing period.

102.5 Exemptions Applications for Exempt Organizations

- (a) An entity exempt from income and franchise taxes under D.C. Official Code § 47-1802.01 shall obtain from the Deputy Chief Financial Officer a certificate of exemption stating that the institution is entitled to the exemption. No exemption shall be allowed without a valid exemption certificate.

- (b) Beginning with exemption certificates issued on or after June 1, 2018, exemption certificates issued to exempt organizations, except as provided in Subsection 102.5(c), shall be valid only for a period of up to five (5) years from the date issued.
- (c) Beginning with exemption certificates issued on or after June 1, 2018, exemption certificates issued to an exempt entity organized exclusively for religious purposes shall be valid only for a period of up to ten (10) years from the date issued.
- (d) Exemption certificates issued to exempt organizations prior to June 1, 2018, shall expire upon notice by the Office of Tax and Revenue.
- (e) In order to receive an exemption certificate, an exempt organization shall follow the Office of Tax and Revenue’s electronic application process.
- (f) All exemption applications filed by exempt organizations shall include, but are not limited to, the following information:
 - (1) Taxpayer ID Number;
 - (2) Name;
 - (3) Address;
 - (4) Sales Tax Account Number;
 - (5) NAICS Code;
 - (6) Federal Exemption Status;
 - (7) Proof of IRS exemption (*e.g.*, IRS Determination Letter or Application for Recognition of Exemption);
 - (8) Organizational details; and
 - (9) Articles of Incorporation.

Comments on this proposed rulemaking should be submitted to Jessica Brown, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Jessica Brown may be contacted by: mail at D.C. Office of Tax and Revenue, 1101 4th Street, S.W., Suite 750, Washington, D.C. 20024; telephone at (202) 442-6462; or, email at jessica.brown@dc.gov. Copies of this rule and related information may be obtained by contacting Jessica Brown as stated herein.

OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-2023 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; Pub.L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to amend Chapter 4 (Sales and Use Taxes), of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The newly amended Section 417 (Certificates of Exemption) provides updated guidance for regarding the application for and use of sales tax exemption certificates. The guidance in this regulation is necessary to amend exemption certificate expiration periods as related to exempt entities organized exclusively for religious purposes.

OTR gives notice of its intent to take final rulemaking action to adopt these regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

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

417 CERTIFICATES OF EXEMPTION

- 417.1 All sales of tangible personal property or of taxable services are presumed not to be exempt from sales and use tax. The burden of proving that a sale of tangible personal property or taxable services is not a sale at retail is upon the vendor unless the vendor timely accepts in good faith a certificate from the purchaser that the sale is exempt from tax.
- 417.2 Vendors shall exercise reasonable judgment in accepting exemption certificates in good faith and shall not be protected from paying sales tax on the items purchased with exemption certificates that are not exempt from tax if they fail to do so. Accepting an expired exemption certificate demonstrates bad faith by a vendor.
- 417.3 If the purchaser is the United States, the District of Columbia, or any instrumentality of either, the vendor shall show on the record of sale the instrumentality or agency to which the sale was made, the amount of the sale, and date of the sale.
- 417.4 If a purchaser of tangible personal property is a member of a foreign diplomatic corps and personally presents an identification card issued to that purchaser by the State Department, exempting the person from excise taxes, the card shall be authority for the vendor not to add reimbursement for the sales tax to the sales price of the property; Provided, that the vendor shall show on the record of each sale the name of the purchaser, the date of sale, the amount of the sale, and the State Department identification card number.

- 417.5 A certificate of exemption shall be effective on the date of issuance. No person shall be issued a refund, based upon a certificate of exemption, for sales taxes paid prior to the date of issuance of the certificate of exemption.
- 417.6 Each certificate of exemption shall be maintained by the vendor and shall be authority for the vendor not to add reimbursement for the sales tax to the sales price of the property or service. A vendor shall also maintain a record of the name of the purchaser, the date of each sale, and the amount of the sale for each exempt sale.
- 417.7 A vendor has ninety (90) days from the date requested in which to deliver the certificates of exemption to the Office of Tax and Revenue. Exemptions claimed by those certificates acquired during this 90-day period shall be subject to independent verification by the Office of Tax and Revenue before the deductions shall be allowed. Certificates delivered after the 90-day period shall not be accepted.
- 417.8 Exemption certificates are nontransferable and are valid for use only by the person or entity to which the certificate has been issued.
- 417.9 **Exemption Certificate for Semipublic Institutions.**
- (a) A semipublic institution purchasing property at retail for its own maintenance and operation shall obtain from the Deputy Chief Financial Officer a certificate of exemption stating that the institution is entitled to the exemption. If the semipublic institution does not present the certificate of exemption to the vendor, the vendor shall collect the reimbursement for the tax.
- (b) Beginning with exemption certificates issued after November 1, 2017, exemption certificates issued to semipublic institutions, except as provided in Subsection 417.9(c), shall be valid only for a period of five (5) years from the date issued.
- (c) Beginning with exemption certificates issued on or after November 1, 2017, exemption certificates issued to an exempt entity organized exclusively for religious purposes shall be valid only for a period of up to ten (10) years from the date issued.
- (d) Exemption certificates issued to semipublic institutions prior to November 1, 2017, shall expire upon notice by the Office of Tax and Revenue. Vendors are responsible for ensuring that exemption certificates issued to semipublic institutions prior to November 1, 2017 are still valid and unexpired at the time of acceptance.
- (e) If a vendor makes sales to a semipublic institution, the vendor shall keep a copy of the certificate of exemption, the name of the purchaser, the date of each sale, and the amount of the sale.

- (f) In order to receive an exemption certificate, a semipublic institution shall follow the Office of Tax and Revenue’s electronic application process.
- (g) All exemption applications filed by semipublic institutions shall include, but are not limited to, the following information:
 - (1) Taxpayer ID Number;
 - (2) Name;
 - (3) Address;
 - (4) Sales Tax Account Number;
 - (5) NAICS Code;
 - (6) Federal Exemption Status;
 - (7) Proof of IRS exemption (*e.g.*, IRS Determination Letter or Application for Recognition of Exemption);
 - (8) Organizational details; and
 - (9) Information regarding activities and locations in the District.

417.10 Exemption Certificate for Qualified High Technology Companies.

- (a) A qualified high technology company purchasing computer software or hardware, and visualization and human interface technology equipment, including operating and applications software, computers, terminals, display devices, printers, cable, fiber, storage media networking hardware, peripherals, and modems when purchased for use in connection with the operation of the Qualified High Technology Company shall obtain from the Deputy Chief Financial Officer a certificate of exemption stating that the company is entitled to the sales tax exemption.
- (b) Beginning with exemption certificates issued after November 1, 2017, exemption certificates issued to Qualified High Technology companies through an annual certification process shall be valid until the expiration date stated on the certificate.
- (c) Exemption certificates issued to Qualified High Technology Companies prior to November 1, 2017 shall not be accepted to prove that a sale is exempt from tax after January 31, 2018.
- (d) All exemption applications filed by qualified high technology companies shall include, but are not limited to, the following information:
 - (1) Taxpayer ID Number;
 - (2) Name;
 - (3) Address;
 - (4) Sales Tax Account Number;
 - (5) NAICS Code;
 - (6) Information demonstrating QHTC eligibility;
 - (7) First year certified as QHTC;

- (8) Explanation of principal business activity;
- (9) Amount of QHTC Exempt Sales/Purchases from the prior year (broken down by period);
- (10) Number of QHTC employees hired;
- (11) Number of QHTC employees hired who are District residents;
- (12) Number of QHTC jobs created in the past year;
- (13) Gross revenue; and
- (14) Gross revenue earned from QHTC activities in the District.

417.11

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

- (a) Except as otherwise provided in this section, each purchaser of natural or artificial gas, oil, electricity, solid fuel, or steam for any purpose exempt from sales tax under D.C. Official Code §§ 47-2005(11) or (11A), in order to qualify for the exemption, shall present evidence satisfactory to the Deputy Chief Financial Officer that the sale is exempt under the Act and this subsection, and shall obtain from the Office of Tax and Revenue a Utility exempt certificate to be presented to the vendor.
- (b) Beginning with exemption certificates issued after November 1, 2017, exemption certificates issued to purchasers of natural or artificial gas, oil, electricity, solid fuel, or steam shall be valid only for a period of five years from the date issued or until the purchaser is no longer entitled to the exemption, whichever is earlier.
- (c) Exemption certificates issued to purchasers of natural or artificial gas, oil, electricity, solid fuel, or steam exempt from sales tax under D.C. Official Code §§ 47-2005(11) or (11A) prior to November 1, 2017, shall no longer be accepted after November 1, 2018.
- (d) All exemption applications filed by each purchaser of natural or artificial gas, oil, electricity, solid fuel, or steam for any purpose exempt from sales tax under D.C. Official Code §§ 47-2005(11) or (11A) shall include, but are not limited to, the following information:
 - (1) Taxpayer ID Number;
 - (2) Name;
 - (3) Address;
 - (4) Sales Tax Account Number;
 - (5) NAICS Code;
 - (6) Proof of utility account; and
 - (7) Utility details, including but are not limited to utility purpose, utility provider, utility account number, meter number, service address.

417.12 **Exemption Certificate for Parking Fees.**

- (a) Except as otherwise provided in this section, each purchaser of exempt parking, storage, or keeping motor vehicles or trailers, shall present evidence satisfactory to the Deputy Chief Financial Officer that the sale is exempt under the Act and this section, and shall obtain from the Director a specific exemption to be presented to the vendor.
- (b) Beginning with exemption certificates issued after November 1, 2017, exemption certificates issued to purchaser of exempt parking, storage, or keeping motor vehicles or trailers shall be valid only for a maximum period of two (2) years; in the case of residential parkers, the exemption certificate shall be valid for two (2) years, or for the period of a valid lease in the District of Columbia, whichever is shorter.
- (c) Exemption certificates issued to purchasers of exempt parking, storage, or keeping motor vehicles or trailers prior to November 1, 2017 shall not be accepted for sales made after November 1, 2018.
- (d) All exemption applications filed by a purchaser of exempt parking, storage, or keeping motor vehicles or trailers shall include, but are not limited to, the following information:
 - (1) Taxpayer ID Number (SSN);
 - (2) Name;
 - (3) Address;
 - (4) District Driver's license number;
 - (5) District vehicle tag information;
 - (6) Vehicle make, model, year;
 - (7) Parking lot details, including address and distance from residence; and
 - (8) A copy of the taxpayer's District Driver's License, District vehicle registration, and proof of District residence.

417.13 **Contractor's Exempt Purchase Certificate.**

- (a) A contractor purchasing property at retail for a construction contract with a semipublic institution holding a valid exemption certificate or with the United States or District governments or their instrumentalities shall obtain from the Deputy Chief Financial Officer a certificate of exemption stating that the institution is entitled to the exemption. If the contractor does not present the certificate of exemption to the vendor, the vendor shall collect the reimbursement for the tax.
- (b) Beginning with exemption certificates issued after November 1, 2017, exemption certificates issued to contractors shall be valid only for the period of the exempt construction project, based on a signed contract with an exempt entity.

- (c) Exemption certificates issued to contractors prior to November 1, 2017 shall not be accepted for sales made after November 1, 2018, or the end date of the exempt project, whichever is first.
- (d) If a vendor makes sales to an exempt contractor, the vendor shall keep a copy of the certificate of exemption, the name of the purchaser, the date of each sale, and the amount of the sale.
- (e) In order to receive an exemption certificate, a contractor shall follow the Office of Tax and Revenue's electronic application process.
- (f) All exemption applications filed for the contractor's exempt purchase certificate by a contractor shall include, but are not limited to, the following information:
 - (1) Taxpayer ID Number;
 - (2) Name;
 - (3) Address;
 - (4) Sales Tax Account Number;
 - (5) NAICS Code;
 - (6) Project information, including but are not limited to location, dates, contract information, and contracting organization;
 - (7) A list of all subcontractors, including taxpayer ID number; and
 - (8) A copy of the relevant pages of the government or semi-public institution contract (shall include project dates, project ID number, and authorization signatures).

417.14 **Government Exemption Certificate.**

- (a) A government agency of the United States or District governments purchasing property at retail shall obtain from the Deputy Chief Financial Officer a certificate of exemption. If the government agency does not present the certificate of exemption to the vendor, the vendor shall collect the reimbursement for the tax.
- (b) If a vendor makes sales to a government agency, the vendor shall keep a copy of the certificate of exemption, the name of the purchaser, the date of each sale, and the amount of the sale.
- (c) In order to receive an exemption certificate, a government agency shall follow the Office of Tax and Revenue's electronic application process.
- (d) All exemption applications filed by government organizations shall include, but are not limited to, the following information:
 - (1) Taxpayer ID Number;
 - (2) Name;
 - (3) Address;
 - (4) Description of the government or instrumentality;
 - (5) Reason for exemption; and
 - (6) Proof of applicability of exemption.

Comments on this proposed rulemaking should be submitted to Jessica Brown, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Jessica Brown may be contacted by: mail at D.C. Office of Tax and Revenue, 1101 4th Street, S.W., Suite 750, Washington, D.C. 20024; telephone at (202) 442-6462; or, email at jessica.brown@dc.gov. Copies of this rule and related information may be obtained by contacting Jessica Brown as stated herein.

OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in the Personal Property Tax Amendment Act of 1986, effective February 28, 1987, as amended (D.C. Law 6-212; D.C. Official Code § 47-1535 (2015 Repl.)); Mayor’s Order 87-222, dated September 28, 1987; and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000; hereby gives notice of its intent to amend Chapter 7 (Personal Property Tax), of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The newly amended Section 707 (Exempt Organizations) provides updated technical guidance regarding the exemptions from personal property taxes. The guidance in this regulation is necessary to amend exemption certificate expiration periods as related to exempt entities organized exclusively for religious purposes.

OTR gives notice of its intent to take final rulemaking action to adopt these regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 7, PERSONAL PROPERTY TAX, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

707 EXEMPT ORGANIZATIONS

707.1 The responsibility for establishing the right to exemption from the personal property tax shall rest upon the organization claiming the exemption.

707.2 An organization shall not be exempt merely because it is not organized and operated for profit.

707.3 Personal property tax exemptions shall only be valid for the period stated on the personal property tax exemption certificate.

707.4 The effective date for a personal property tax exemption granted shall be the July 1st following the date of the initial application request.

707.5 Exemption Applications for Exempt Organizations

(a) In order to establish a personal property tax exemption, the organization shall obtain from the Deputy Chief Financial Officer a certificate of exemption stating that the institution is entitled to the exemption. No exemption shall be allowed without a valid exemption certificate.

(b) Beginning with exemption certificates issued on or after November 1, 2018, exemption certificates issued to exempt organizations, except as provided in Subsection 707.5(c), shall be valid only for a period of up to five (5) years from the date issued.

- (c) Beginning with exemption certificates issued on or after November 1, 2018, exemption certificates issued to an exempt entity organized exclusively for religious purposes shall be valid only for a period of up to ten (10) years from the date issued.
- (d) Exemption certificates issued to exempt organizations prior to November 1, 2018, shall expire upon notice by the Office of Tax and Revenue.
- (e) In order to receive an exemption certificate, an exempt organization shall follow the Office of Tax and Revenue's electronic application process.
- (f) All exemption applications filed by exempt organizations shall include, but are not limited to, the following information:
 - (1) Taxpayer ID Number;
 - (2) Name;
 - (3) Address;
 - (4) Sales Tax Account Number;
 - (5) NAICS Code;
 - (6) Federal Exemption Status;
 - (7) Proof of IRS exemption (*e.g.*, IRS Determination Letter or Application for Recognition of Exemption);
 - (8) Organizational details; and
 - (9) Articles of Incorporation.

Comments on this proposed rulemaking should be submitted to Jessica Brown, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Jessica Brown may be contacted by: mail at D.C. Office of Tax and Revenue, 1101 4th Street, S.W., Suite 750, Washington, D.C. 20024; telephone at (202) 442-6462; or, email at jessica.brown@dc.gov. Copies of this rule and related information may be obtained by contacting Jessica Brown as stated herein.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF FOURTH EMERGENCY RULEMAKING

The Director of the District of Columbia (“District”) Department of Human Services (“Department”), pursuant to the authority set forth in Section 31 of the Homeless Services Reform Act of 2005 (“HSRA” or “Act”), effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-756.02 (2012 Repl. & 2018 Supp.)), and Mayor’s Order 2006-20, dated February 13, 2006, hereby gives notice of the adoption, on an emergency basis, of the following new Chapter 79, entitled “Flexible Rent Subsidy Pilot Program”, of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the new chapter is to establish rules to administer the District’s Flexible Rent Subsidy Pilot Program and conditions of participation for enrolled households. The Flexible Rent Subsidy Pilot Program, which subsequently shall be referred to as the DC Flex Program (and “Program” throughout this rule), is a four (4) year pilot program that provides financial assistance to households to support their ability to pay monthly rental expenses, especially during periods of income volatility, in order to promote long-term housing stability. Training on budgeting and money management will be offered to households enrolled in the Program.

A Notice of Emergency and Proposed Rulemaking, published in the *D.C. Register* on April 27, 2018, at 65 DCR 4663, was adopted on January 24, 2018, and became effective on that date. Emergency rules were subsequently published on June 1, 2018, at 65 DCR 6057, and December 28, 2018, at 65 DCR 14135. The emergency rules will expire before comments can be incorporated into a final rulemaking, thereby necessitating these emergency rules.

Emergency rulemaking action, pursuant to Section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), is necessary to allow the Department to continue to operate the Program as the Department receives and reviews comments in response to the proposed rulemaking, and to finalize the proposed rules. Therefore, taking emergency action under these circumstances will promote the immediate preservation of the health, safety, and welfare of District residents who are at risk of experiencing homelessness by permitting the Department to continue to support their efforts to maintain permanent housing. These emergency rules are identical to the emergency and proposed rules published on April 27, 2018, at 65 DCR 4663.

DHS adopted the emergency rules on January 7, 2019, and they went into effect at that time. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until May 7, 2019, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. If approved, the Department shall publish the effective date with the Notice of Final Rulemaking.

A new Chapter 79, FLEXIBLE RENT SUBSIDY PILOT PROGRAM, has been added to Title 29 DCMR, PUBLIC WELFARE, to read as follows:

CHAPTER 79 FLEXIBLE RENT SUBSIDY PILOT PROGRAM

7900 SCOPE

- 7900.1 The purpose of the Flexible Rent Subsidy Pilot Program, which subsequently shall be referred to as the DC Flex Program (and “Program” throughout this rule), is to support households that are at risk of experiencing homelessness to achieve stability in permanent housing. The Program provides financial assistance to each enrolled head of household in the instances where there is a gap between the total monthly rent expenses and the household’s funds available for rent. The financial assistance is payable only to the households, with the exception noted in § 7905.11(b).
- 7900.2 The Department shall be responsible for the implementation of this chapter, which shall apply to all financial assistance provided through the Department pursuant to the Program.
- 7900.3 The Program shall operate for four years, beginning in Fiscal Year 2018.
- 7900.4 One person per household is eligible to enroll his or her household in the Program. This person shall be considered the head of household.
- 7900.5 The provisions of this chapter describe eligibility criteria; the application process; assistance determination; description of assistance provided and how it is administered; recertification requirements; and appeal procedures for the Program.
- 7900.6 Nothing in these rules shall be interpreted to mean that Program assistance is an entitlement. This Program shall be subject to annual appropriations and the availability of funds.
- 7900.7 The Department may execute contracts, grants, and other agreements as necessary to carry out the Program.

7901 ELIGIBILITY CRITERIA

- 7901.1 Only one person who is twenty-one (21) years old or older at the time of application per household is eligible to enroll his or her household in the Program. This person shall be considered the head of household.
- 7901.2 A household is composed of individuals who live in the same physical housing unit as the applying head of household, and shall include:

- (a) Persons related by blood or legal adoption with legal responsibility for minor children in the household;
- (b) Persons related by marriage or domestic partnership (as defined by section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(4)), including stepchildren and unmarried parents of a common child who live together;
- (c) Persons with a legal responsibility for an unrelated minor child or an unrelated adult with a disability; and
- (d) Any person not included by §§ 7901.2(a)-(c), regardless of blood relationship, age, or marriage, whose history and statements reasonably demonstrate that the individuals intend to remain together in the same household and whose income contributes to total household expenses.

7901.3 An otherwise eligible person temporarily away from the housing unit due to employment, school, hospitalization, incarceration, legal proceedings or vacation shall be considered to be living in the household. A minor child who is away at school is considered to be living in the household if he or she returns to the housing unit on occasional weekends, holidays, school breaks, or during summer vacations.

7901.4 To establish initial eligibility for the Program, a household must:

- (a) Reside in the District of Columbia, as defined by Section 2(32) of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01(32)), at the time of application;
- (b) Demonstrate risk of homelessness as evidenced by:
 - (1) Previous application for at least one emergency or temporary government-funded housing or rental assistance program administered by the District, including, but not limited to, the Emergency Rental Assistance Program, the Homelessness Prevention Program, or the Family Re-Housing and Stabilization Program, within the last forty-eight (48) months; and
 - (2) Having a total annual income less than or equal to thirty percent (30%) of the Median Family Income for the District, which is a periodic calculation provided by the United States Department of Housing and Urban Development; and
- (c) Be headed by a person that is twenty-one (21) years old or older at the time of application, and who meets the following requirements:

- (1) Has physical custody of one or more minor children;
- (2) Is currently employed or has recent history of employment; and
- (3) Is the lease holder for a rental unit.

7901.5 The applicant may be enrolled in a government-funded rental assistance program administered by the District at the time of application. However, if selected for the Program, no household member may be enrolled in both the Program and another District or federal government-funded rental assistance program at the same time. Enrollment in the Program shall not preclude receipt of shelter or rental assistance after participation in the Program has ended.

7902 HOUSEHOLD OUTREACH

7902.1 The Department will conduct outreach to households with an estimated high likelihood of meeting the eligibility criteria listed in § 7901, to inform these households about the Program and to determine potentially eligible households’ interest in Program enrollment.

7902.2 Households that receive information about the Program shall be identified by the Department through administrative data contained in applications completed by households seeking or enrolled in government-funded housing or emergency rental assistance programs administered by the District.

7902.3 The Department will conduct outreach via the U.S. Postal Service, telephone, email, SMS text messages, or other communication means determined by the Department.

7902.4 Outreach communications will invite households interested in Program enrollment to submit an application as described in § 7903 to the Department via a web-based portal, U.S. Postal Service, or in person at a physical site determined by the Department.

7902.5 Outreach communication shall contain or provide a hyperlink to a description of the Program, the application and enrollment process, responsibilities of the Department and the Administrative Agent used to manage the Program, and Program participation requirements, including each applicant’s involvement in budget and financial management activities.

7903 APPLICATION AND SELECTION PROCESS

7903.1 Each household interested in enrolling in the Program shall complete an application form provided by the Department that is signed by the head of household. An authorized representative may apply on behalf of the applying household if the applying head of household provides a written and signed

statement stating why he or she cannot personally complete the form and the name and address of the person authorized to act on his or her behalf.

- 7903.2 If the applicant has a disability or the authorized representative of the applicant with a disability requests assistance to complete the application, the Department shall assist such applicant or authorized representative with the application process to ensure that the applicant has an equal opportunity to submit an application.
- 7903.3 The Director of the Department will determine the number of applications that will be accepted for the Program, which is contingent on available funding. If at any point the Department receives additional funding for the program, the Department may reopen the application process at that time for new applications.
- 7903.4 Household enrollment shall follow a two-step process. The first step shall require the applying person to complete and submit a web-based or paper application to the Department as notification of his or her household's enrollment interest and self-reported eligibility in order to be selected. The second step shall require selected households to submit documentation to the Department that enables the Department or its designee to verify information on the household's application and Program eligibility criteria included in § 7901.
- 7903.5 The application will include questions that require the applicant to attest to the Program eligibility criteria listed in § 7901, and may also request the applicant to provide the following:
- (a) Identifying information;
 - (b) Contact information;
 - (c) Household composition;
 - (d) Current income;
 - (e) Current monthly rent expense;
 - (f) Address of current rental unit;
 - (g) Consent to release information; and
 - (h) Any additional information deemed necessary by the Department.
- 7903.6 Due to limited Program availability during the pilot period, the Department will administer one or more assignment lotteries to determine which applying households are offered one of the available Program slots using the method described in § 7903.5, § 7903.7, and § 7903.8.

- 7903.7 The results of the Program’s pilot period will be evaluated to understand its effectiveness in supporting households’ long term housing stability. To increase the probability that the Program will be successful if expanded to enroll more households, the lottery will be structured so that the characteristics identified on the applications of the group of households offered a Program slot are similar to the characteristics identified on the application of all households that applied for the Program.
- 7903.8 After the lottery is completed, the Department will offer available Program slots to households selected by the lottery. The Department will notify selected households via the U.S. Postal Service, telephone, email or another communication mode determined by the Department. These Program slots are conditional, and are only official after the household responds to the Department’s notice of the conditional offer and successfully completes the Program eligibility process described in § 7904. If a household fails to respond within the given timeframe, or after verification the household does not meet eligibility requirements for the Program, an additional household will be selected based on the method described in § 7903.10, until all slots have been filled.
- 7903.9 Each household selected for the Program will have thirty (30) calendar days from the date of notice to respond to the Department.
- 7903.10 Any household that declines the offer for the Program slot, fails to provide a response to the Department within thirty (30) calendar days of Program selection notice, or fails to meet the Program eligibility process described in § 7904, will lose their spot on the lottery result list, and the next household on the list will be offered the slot, until all slots have been filled.
- 7903.11 Any household that submits an application for Program enrollment will receive one or more of the following notices, as applicable:
- (a) DC Flex Program: Notice of Ineligibility to Enter Lottery;
 - (b) DC Flex Program Lottery Results: Conditional Offer for Enrollment;
 - (c) DC Flex Program Lottery Results: Household Not Selected;
 - (d) DC Flex Program: Final Offer for Enrollment;
 - (e) DC Flex Program Enrollment: Unable to Verify Eligibility; and
 - (f) DC Flex Program Enrollment: Notice of Termination.
- 7903.12 Any household that submits an application for Program enrollment, but is not enrolled as a result of the processes described in § 7903.5 – 7903.10 will receive

oral and written notice via U.S. Postal Service. Written notice shall be one or more of the notices listed in § 7903.11, as applicable, which shall include:

- (a) A clear statement of the client’s application status, eligibility status, or termination from the Program;
- (b) A clear and detailed statement of the factual basis for the action described in the notice, including the date or dates on which the basis or bases for the denial occurred;
- (c) A reference to the statute, regulation, policy, or Program Rule pursuant to which the denial is being implemented;
- (d) A clear and complete statement of the client’s right to appeal the action through fair hearing and administrative review proceedings pursuant to § 7910, or the client’s right to reconsideration pursuant to rules established by the Administrative Agent in accordance with Section 18 of the HSRA (D.C. Official Code § 4-754.32), including the appropriate deadlines for instituting the appeal or reconsideration; and
- (e) A statement of the client’s right, if any, to continuation of benefits pending the outcome of any appeal, pursuant to § 7910.3.

7903.13 Any household that submits an application for Program enrollment and successfully completes the application and eligibility verification processes described in §§ 7903.5 – 7903.10 and § 7904, shall receive the type of written notice from the Department listed at § 7903.11(d). This notice shall include the information listed in § 7904.9.

7903.14 Any household that submits an application for Program enrollment, is enrolled in the Program, but is terminated from Program enrollment, as described in § 7908.2, shall receive the type of written notice from the Department listed at § 7903.11(f). This notice shall include the information listed in § 7908.3.

7904 ELIGIBILITY VERIFICATION AND PROGRAM ENROLLMENT

7904.1 From each household offered a Program slot, the Department shall request documentation that will enable the Department to verify eligibility for the Program. The Department will contact each household through the U.S. Postal Service, email, telephone or other means determined by the Department.

7904.2 Documentation that the Department shall use to verify eligibility for the Program may include, but is not limited to:

- (a) Birth certificates;

- (b) District identification;
- (c) Child custody reports;
- (d) Copy of a current, valid lease agreement specifying the landlord's name and contact information, and the head of household's name;
- (e) Pay stubs for the most immediate past two (2) months prior to Program application; and
- (f) Earned Income Tax Credit filing for most immediate tax-year prior to Program application.

7904.3 In addition to documents listed in § 7904.2, the Department may use in-person interviews and third party information to verify Program eligibility.

7904.4 Each head of household offered a Program slot shall also sign and submit to the Department a release form, either personally or through an authorized representative, which authorizes the Department to obtain or verify information necessary to confirm Program eligibility.

7904.5 If further information is needed from the household to verify Program eligibility, the Department shall request additional information by telephone, email or US Postal Service. This request shall specify the information needed to complete the household's eligibility verification and the timeframe in which the additional documentation must be provided to the Department.

7904.6 The Department will notify the household once all requested documentation needed to verify eligibility has been received.

7904.7 If a household has not obtained and provided to the Department the requested information needed to verify eligibility for the Program within thirty (30) calendar days of the date of the Department's offer of a Program slot, the household will lose its spot on the list and a new household will be offered the subsidy, as described in Subsection § 7903.10.

7904.8 The Department shall determine the eligibility in as short a time as feasible, but not later than ten (10) business days after receipt of all requested information by the Department.

7904.9 If a household successfully completes the application and eligibility verification processes described in § 7903 and this section, the Department shall give to the applicant, directly or through an authorized representative, a written Notice of Enrollment in the Program, as listed in § 7903.11(d), which shall state:

- (a) That the applicant is determined eligible and is enrolled in the Program;

- (b) That receipt of Program assistance is conditioned upon the head of household's participation in all required Program activities as may be described in the Program Rules established in accordance with Section 18 of the HSRA (D.C. Official Code § 4-754.32);
- (c) The length of time for which the Program's subsidy will be provided, per the applicant's successful compliance with the Program recertification criteria set forth in § 7906; and
- (d) Name and contact information for the Administrative Agent that the Department will use to administer the Program.

7904.10 Upon a household's enrollment in the Program, the Department will facilitate the household's transition from any other District or federal government rent assistance program to ensure the household's compliance with the eligibility requirement set forth in § 7901.5.

7905 PROGRAM ADMINISTRATION

7905.1 The Department shall issue a competitive grant solicitation to select an Administrative Agent for the Program.

7905.2 The Department will determine what percentage of the annual allotment shall be dedicated to the Administrative Agent's allowable administrative fees, as described in § 7905.3, and the remaining total that shall be used for household financial assistance.

7905.3 The percentage of the annual allotment dedicated for the Administrative Agent's allowable administrative fees shall be used to pay for costs that are associated with the general operation of the Program and that cannot be attributed to any one enrolled household. These administrative fees may include:

- (a) Staff salaries and fringe benefits;
- (b) Overhead expenses, which may include, but are not limited to, supplies and IT equipment;
- (c) Local travel for duties associated with program administration/oversight; and
- (d) Other expenses agreed upon by the Department and Administrative Agent, consistent with District and federal law.

7905.4 The Department will refer households enrolled in the Program to the Administrative Agent.

- 7905.5 The Administrative Agent shall make available at least one in-person budgeting or financial management training for enrolled households within the first three (3) months of each household's enrollment into the Program, and monitor the enrolled households' participation in this training and others, if provided. If the Administrative Agent does not administer its own such training, the Administrative Agent may secure this type of training from another entity and coordinate the enrolled household's participation in this training. The Administrative Agent shall also make financial coaching or consultation opportunities available to clients in a manner approved by the Department.
- 7905.6 The Administrative Agent shall use the available granted funds to set up an escrow account and checking account for each enrolled household. The escrow account shall be solely administered by the Administrative Agent on behalf of the head of household. The checking account shall be a joint account administered by the Administrative Agent and head of household.
- 7905.7 The Administrative Agent shall assist the head of household to secure checks or a debit card linked to the checking account in the name of the head of household.
- 7905.8 The Administrative Agent will receive seven thousand two hundred dollars (\$7,200) per year for each household enrolled in the Program. A year shall be defined as a twelve (12) month cycle, with the first month of the year dependent on the household's enrollment in the program. Based on the availability of funds, the Department reserves the right to adjust, by rule, the amount of funding provided to each enrolled household.
- 7905.9 Upon a household's enrollment into the Program, the Administrative Agent shall transfer seven thousand two hundred dollars (\$7,200), or a different amount established by rule pursuant to § 7905.8, into an escrow account it has established and will solely administer on behalf of that head of household. The Administrative Agent shall then transfer funds from the escrow account into the household's checking account each month so that funds available to the household equal the total cost for one month's rent amount, per terms of the household's lease.
- 7905.10 Each month, the head of household can access the full amount available in the checking account (if needed), or a lesser amount needed to bridge any gap between their monthly income available for rent and their actual monthly rent expenses. A head of household may choose not to use any of the available funds. Any amount not used in one month rolls over and is available for future use throughout the year.
- 7905.11 If a household meets the Program Recertification requirements described in § 7906, does not owe rental arrears on their unit, and has Program funds remaining at the end of the Program year, the household may:

- (a) Apply all of the remaining funds for use in the next annual Program year cycle, or
- (b) Withdraw up to five hundred dollars (\$500) of the remaining funds for other household expenses and apply the remaining funds for use in the next annual Program year cycle.

7905.12 If the household has funds remaining at the end of the Program pilot period and does not owe rental arrears on their unit, the household may determine how the funds are used. The Department will not regulate how these funds are spent or saved.

7905.13 Table 1 below provides an example of the process described in § 7905.9 – 7905.12.

At the beginning of the Program, Year 1, an annual total lump sum of seven thousand two hundred dollars (\$7,200) is deposited into the escrow account for Household X. The monthly rent total for Household X is \$1,600. Over the twelve (12) month year, the Administrative Agent transfers funds from the escrow account as necessary to maintain a balance of \$1,600 in the joint checking account held with Household X. Household X’s monthly income fluctuates, and in some months there is not enough money to pay the total rent amount. In the months when Household X’s available income is less than the total rent amount of \$1,600, the Household uses funds available in its checking account. At the end of Year 1, Household X has a remaining balance of four hundred dollars (\$400).

Table 1: Year 1- Monthly Rent Amount = \$1,600

	Savings (Escrow) Balance	Amount of Program Subsidy Transferred to Checking Account	Amount Accessible by Household via Checking Account	Amount of Program Subsidy Used by Household	Amount Paid by Household	Amount Remaining in Checking Account at End of Month
Month 1	\$7,200	\$1,600	\$1,600	\$1,000	\$600	\$600
Month 2	\$5,600	\$1,000	\$1,600	\$1,000	\$600	\$600
Month 3	\$4,600	\$1,000	\$1,600	\$500	\$1,100	\$1,100
Month 4	\$3,600	\$500	\$1,600	\$300	\$1,300	\$1,300
Month 5	\$3,100	\$300	\$1,600	\$0	\$1,600	\$1,600
Month 6	\$2,800	\$0	\$1,600	\$0	\$1,600	\$1,600
Month 7	\$2,800	\$0	\$1,600	\$600	\$1,000	\$1,000
Month 8	\$2,800	\$600	\$1,600	\$400	\$1,200	\$1,200
Month 9	\$2,200	\$400	\$1,600	\$400	\$1,200	\$1,200
Month 10	\$1,800	\$400	\$1,600	\$800	\$800	\$800
Month 11	\$1,400	\$800	\$1,600	\$1,600	\$0	\$0
Month 12	\$600	\$600	\$600	\$200	\$1,400	\$400

7905.14 Table 2 below provides a continuance of the example shown in Table 1. Household X does not owe rental arrears on their unit and decides to add the remaining four hundred dollars (\$400) from Year 1 to the total amount deposited into Household X’s escrow account for the following year, Year 2. The addition of the four hundred dollars (\$400) from Year 1 is reflected in the escrow balance of Year 2, Month 1. The Year 2 starting balance equals the seven thousand two hundred dollars (\$7,200) of the annual Program assistance, plus the four hundred dollars (\$400) carried over from Year 1.

Table 2: Year 2- Monthly Rent Amount = \$1,600

	Savings (Escrow) Balance	Amount of Program Subsidy Transferred to Checking Account	Amount Accessible by Household via Checking Account	Amount of Program Subsidy Used by Household	Amount Paid by Household	Amount Remaining in Checking Account at End of Month
Month 1	\$7,600*	\$1,600	\$1,600	\$400	\$1,200	\$1,200
Month 2	\$6,000	\$400	\$1,600	\$400	\$1,200	\$1,200
Month 3	\$5,600	\$400	\$1,600	\$400	\$1,200	\$1,200
Month 4	\$5,200	\$400	\$1,600	\$0	\$1,600	\$1,600
Month 5	\$4,800	\$0	\$1,600	\$0	\$1,600	\$1,600
Month 6	\$4,800	\$0	\$1,600	\$1,600	\$0	\$0
Month 7	\$4,800	\$1,600	\$1,600	\$1,600	\$0	\$0
Month 8	\$3,200	\$1,600	\$1,600	\$1,200	\$400	\$400
Month 9	\$1,600	\$1,200	\$1,600	\$600	\$1,000	\$1,000
Month 10	\$400	\$400	\$1,400	\$400	\$1,200	\$1,000
Month 11	\$0	\$0	\$1,000	\$800	\$800	\$200
Month 12	\$0	\$0	\$200	\$200	\$1,400	\$0

7905.15 With the exception of end of year funds, the only eligible payee on the account will be the landlord of the unit the household lives in. The Administrative Agent will be responsible for monitoring account activity to ensure the head of household is using checking account funds to pay the landlord on record.

7905.16 The landlord must have a business license and a Certificate of Occupancy for the household’s unit that is in good standing.

7905.17 The household’s rental unit may be subject to required inspections as part of the requirement to be legally licensed and registered in the jurisdiction. The Department may offer or require additional inspections as part of the Program.

7906 RECERTIFICATION REQUIREMENTS

7906.1 To remain eligible for the Program, each enrolled household shall complete a recertification process annually.

7906.2 A household shall remain eligible for the Program if the household continues to meet requirements set forth in §§ 7901.1- 7901.3 and continues to be eligible for services under the Continuum of Care.

7906.3 Additionally, the household shall meet the following to remain eligible for the Program:

- (a) Has a total annual income less than or equal to the recertification income limit, based on the United States Department of Housing and Urban Development’s Median Family Income Limits for the Washington DC Metropolitan Region, to be published by DHS not less than annually. The recertification limit shall not be less than thirty percent (30%) of Family Median Income, but may be higher, as allowable by local statute;
- (b) Is headed by a person that is twenty-one (21) years old or older, and who meets the following requirements:
 - (1) Has physical custody of one or more minor children, and / or one or more youth that continues to reside in the household;
 - (2) Is currently employed or has recent history of employment; and
 - (3) Is the lease holder for a rental unit; and as the lease holder, is in good standing with all of the explicit obligations of their rental agreement, and is not subject to any form of sanction, suspension and disciplinary action by their landlord.
- (c) Has not accessed any other forms of emergency, temporary, or permanent government-funded rental assistance during the Program assistance period, including, but not limited to, Emergency Rental Assistance Program, Homelessness Prevention Program, Family Re-Housing and Stabilization Program assistance, or DCHA subsidies.

7906.4 The Administrative Agent shall conduct a recertification assessment of each household to confirm the household meets the Program’s recertification standards.

7906.5 If a household does not meet the recertification requirements set forth in this section, the Department will provide written notice described in § 7903.11(f) to the household via email or U.S. Postal Service, which will specify the recertification requirements the household did not meet during its recertification assessment.

7907 RELOCATION

7907.1 At any point during the Program, a household may choose to relocate to a new unit that better meets the household’s needs. The household shall be responsible

for updating the Administrative Agent and providing appropriate documentation of the new lease agreement. The Administrative Agent shall not approve the payment of funds to a new landlord until it has received appropriate documentation of the new lease.

7908 TERMINATION FROM PROGRAM

7908.1 Termination pursuant to this section refers to a termination of Program assistance only and does not provide the Administrative Agent or the Department with any authority to interfere with a household's tenancy rights under the lease agreement as governed by Title 14 of the District of Columbia Municipal Regulations.

7908.2 The Administrative Agent shall adopt Program Rules to provide additional guidance on the DC Flex Program. In accordance with these Program Rules, which shall be signed by households at the time of Program enrollment, the Department or Administrative Agent may terminate Program assistance to a household when the household:

- (a) Provides false or fraudulent information to the Department or Administrative Agent to support their eligibility determination;
- (b) Uses Program funds for any purpose other than rent payment to the landlord listed on the lease agreement provided to the Administrative Agent;
- (c) Makes payments from their Program checking account in an amount in excess of their monthly rent amount, thereby overdrawing their account;
- (d) Ceases to be a leaseholder on an eligible housing unit;
- (e) Ceases to be a leaseholder in good standing; or
- (f) Fails to meet recertification criteria, as outlined at § 7906.

7908.3 If a household is terminated from the Program, the Administrative Agent shall give to the household, personally or through an authorized representative, a written Notice of Termination at least fifteen (15) days before the effective date of the termination, which shall state:

- (a) The household is being terminated;
- (b) The effective date of the termination;
- (c) The reason or reasons for the termination, including the date or dates on which the basis or bases for the termination occurred;

- (d) The statute, regulation, or program rule under which the termination is being made;
- (e) That the household has a right to appeal the termination through a fair hearing and administrative review, including deadlines for requesting an appeal; and
- (f) That the household has a right to continuation of Program assistance pending the outcome of any fair hearing requested within fifteen (15) days of receipt of written notice of a termination, as described in § 7910.

7909 SUMMARY OF ADMINISTRATIVE AGENT RESPONSIBILITIES

7909.1 The Administrative Agent is responsible for the following:

- (a) Establishing an escrow and checking account for each household enrolled in the Program;
- (b) Delivering directly, or coordinating with another entity to offer periodic budgeting or financial literacy training to each household and monitor the household's participation in these trainings;
- (c) Monitoring each household's monthly payment activity;
- (d) Providing each household with general referrals and reminders about resources available within the community;
- (e) Reviewing the eligibility of each household to ensure that the household remains eligible per the recertification standards outlined in § 7906;
- (f) If applicable, updating the name of each household's landlord in the instance where a household moves to a new housing unit, or the landlord on a lease changes;
- (g) Assisting the Department with program evaluation activities, including reasonable data collection, providing administrative records, and making staff available for interviews;
- (h) Submitting to the Department quarterly reports, at the individual household level and aggregate level, that include information listed in § 7908.2 and § 7908.3; and
- (i) Other tasks agreed upon by the Department and Administrative Agent.

- 7909.2 The Administrative Agent shall submit to the Department a formal quarterly report that may include, but is not limited to, the following for each enrolled household:
- (a) Frequency in which each household accessed the full monthly rent limit;
 - (b) Average amount of funds accessed from each household’s checking account each month; and
 - (c) Participation in budget or financial planning classes.
- 7909.3 The Administrative Agent shall submit to the Department a formal quarterly report that shall include, but is not limited to, the following for the cohort of enrolled households:
- (a) Payment activity of the households for the current quarter;
 - (b) Trend analysis that shows the payment activities of the households over the previous quarter(s), where applicable;
 - (c) Average and median amounts of the Program subsidy used by the households monthly;
 - (d) Addresses of participating households and other descriptive statistics identified or requested by the Department; and
 - (e) Household attrition from the Program.
- 7909.4 The Administrative Agent shall submit reports to the Department via a method determined by the Department.

7910 FAIR HEARING AND ADMINISTRATIVE REVIEW

- 7910.1 An applying household or participating Program household shall have ninety (90) calendar days following the receipt of a written notice described in §§ 7903.11(a), (c), (e), or (f) to request a fair hearing, in accordance with the hearing provisions in Section 26 of the HSRA (D.C. Official Code § 4-754.41), for the action that is the subject of the written notice.
- 7910.2 Upon receipt of a fair hearing request, the Department shall offer the petitioner household or its authorized representative an opportunity for an administrative review in accordance with Section 27 of the HSRA (D.C. Official Code § 4-754.42), except that if an eviction is imminent, the Department shall take all reasonable steps to provide an expedited administrative review to maximize resolution of the appeal.

7910.3 In accordance with Section 9(a) of the HSRA (D.C. Official Code § 4-754.11(a)(18)), any household that requests a fair hearing within fifteen (15) days of receipt of written notice of a termination pursuant to § 7908 shall have the right to the continuation of Program benefits pending a final decision from the fair hearing proceedings.

7999 DEFINITIONS

7999.1 The terms and definitions in 29 DCMR § 2599 are incorporated by reference in this chapter.

7999.2 For the purposes of this chapter, the following additional terms shall have the meanings ascribed:

Administrative Agent – an organization that receives Flexible Rent Subsidy Pilot Program funds and is authorized to administer the Program’s services.

Authorized representative – an individual who is at least eighteen (18) years of age, who is acting responsibly on behalf of the applicant, and has sufficient knowledge of the applicant’s circumstances to provide or obtain necessary information about the applicant, or a person who has legal authorization to act on behalf of the applicant.

District or federal government rent assistance – assistance paid to the tenant or the housing provider during the Program assistance period for the purpose of reducing the tenant’s rent or assisting with back rent.

Good Standing – rental status achieved by a household when the household has complied with all of the explicit obligations of their rental agreement, and is not subject to any form of sanction, suspension and disciplinary action.

Median Family Income - the periodic calculation provided by the United States Department of Housing and Urban Development, adjusted for family size without regard to any further adjustments made by the United States Department of Housing and Urban Development for the purposes of the programs it administers. This calculation is used to determine a household’s eligibility for the Program.

Minor – a child under eighteen (18) years of age.

Youth – a person who is under twenty-five (25) years of age.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF or the Department), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat.744; D.C. Official Code § 1-307.02 (2016 Repl. & 2018 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2018 Repl.)), hereby gives notice of an amendment, on an emergency basis, to Section 995 (Medicaid Physician and Specialty Services Rate Methodology) of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These second emergency and proposed rules provide DHCF the authority to make recurring quarterly supplemental payments for one (1) fiscal year to Medicaid-enrolled physician groups, with at least five hundred (500) physicians that are members of the group, that contract with a public, general hospital located in economically underserved areas of the District to deliver inpatient, emergency department, and intensive care physician services to Medicaid beneficiaries. These supplemental payments would mitigate the Medicaid losses of eligible physician group practices that offer these critically important services to Medicaid beneficiaries. DHCF projects an increase in aggregate expenditures of approximately four and a half (\$4.5) million dollars in Fiscal Year (FY) 2019.

DHCF is also amending the District's State Plan for Medical Assistance. These proposed rules correspond to the State Plan Amendment (SPA), which was approved by the Centers for Medicare and Medicaid Services (CMS) on October 23, 2018.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on July 27, 2018 at 65 DCR 007889. No comments were received. DHCF is proposing changes to this rulemaking to align with the language of the approved SPA. Amendments are made to Subsection 995.7 to clarify that the District reimburses physician services based on facility or non-facility rates derived from the Medicare fee schedule, and reimbursement of either the facility or non-facility rates is in accordance with the place of service (facility or non-facility) noted on the provider submitted claims. Finally, Subsection 995.11 is added to specify the timing of the supplemental payments.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Medicaid beneficiaries in need of inpatient, emergency, and intensive care physician services that are delivered by physicians. This emergency rulemaking will ensure that physicians that deliver these services are able to continue delivering critically important healthcare services to vulnerable District Medicaid beneficiaries in the District without interruption.

The second emergency rulemaking was adopted on February 26, 2019, and shall become effective upon publication in the *D.C. Register*. The emergency rules will remain in effect for

one hundred and twenty (120) days or until June 26, 2019, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director also gives notice of the intent to take final rulemaking action to adopt this emergency and proposed rule not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 9, MEDICAID PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 995, MEDICAID PHYSICIAN AND SPECIALTY SERVICES RATE METHODOLOGY, is amended to read as follows:

Subsection 995.7 is amended to read as follows:

995.7 The Department of Health Care Finance (DHCF) shall use both the facility and non-facility rates that are derived from the Medicare physician fee schedule, which is effective on January 1 of each calendar year. For FY 2018, the District uses the Medicare physician fee schedule effective January 1, 2018 through December 31, 2018. DHCF shall reimburse either the facility or non-facility rates in accordance with the place of service (facility or non-facility) noted on the provider submitted claims.

Subsection 995.8 is amended to read as follows:

995.8 For services rendered on or after October 1, 2018 through September 30, 2019, quarterly supplemental payments in the amount of one million and one hundred and twenty-five thousand dollars (\$1,125,000.00) shall be equally distributed among physician groups that meet the criteria described in Subsection 995.9.

Subsection 995.9 is amended to read as follows:

995.9 To receive a supplemental payment, a physician group shall meet all of the following conditions:

- (a) Be a group practice, consistent with the conditions set forth under 42 CFR § 411.352, and additionally have at least five hundred (500) physicians that are members of the group (whether employees or direct or indirect owners) as defined at 42 CFR § 411.351;
- (b) Be screened and enrolled with the Department of Health Care Finance (DHCF) in accordance with the requirements set forth under Chapter 94 of Title 29 District of Columbia Municipal Regulations (DCMR);
- (c) Contract with a public, general hospital, as defined under Section 2099 of Title 22-B DCMR, located in an economically underserved area of the District of Columbia to provide at least two (2) of the following services to Medicaid beneficiaries:

- (1) Inpatient services, as described in Supplement 1 to Attachment 3.1A, section 1.B, page 2, and Supplement 1 to Attachment 3.1B, section 1.B, page 2 and defined in 42 CFR § 440.10;
- (2) Emergency hospital services, as described in Supplement 1 to Attachment 3.1A, section 24.E, page 28; Supplement 1 to Attachment 3.1B, section 24.E, page 27; and Attachment 4.19B, Part 1, section 20.a, page 11; or
- (3) Intensive care physician services, as authorized under Supplement 1 to Attachment 3.1A, section 5, pages 6b-7, and Supplement 1 to Attachment 3.1B, section 5, pages 5b-6.

Subsection 995.10 is amended to read as follows:

995.10 Quarterly payments made in accordance with Subsection 995.7 shall not exceed four and a half (\$4.5) million for Fiscal Year (FY) 2019.

Subsection 995.11 is amended to read as follows:

995.11 All payments shall be made quarterly, no later than thirty (30) days after the end of each quarter.

Comments on these rules should be submitted in writing to Melisa Byrd, Senior Deputy and Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4th Street, N.W., Suite 900, Washington D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor’s Order 2019-009
February 28, 2019

SUBJECT: Appointment — Concealed Pistol Licensing Review Board

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 908 of the Firearms Control Regulations Act of 1975, effective June 16, 2015, D.C. Law 20-279; D.C. Official Code § 7-2509.08 (2018 Repl.), it is hereby **ORDERED** that:

1. **CHAD TILLBROOK** is appointed as a mental health professional employed by the Department of Behavioral Health (**DBH**) member to the Concealed Pistol Licensing Review Board, replacing Dr. Nicole R. Johnson, to serve at the pleasure of the Mayor.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

KIMBERLY A. BASSETT
INTERIM SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor’s Order 2019-010
February 28, 2019

SUBJECT: Appointment - Mayor’s Advisory Committee on Child Abuse and Neglect


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 Mayor's Order 2012-164, dated October 3, 2012, as amended by Mayor’s Order 2014-074, dated April 9, 2014, it is hereby **ORDERED** that:

1. **MARITZA PEREZ** is appointed as a non-government member on the Mayor’s Advisory Committee on Child Abuse and Neglect, replacing Dr. Satira S. Streeter, for a term to end September 24, 2021.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



 MURIEL BOWSER
 MAYOR

ATTEST: 

 KIMBERLY A. BASSETT
 INTERIM SECRETARY OF THE DISTRICT OF COLUMBIA

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

Mayor's Order 2019-011
February 28, 2019

SUBJECT: Establishment - Mayor's Thrive by Five Coordinating Council

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), it is hereby **ORDERED** that:

- I. **Establishment:** There is established in the Office of the Deputy Mayor for Health and Human Services, under the direction and control of the Deputy Mayor for Health and Human Services, the Mayor's Thrive by Five Coordinating Council ("**Council**"), to be headed by an Executive Director.
- II. **Purpose:** The purpose of the Council is to drive progress on initiatives that improve outcomes for mothers and infants and children from birth to age five (5) in the District.
- III. **Functions:** In carrying out its purpose, the Council shall:
 - A. Track and report on the progress and outcomes of District and community programs and initiatives focused on improving the outcomes of maternal and infant (perinatal) health and healthy child development from birth to age five (5).
 - B. Make recommendations to the Mayor and the Deputy Mayor for Health and Human Services regarding programs, policies, and initiatives to connect families and individuals to resources to support maternal and child (perinatal) health, behavioral health, and early education.
 - C. Make recommendations to the Mayor and the Deputy Mayor for Health and Human Services regarding coordination, consolidation, streamlining, and alignment of the plans, policies, programs, and services, related to or responsible for improving outcomes for infants and children from birth to age five (5).

- D. Identify gaps and opportunities for additional programs, initiatives, and services, to improve outcomes for infants and children from birth to age five (5).
- IV. **Membership**: The Council shall be comprised of the following community, organizational, and governmental members:
- A. The following community members:
1. One (1) parent from each ward of the District, including:
 - a. One (1) parent who has a child who is currently or has previously been enrolled in school with an individualized education plan;
 - b. One (1) parent who has a child who is currently or has previously been enrolled in school with an individualized healthcare plan;
 - c. One (1) parent who has experience with the Child and Family Services Agency; and
 - d. One (1) parent who has past experience with District entitlement programs that serve infants and children from birth to age five (5).
- B. The following organizational members:
1. An administrator, director, or leader of a District-based child care organization serving infants and children from birth to age five (5).
 2. The chair of the State Early Childhood Development Coordinating Council, or her or his designee.
 3. The Chair of the Home Visiting Council, or a member of the Home Visiting Council designated by the Chair of the Home Visiting Council.
 4. A representative of a place-based organization serving children from birth to age five (5) in Ward 7 or Ward 8.
 5. The chair of the District of Columbia Chapter of the American Academy of Pediatrics, or a member of the District of Columbia Chapter of the American Academy of Pediatrics with experience and interest in issues addressed by the Council designated by the

chair of the District of Columbia Chapter of the American Academy of Pediatrics.

6. A representative of the District of Columbia Academy of Family Physicians with experience and interest in issues addressed by the Council.
7. A representative of the American College of Obstetrics and Gynecology with experience and interest in issues addressed by the Council who resides or practices in the District of Columbia.
8. The Executive Director of DC Action for Children, or a board member, officer, or employee of DC Action for Children with experience and interest in issues addressed by the Council designated by the Executive Director of DC Action for Children.
9. The Executive Director of the DC Campaign to Prevent Teen Pregnancy, or a board member, officer, or employee of the DC Campaign to Prevent Teen Pregnancy with experience and interest in issues addressed by the Council designated by the Executive Director of the DC Campaign to Prevent Teen Pregnancy.

C. The following governmental members:

1. The Deputy Mayor for Health and Human Services, or her or his designee.
2. The Deputy Mayor for Education, or her or his designee.
3. The Chancellor of the District of Columbia Public Schools, or her or his designee.
4. The Chair of the Public Charter School Board, or her or his designee.
5. The Director of the Child and Family Services Agency or her or his designee
6. The Director of the Department of Behavioral Health, or her or his designee.
7. The Director of the Department of Human Services, or her or his designee.
8. The Director of the Department of Health, or her or his designee.

9. The Director of the Department of Employment Services, or her or his designee.
10. The State Superintendent of Education, or her or his designee.
11. The Executive Director of the District of Columbia Public Library, or her or his designee.
12. The Executive Director of the Council, who shall serve as Chair of the Council.

V. **Appointments and Terms**

- A. Each community and organizational member of the Council shall be appointed by the Mayor, except for *ex officio* community and organizational members, or their designees.
- B. Community and organizational members appointed by the Mayor shall be appointed for two (2)-year terms, except as provided in paragraph F of this section; provided, that the first member appointed by the Mayor to a community or organizational seat shall serve for a term that ends on the second occurrence of March 1 after the date of his or her appointment.
- C. Community and organizational members appointed by the Mayor may be reappointed for no more than three (3) consecutive full terms.
- D. *Ex officio* community and organizational members shall serve by reason of and during their incumbency, unless they appoint a designee to serve as a member. A designee of an *ex officio* community or organizational member shall serve at the pleasure of the designator.
- E. Governmental members shall be appointed by the Mayor and shall serve, at the pleasure of the Mayor, for the duration of their position held in District government.
- F. If the seat of a community or organizational member appointed by the Mayor becomes vacant, the Mayor shall appoint an individual to fill the seat for the remainder of the term.
- G. The Mayor may remove any member for cause.
- H. The anniversary date for all appointments shall be March 1.

VI. Meetings; Organization and Administration

- A. The Council shall meet at least quarterly, at such times and locations as shall be determined by the Chair.
- B. The Council shall hold all meetings consistent with the Open Meetings Act (D.C. Official Code § 2-571 *et seq.*).
- C. The Executive Director of the Council shall serve as Chairperson of the Council.
- D. The Council may adopt by-laws and rules of procedure to govern its proceedings.
- E. The Executive Director of the Council may issue such procedures, policies, and guidelines, as may be appropriate to ensure the efficient operation and administration of the Council.
- F. The Office of the Deputy Mayor for Health and Human Services shall provide administrative support to the Council.

VII. EFFECTIVE DATE: This Order shall become effective immediately.



 MURIEL BOWSER
 MAYOR

ATTEST: 

 KIMBERLY A. BASSETT
 INTERIM SECRETARY OF THE DISTRICT OF COLUMBIA

DC MAYOR’S OFFICE ON AFRICAN AFFAIRS**COMMISSION ON AFRICAN AFFAIRS****Notice of Commissioners Meeting**

The Commission of African Affairs will be holding a meeting on Wednesday, March 6th, 2019 from 6pm to 8pm.

The meeting will be held at Franklin D. Reeves Center of Municipal Affairs, 2000 14th Street, NW, 6th floor, Washington, DC 20001.

The Location is closest to the U Street / African –American Civil war Memorial / Cardozo Metro station on the green and yellow line of the Metro.

All Commission meetings are open to the public.

Below is a draft agenda for this meeting. A final agenda will be posted on The Office of African Affairs website at oaa.dc.gov.

If you have any questions about the commission or its meetings, please contact oaa@dc.gov.
Phone: (202) 727-5634

DRAFT AGENDA

- I. Opening – Call to Order
- II. MOAA Updates and Announcements
- III. Chair Announcements
- IV. Public Comments
- V. Adjournment (8:00pm).

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF PUBLIC HEARINGS
CALENDAR**

**WEDNESDAY, MARCH 13, 2019
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009**

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

- | | |
|--|-----------------|
| Show Cause Hearing (Status)
Case # 18-CIT-00658; E and K, Inc., t/a Champion Kitchen, 7730 Georgia Ave NW, License #103055, Retailer CR, ANC 4A
Failed to File Quarterly Statements | 9:30 AM |
| Show Cause Hearing (Status)
Case # 18-251-00158; Eagle N Exile, LLC, t/a DC Eagle, 3701 Benning Road NE, License #93984, Retailer CT, ANC 7F
Allowed Establishment to be Used for Unlawful or Disorderly Purposes | 9:30 AM |
| Show Cause Hearing (Status)
Case # 18-251-00169; Solloso, Inc., t/a El Rincon, 1826 Columbia Road NW License #60003, Retailer CR, ANC 1C
Operating After Hours, Violation of Settlement Agreement, No ABC Manager on Duty | 9:30 AM |
| Show Cause Hearing (Status)
Case # 18-CMP-00243; Farmbird Restaurant Group, t/a Farmbird, 635 H Street NE, License #105994, Retailer CR, ANC 6C
No ABC Manager on Duty, Failed to have a Sidewalk Café Endorsement | 9:30 AM |
| Show Cause Hearing*
Case # 18-CMP-00236; Connexion Group, LLC, t/a 1230 DC, 1230 9th Street NW, License #100537, Retailer CR, ANC 2F
Operating After Hours, Cover Charge Endorsement | 10:00 AM |
| Show Cause Hearing*
Case # 18-AUD-00089; Betty's Gojo Restaurant and Lounge, LLC, t/a Betty's Gojo, 7616 Georgia Ave NW, License #102500, Retailer CR, ANC 4A | 10:00 AM |

Board's Calendar

March 13, 2019

Failed to File Quarterly Statements

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA

1:00 PM

Fact Finding Hearing*

1:30 PM

On the Rocks, LLC, t/a On the Rocks; 1242 H Street NE, License #106695

Retailer CT, ANC 6A

Request for Reinstatement of License Privileges

Fact Finding Hearing*

2:00 PM

Case # 19-251-00012; Meskerem Abebe, LLC, t/a Right Spot; 1917 9th Street
NW, License #100631, Retailer CR, ANC 1B

Simple Assault, Violation of Settlement Agreement

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, MARCH 13, 2019 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 2F. SMD 2F05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *XO Restaurant & Lounge*, 1426 L Street NW, Retailer CT, License No. 098370.

2. Review Request to Extend Safekeeping of License – Third Request. Original Safekeeping Date: 9/27/2017. ANC 5D. SMD 5D01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Buffalo & Bergen*, 1300 4th Street NE, Retailer CT, License No. 111227.

3. Review Application for Change of Hours to operate 24 hours a day. Alcoholic beverage sales hours will not change. *Approved Hours of Operation and Alcoholic Beverage Sales:* Sunday-Saturday 9am to 10pm. *Proposed Hours of Operation:* Sunday-Saturday 9am to 9am (24-hour operations). ANC 5E. SMD 5E02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Edgewood International Wine and Spirits*, 2303 4th Street NE, Retailer A Liquor Store, License No. 095032.

4. Review Request to expand seating to include 53 additional seats, increasing Total Occupancy Load from 269 to 322. ANC 6C. SMD 6C06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Red Bear Brewing Company*, 1140 3rd Street NE, Retailer CT, License No. 109096.

***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.**

DC COMMISSION ON THE ARTS AND HUMANITIES**NOTICE OF FUNDING AVAILABILITY****FY 2020 Public Art Building Communities Grant**

The DC Commission on the Arts and Humanities (CAH) announces the availability of grants to support public art projects by individuals, District-based non-profit organizations and Business Improvement Districts (BID) in the District of Columbia during fiscal year 2020.

At the time of application, individuals must reside in the District of Columbia. Organizations must be incorporated as a nonprofit, with a designated tax exempt status under section 501(c)(3) of the United States Internal Revenue Code or are a DC Business Improvement District (BID) incorporated with central offices in the District of Columbia in addition to the other eligibility criteria to be listed in the program's guidelines. Applicants must also be a registered organization in good standing with the DC Department of Consumer and Regulatory Affairs (DCRA), Corporation Division, the Office of Tax and Revenue (OTR), the Internal Revenue Service (IRS), and the Department of Employment Services (DOES) and possess a clean hands certification.

All eligible applications are reviewed through a competitive process. Evaluation criteria are based on 1) Artistic Merit, 2) Community Impact and Engagement, and 3) Level of Participation and 4) Capacity and Sustainability. All activities funded by the grant must occur between October 1, 2019 and be completed by September 30, 2020.

The Request for Applications (RFA) will be available electronically beginning March 15, 2019 on the CAH website at <http://dcarts.dc.gov/>. Applicants must apply online. The deadline for applications is August 9, 2019.

For more information, please contact:

Keona Pearson
Arts Program Coordinator
DC Commission on the Arts and Humanities
200 I (EYE) St. SE
Suite #1400
Washington, DC 20003
(202) 724-56213 or keona.pearson@dc.gov

BRIYA PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Briya PCS solicits proposals for the following:

- **Consulting (Research and Policy Services)**

Full RFP available by request. Proposals shall be emailed as PDF documents no later than 5:00 PM on Tuesday, March 12, 2019. Contact: bids@briya.org

DC INTERNATIONAL PUBLIC CHARTER SCHOOL**INVITATION FOR BID****Executive Coaching - Education**

RFP Executive Coaching: DCI invites written proposals from qualified firms interested in helping DCI's leadership team develop. Please send estimated daily costs and an outline of your services. Please email bid to rfp@dcinternationalschool.org. Proposals are due no later than 12:00PM on Friday, March 15, 2019.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY (NOFA)

FISCAL YEAR (FY) 2019-20

PRE-KINDERGARTEN ENHANCEMENT AND EXPANSION
FUNDING**Application Release Date: March 18, 2019**

The Office of the State Superintendent of Education (OSSE), Division of Early Learning, is soliciting applications for the allocation of Pre-K Enhancement and Expansion funding. OSSE will distribute funding to community-based organizations (CBOs)¹ pursuant to the Pre-K Enhancement and Expansion Amendment Act of 2008, (the “Act”), effective July 18, 2008 (D.C. Law 17-202; D.C. Official Code § 38-271.01 *et seq.*) and its’ implementing regulations (5-A DCMR Chapter 35).

The purpose of this allocation is to distribute funding, per student, as appropriate, in an amount not to exceed the uniform per student funding formula (“UPSFF”)² pursuant to section 2401 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321- 107; D.C Official Code § 38-1804.01), to CBOs providing pre-K education services³ that meet the eligibility requirements and the high-quality standards set forth in section 201 of the Act (D.C. Code § 38-272.01) and its implementing regulations (5A DCMR 3500.3 and 3501). A supplemental allocation equivalent to the at-risk weight may be distributed for pre-K age students in foster care, who are homeless or receive TANF or SNAP funds pursuant to the Early Learning Equity in Funding Amendment Act of 2017, effective Aug 1, 2017 (D.C. Law 22-9; D.C. Official Code § 38-271.06)).

The allocation of the Pre-K Enhancement and Expansion funding is currently not a competitive grant process. However, if the amount appropriated to OSSE is insufficient to fund all high-quality pre-K programs that meet the eligibility requirements and the high-quality standards, OSSE may distribute the funds through a competitive grant process (see “*Competitive Grant, If Applicable*” below).

Eligibility: In order to apply for an allocation of Pre-K Enhancement and Expansion funding, a CBO providing pre-K education services shall:

1. Be currently licensed and maintain compliance pursuant to Chapter 1 of Title 5A of the District of Columbia Municipal Regulations (DCMR 5-A, Chapter 1);
2. Be currently accredited by a national accrediting body approved by OSSE;
3. Complete and submit a high-quality designation application on a form furnished by OSSE, which demonstrates that the CBO meets each of the following:
 - 1) Eligibility criteria pursuant to 5A DCMR 3500.3; and
 - 2) High-quality standards pursuant to 5A DCMR 3501; and

¹ “Community-based organization” or “CBO” means a Head Start or early childhood education program operated by a non-profit, for-profit or faith-based organization, or organization that participates in local or federally-funded early childhood programs, including the Child Care Subsidy Program.

² Rates will be final upon the legislative enactment of the Fiscal Year 2020 Budget Support Act of 2019.

³ “Pre-K education service” means the purposeful, well planned and developmentally appropriate practice and instruction provided by community-based organizations to pre-K age children.

4. Attend the entire pre-application conference.

OSSE will host the aforementioned mandatory Pre-K Enhancement and Expansion pre-application conference on the date, time, and location listed below. Given the importance of the information that will be presented throughout the entire conference, no one will be allowed to join the session after the pre-application conference begins. Attendance will be taken at the beginning and end of the pre-application conference. Failure to attend the entire pre-application conference will result in a disqualification of the high-quality designation application. [Click here](#) to register for the pre-application conference.

Date	Time	Location
Monday, March 25, 2019	11:00 a.m.-12:30 p.m.	Office of the State Superintendent of Education 1050 First St. NE – First Floor – Eleanor Holmes Norton

The Pre-K Enhancement and Expansion high-quality designation application will be posted on **Monday, March 18, 2019** on OSSE’s website: <https://osse.dc.gov/node/1315176>.

Competitive Grant Process, If Applicable

If OSSE does not receive an appropriation amount sufficient to fund all high-quality pre-K programs that meet the eligibility requirements and the high-quality standards, OSSE will allocate the funds through a competitive grant process. In that case, a Request for Application (RFA) will be released on **Monday, April 29, 2019** on OSSE’s website: <https://osse.dc.gov/node/1315176>.

For additional information regarding this NOFA, please contact:

Christina Crayton
 Early Childhood Education Policy Officer
 Policy, Planning, and Research Unit
 Division of Early Learning
 Office of the State Superintendent of Education (OSSE)
 Government of the District of Columbia
 1050 First St. NE, Sixth Floor
 Washington, DC 20002
 Office: (202) 442-4716
Christina.Crayton@dc.gov

**DEPARTMENT OF ENERGY AND ENVIRONMENT
NOTICE OF FUNDING AVAILABILITY**

Resilient, Innovative, Affordable Electrification in the District of Columbia

The Department of Energy and Environment (the Department) seeks eligible entities to recommend energy measures and practices, based on rigorous computer modeling, that will materially assist the DC community to attain the District Government’s 2032 climate and energy targets. This work will build on DOEE’s Clean Energy DC Plan (<https://doee.dc.gov/cleanenergydc>) and Sustainable DC Plan (<http://www.sustainabledc.org/in-dc/sdc2-0/>).

The District Government’s targets are a 50% reduction of the District’s energy use and greenhouse gas (GHG) emissions between 2006 and 2032. Concurrently, the use of renewable energy would increase by 50%.

DOEE seeks a suite of studies, as an electrification and mitigation roadmap, consisting of six distinct tasks. A grant application must respond to all of the six identified task areas. DOEE will accept an application from a single entity, or from a team working through a team leader. The total available funding is \$300,000.

Beginning 3/8/2019, the full text of the Request for Applications (RFA) will be available on the Department’s website. A person may obtain a copy of this RFA by any of the following means:

Download from the Department’s website, www.doee.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to DCElectrificationRoadmap@dc.gov with “Request copy of RFA 2019-1916-EA” in the subject line.

Pick up a copy in person from the Department’s reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Eric Campbell at (202) 671-1744 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, “Attn: Eric Campbell RE:2019-1916-EA” on the outside of the envelope.

The deadline for application submissions is 4/8/2019, at 4:30 p.m. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to DCElectrificationRoadmap@dc.gov.

Eligibility: All the checked institutions below may apply for these grants:

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith-based organizations;
- Government agencies
- Universities/educational institutions; and
- Private Enterprises.

For additional information regarding this RFA, write to: DCElectrificationRoadmap@dc.gov.

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

Office of Government Ethics

**Advisory Opinion – Redacted – 2019-001 – Post Employment – Same Particular
Government Matter and Testifying as an Expert Witness**

February 19, 2019

VIA EMAIL

XXXXXXXXXXXXXXXXXXXX
C/o Goldblatt Martin Pozen LLP
1625 K Street, NW, Suite 700
Washington, D.C. 20006
tpozen@gmpllp.com

Dear XX XXXXXXXXXXXX:

This letter responds to your request for a determination as to whether the District’s post-employment restrictions prohibit you, a former employee of the Department of Consumer and Regulatory Affairs (“DCRA”), from providing testimony on behalf of property owners in an Office of Administrative Hearings (“OAH”) appeal of a DCRA disposition of a Certificate of Occupancy (C of O) for “Property A.” You also ask for guidance on whether the post-employment restrictions prohibit you from otherwise “advocating on behalf of property owners in matters involving DCRA.”

After reviewing the information you provided, we find that you may not testify as an expert witness on behalf of the parties who have appealed DCRA’s decision to issue a C of O for Property A because you were personally and substantially involved in this particular government matter before your departure from DCRA. Moreover, due to your personal and substantial participation in the Property A matter, you are permanently barred from acting as a representative, or appearing or communicating with District agencies with the intent to influence District employees regarding Property A. Although you are barred by the post-employment restrictions from serving as an expert witness in the matter, there are circumstances that would allow you to testify under oath.

As to whether you may advocate on behalf of other property owners in matters involving DCRA, we find that you are permanently banned from acting as a representative, or appearing or communicating with District agencies with the intent to influence District employees regarding particular government matters involving specific parties in which you have personally and substantially participated. Given your position at DCRA, we find that your personal and substantial participation in other particular government matters may have included, but may not have been limited to the following activities: (1) determining building code compliance, through

inspection, evaluation, or enforcement, including any matters that are essentially the same as the particular government matter involved; and (2) participating in the substantive merits of a matter, such as taking measurements and photographs, which are used to determine compliance. If you have not personally and substantially participated in a particular matter involving specific parties, then you may advocate on behalf of property owners or other interested parties in matters involving DCRA or any other District agency.

Background

Based upon the information you have submitted through counsel and records available from the OAH filings in this matter, we understand the background in this matter to be as follows: You left your employment with DCRA on XXXXXXXX. At DCRA, you worked as an XXXXXXXXXXXX from XXXXX to XXXXX, and then as a XXXXX XXXXX XXXXXXXX until your departure. Your duties as a XXXXXXXXXX included selecting, supervising, training, and evaluating staff; participating in the development and administration of division goals, objectives, and procedures; and visiting construction sites for the purpose of evaluating third party inspectors' performance.

In September 2014, Property A's owners secured permits to begin converting the property from a single-family dwelling to a multi-use dwelling unit. On June 23, 2015, DCRA approved a permit allowing three additional significant alterations to Property A. For several months after this permit was issued, neighbors of Property A contacted DCRA to question the approval of the permit and whether construction on Property A complied with the permit. They also requested that DCRA wait to issue a C of O for the multi-use dwelling until these, and other issues, were resolved.

During the same time period that DCRA received complaints from Property A's neighbors questioning the issuance of a permit, you participated in the matter to assess the neighbors' concerns. In 2016, while working as a XXXXXXXXXX you took measurements and photographs of Property A to verify compliance with the building permit at issue for the property. In addition to taking measurements and photographs, you supervised DCRA inspectors who performed inspections on Property A in accordance with your official responsibilities. On three separate occasions in 2016, you instructed a DCRA Inspector to conduct an inspection of that property. On July 11, 2016, you personally conducted an electrical permit inspection on Property A, which means you verified that the property's entire electrical components met the building code requirement. You then approved the electrical construction work that had been performed on the property.

After your departure, DCRA issued a C of O on October 14, 2016 to the Owner of Property A. According to OAH records, on October 26, 2016, neighbors of Property A (hereinafter referred to as Property A Appellants) appealed DCRA's issuance of the C of O on the basis that it was issued improperly. Along with other claims, Property A Appellants raised issues concerning the validity and methodology of measurements used by DCRA in determining Property A's compliance with permits. The Owner of Property A would now like to call you as an expert witness to testify on their behalf at the next OAH hearing.

Discussion

You argue that you should be permitted to testify as an expert in the OAH Property A hearing because the issuance of the permit for Property A, although admittedly a prerequisite for issuance of the C of O, should be viewed as a distinct particular matter from the disposition of the C of O. Secondly, you argue that even if the permit issuance and C of O for Property A are considered to be one particular matter, that you did not participate personally and substantially in the Property A particular matter. Lastly, you contend that even if you participated personally and substantially in the particular matter involving Property A, you should still be permitted to testify under the testimony exception to the post-employment restrictions.

Applicable Standards

The District Personnel Manual identifies the post-employment restrictions that apply to District employees and requires that District employees comply with the provisions of the federal post-employment restrictions, codified at 18 U.S.C. § 207, and its implementing regulations set forth in the Code of Federal Regulations.¹ As explained below, these restrictions are intended to prevent former District employees from leveraging their previous employment with the District to gain an unfair advantage when dealing with the District government upon joining the private sector.²

Importantly, these restrictions do not prohibit District employees from working within the private sector after leaving government service altogether. Rather, the post-employment rules set forth varying restrictions upon the ways in which a former employee may or may not interact with his or her prior government agency. These restrictions are broken down into three categories: (1) permanent ban; (2) two-year cooling off period; and (3) one-year cooling off period.

Although former District employees are subject to three categories of post-employment restrictions, only the permanent prohibition is implicated in this request because you left the District government more than two years ago. This restriction is what is commonly referred to as the “permanent ban.” The permanent ban prohibits a former District government employee from “switching sides,” that is, appearing before any District agency for the life of any particular matter involving specific parties, in which the former employee participated personally and substantially.

A former District employee is “permanently prohibited from knowingly acting as an attorney, agent, or representative in any formal or informal appearance before an agency as to a particular matter involving a specific party if the employee *participated personally and substantially* in that matter as a government employee.”³ In addition, a former employee is “permanently prohibited from making any oral or written communication to an agency with the intent to influence that agency on behalf of another person as to a particular government matter involving a specific

¹ 6B DCMR § 1811.1 (“District employees shall comply with the provisions of 18 U.S.C. 207 and implementing regulations set forth at 5 C.F.R. Part 2641, Subparts A and B.”).

² 6B DCMR §1811.11.

³ *Id.* at § 1811.3 (emphasis added).

party if the employee *participated personally* and *substantially* in that matter as a government employee.”⁴

“Matter” refers to any matter that was “actually pending under the former employee’s responsibility within a period of one (1) year before the termination of such responsibility.”⁵ The District Personnel Manual defines “official responsibility” to mean “the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.”⁶ The scope of an employee’s official responsibility is determined by “those functions assigned by statute, regulation, Executive order, job description or delegation of authority.”⁷

Particular Matter Involving a Specific Party

A “particular government matter involving a specific party” is defined as “any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the District government is a party or has a direct and substantial interest, and which has application to (1) or more specifically identified persons or entities.”⁸ In addition to the District’s non-exhaustive list of types of particular matters involving specific parties, the Federal rules describe a “particular matter involving specific parties” as a matter typically involving a specific proceeding affecting the legal rights of the parties or an isolatable transaction or related set of transactions between identifiable parties.⁹

At issue in this matter is whether your involvement in measuring the property to verify permit compliance and overseeing inspections related to permit approvals is a distinct particular matter from the decision regarding the issuance of the C of O. Figuring out whether something is a “particular matter involving specific parties” is a fact-specific inquiry, and the analysis may change as matters evolve over time. According to federal authorities, many “matters evolve, sometimes starting with a broad concept, developing into a discrete program, and eventually involving specific parties. A case-by-case analysis is required to determine at which stage a particular matter has sufficiently progressed to involve specific parties.”¹⁰

Personal and Substantial Participation

The Code of Federal Regulations explains that to ‘participate’ means to take an action as an employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action, or to purposefully forbear in order to affect the outcome of a matter.¹¹ An employee has participated “personally” if they participated in a particular matter

⁴ *Id.* at § 1811.4 (emphasis added).

⁵ *Id.* at § 1811.6.

⁶ *Id.* at § 1899.1.

⁷ 5 C.F.R. § 2641.202(j)(1).

⁸ 6B DCMR § 1899.1.

⁹ 5 C.F.R. § 2641.201(h)(1).

¹⁰ Robert I. Cusick, Office of Government Ethics, DAEOgram 06-029 (October 4, 2006).

¹¹ 5 C.F.R. § 2641.201(i)(1).

“directly . . . or [t]hrough direct and active supervision of the participation of any person he supervises, including a subordinate.”¹²

An employee’s participation is “substantial” if it is of “significance to the matter.”¹³ Merely having “official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue,” does not amount to “substantial participation.”¹⁴ Instead, whether an employee’s participation in a matter is “substantial” turns on the amount of effort an employee devoted to the matter and the importance of the employee’s effort to the issue.¹⁵ Therefore, if an employee “participates in the substantive merits of a matter,” that participation “may be substantial even though his role in the matter, or the aspect of the matter in which he is participating, may be minor in relation to the matter as a whole.”¹⁶

Analysis

Post-Employment Restrictions applicable to matters involving Property A

After reviewing the facts and applicable standards in this matter, we find that Property A became a particular matter involving specific parties when the owners sought DCRA’s approval of permits to convert the property. I further find that your participation in the particular matter involving Property A was both personal and substantial. Thus, I find that you are permanently barred from appearing before a District agency as a representative or communicating with a District agency with the intent to influence regarding Property A. As to your argument that you should be allowed to testify under the testimonial exception to the post-employment restrictions, I find that you are explicitly prohibited from testifying as an expert on behalf of the owners of Property A, unless directed to do so by court order or on behalf of the District.

The instant matter involving Property A became a particular government matter involving a specific parties when Property A’s owners applied for the first building permit; that building permit was subsequently issued in June 2015. Although you argue that DCRA’s disposition of the C of O (which you would like to offer expert testimony about) is a distinct particular matter from the issuance of the building permit, your argument ignores the significance of the permit’s validity and the property’s compliance with the permit to DCRA’s decision regarding the disposition of the C of O.

Determining whether the issuance of the C of O is distinct from issuance of the building permit is the same particular matter requires a fact-specific analysis. Relevant factors to consider in determining whether certain matters are the same particular government matter that you participated in include: whether your inspection and the current matter share the same basic facts; whether the facts of your inspection or an inspection which you participated in the merits will be used to make a determination in the matter at hand; whether both matters involve the same property owner and related issues, and the time lapse between the particular matter and the

¹² *Id.* at § 2641.201(i)(2).

¹³ *Id.* at §2641.201(i)(3).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

matter at issue. The most significant factor to consider is whether your participation in the particular matter resulted in a final decision by DCRA regarding a certain property.

A particular government matter involving a specific party, such as a building permit, is the same particular government matter as zoning matter, C of O, license, or a subsequent permit if “the matters involve the same basic facts, the same or related parties, related issues, the same confidential information,” and are relatively close in time.¹⁷ Here, in assessing the neighbors’ complaints, you took measurements and photographs to verify compliance with the permit at issue, which needed to be done in order to determine whether to issue the C of O. Thus, it was necessary for DCRA to consider the same basic facts, related issues, and confidential information in order to issue the C of O.

The purpose of a C of O is to ensure that the use of a building, structure or land conforms to the Zoning Regulations, DCMR Title 11, and to the provisions of the DC Building Code, DCMR Title 12A.¹⁸ If a change in use to a building occurs, such as that which occurred at Property A, there must be approval of a building permit application, construction, and approval through inspections prior to the issuance of a C of O.¹⁹ The property must pass inspections to ensure that the property is constructed according to the building plans and is in compliance with the building code and zoning regulations. The various building inspections are tantamount to the issuance of a C of O.

Contrary to your argument, the issuance of the C of O and the building permit are not “fundamentally distinct in scope and approach.”²⁰ Rather, they involved the same facts and property owner, and were issued within a two-year period. It appears that Property owner A secured the building permits to complete the construction needed to receive a C of O that would allow them to use the converted property. The issuance of the C of O was dependent upon the approval of the building plans, building permits being granted, and compliance with those permits.²¹ Essentially, the C of O is the same particular matter as the building permit because they both include the same basic facts, parties, and issues.²²

¹⁷ 5 C.F.R § 2641.201(h)(5)(i); *see also Brown v. Dist. Of Col. Bd. Of Zoning Adj.* 486 A.2d 37, 52 (1984) (agreeing that “when there has been a series of transactions involving the same parties, the same property, and similar (not necessarily single) objectives, the factual contexts are likely to overlap sufficiently that the party who moves for disqualification under DR 9-101(B) will have established a prima facie case, even though the technical legal issues themselves are different”).

¹⁸ *See* DCRA Certificate of Occupancy Checklist and Process, found at [https://eservices.dcr.dc.gov/DocumentManagementSystem/Home/retrieve?id=Certificate of Occupancy Checklist and Process.pdf](https://eservices.dcr.dc.gov/DocumentManagementSystem/Home/retrieve?id=Certificate%20of%20Occupancy%20Checklist%20and%20Process.pdf) (last visited November 26, 2018).

¹⁹ *Id.*

²⁰ United States Office of Government Ethics (“U.S. OGE”) Advisory Opinion 88 x 4, dated March 2, 1988.

²¹ *See* U.S. OGE Advisory Opinion 84 x 16, dated December 17, 1984, (determining that two proceedings were the same particular matter because they both concerned the same important Federal interest, the same party, and the same underlying factual and adjudicatory context). *See also* U.S. OGE Advisory Opinion 02 x 5, dated July 31, 2002, (concluding that licensing proceedings were a continuation of the same particular matter that involved an earlier site characterization process, as well as other efforts that were in anticipation of a potential license application) and (citing *United States v. Medico Indus., Inc.*, 784 F.2d 840, 843 (1986) “Two particular matters are viewed as the same, for purposes of section 207(a), if they share a common ‘nucleus of operative facts.’”).

²² *See* U.S. OGE Advisory Opinion 99 x 16, dated September 10, 1999, (finding that the statement of principles and program A contracts were the same particular matters because the statement of principles were incorporated into the request for qualification statement and established contracting policies for pricing, price bundling, use of non-

At issue in the OAH proceeding is the validity of the C of O and the facts of your inspection or other inspection will be involved.²³ This is exactly the type of switching sides that the restriction is designed to prevent. Thus, because you participated personally and substantially in decisions related to determining permit compliance with building codes, which was a prerequisite for the issuance of the C of O, I find that you are permanently banned from having any communication or appearances with a District agency concerning the permit and C of O for Property A.

Next, you argue that even if the permitting and issuance of the C of O are considered to be the same particular matter, that your participation was not personal and substantial. To participate personally means to participate directly; to participate substantially means that your involvement is of significance to the matter.²⁴ While working as a XXXXXXXXXXXX, you personally engaged in activities that were of significance to assessing permit compliance and validity, and hence were of significance in determining whether to issue the C of O. Specifically, in 2016 with respect to Property A your personal and substantial participation included: making determinations of building code compliance, through inspection, evaluation, or enforcement; and participation in the substantive merits of the matter, such as taking measurements and photographs which were used to determine compliance. Thus, you are permanently prohibited from acting as a representative, or appearing or communicating with any District agency with the intent to influence District employees regarding Property A.

Finally, you argue that even if you are prohibited from acting as a representative, or appearing or communicating with any District agency with the intent to influence District employees regarding, that you may be able to still testify as an expert witness in this matter under a testimonial exception. The DPM requires that District employees comply with federal post-employment statutes and post-employment guidance found in the Code of Federal Regulations.²⁵ DPM § 1811.14 states that the post-employment restrictions shall not “prevent a former government employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.” “Testimony under oath is evidence delivered by a witness either orally or in writing, including deposition testimony and written affidavits, in connection with a judicial, quasi-judicial, administrative, or other legally recognized proceeding”²⁶ However, the federal rules have an exception that prevents employees who are permanently barred from representing others in a particular matter before the government from serving as an expert witness in that matter, unless on behalf of the government or under court order.²⁷

Thus, given that you are permanently banned with respect to Property A from knowingly representing a third party interest before the District, or communicating with the District with the intent to influence on behalf of another, you will not be allowed to testify as an expert witness on behalf of Property Owner A in the OAH proceeding on the appeal of DCRA’s issuance of a C of

contractor facilities, adding optional services, limiting the Government’s obligation to minimum revenue guarantees, the duration of contracts, the award process, and agency participation in specific competitions).

²³ See supra footnote 17.

²⁴ 5 C.F.R. § 2641.201(i)(2) and (3).

²⁵ See DPM § 1811.1.

²⁶ 5 C.F.R. § 2641.301(f)(1).

²⁷ *Id.* at § 2641.301(f)(2).

O for Property A.²⁸ Despite not being able to serve as an expert witness in the matter regarding Property A, you may still be able provide testimony under oath at the upcoming OAH hearing as a fact witness if subpoenaed to do so.

General Advocacy on behalf of property owners in matters involving DCRA

You also request more general advice on whether you may advocate on behalf of property owners in matters involving DCRA with certain limitations. In particular, you wish to continue to work in the field on behalf of property owners in matters involving DCRA, including by: (1) serving as the XXXXXXXXXXXX,²⁹ and (2) testifying as a witness in administrative and judicial proceedings on behalf of property owners.

Generally, you may only advocate on behalf of property owners in matters involving DCRA if the permanent ban does not restrict your involvement in the matter. If it is clear that you have had no prior involvement with a particular matter, then you are free to advocate before the District on behalf of others, to serve as a XXXXXXXXXXXX, or to testify as an expert or fact witness in administrative and judicial proceedings on behalf of property owners.

However, consistent with the guidance above, you will be prohibited from advocating on behalf property owners before the District for any particular government matters involving specific parties in which you participated personally and substantially. This means you are prohibited from providing testimony as an expert witness in any future judicial or administrative proceedings regarding other matters in which you participated personally and substantially through a determination of compliance, such as an inspection, evaluation, or enforcement of the building codes; or for which you participated in the substantive merits of the matter.

In addition, you have also asked for guidance on how to determine when particular matters involving specific parties in which you have participated relate to other particular matters about which you may be consulted. You assert that “particular matters involving specific parties are limited to particular permits for specific properties and that even if a specific property is part of a particular matter involving specific parties, it is not necessarily the same particular matter as the permit.” You provide, for example, that a property may be part of a matter involving zoning, C of O, license, or a subsequent permit; and that “only those cases concerning the permit itself should be considered the same particular matter as the permit.” Without a specific matter on which I am asked to provide advice, I must provide only general advice about potential future matters which you may be subject to restriction under the post-employment rules.

DPM § 1899.1 provides that a “particular government matter involving a specific party is any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the District government is a party or has a direct and substantial interest, and which has

²⁸ *Id.*; see also U.S. OGE Advisory Opinion 04 x 11, dated July 29, 2004.

²⁹ According to your submission, a XXXXXXXXXXXX is authorized by DCRA to perform inspections and plan reviews, and to certify that such work complies with the D.C. Construction Codes, under certain conditions. The XXXXXXXXXXXX directly supervises all of a XXXXXXXXXXXX work.”

application to one (1) or more specifically identified persons or entities.” A particular government matter “typically involves a specific proceeding affecting the legal rights of the parties or an isolatable transaction or related set of transactions between identified parties, such as a specific contract, grant, license, product approval application, enforcement action, administrative adjudication, or court case.”³⁰ “New particular matters have been found where there are fundamental changes or differences between related matters.”³¹ According to 5 CFR § 2641.201(h)(5), “the same particular matter may continue in another form or in part.” “In determining whether two particular matters involving specific parties are the same, all relevant factors should be considered, including the extent to which the matters involve the same basic facts, the same or related parties, related issues, the same confidential information, and the amount of time elapsed.”³² Because our analysis of these cases tends to be very dependent upon the specific facts presented, feel free to reach out to our office with for informal advice as needed on a case-by-case basis.

Lastly, you ask for guidance on when you can testify as a witness in administrative and judicial proceedings on behalf of property owners. In general, a fact witness can be subpoenaed by the court simply because they have knowledge of the facts relevant to the matter in dispute. An expert witness cannot.³³ Hence, the District generally recognizes an exception to the post-employment restrictions for giving testimony under oath. A former employee is not restricted by any of the substantive restrictions of the post-employment restrictions from giving testimony under oath or from making statements required to be made under penalty of perjury, unless the former employee is covered by a permanent ban with respect to a matter in which they were personally and substantially involved. Hence, if you are subject to a permanent post-employment ban with respect to a matter, you may not testify or serve as an expert witness for that matter, unless called by the government or under court order.

Please be advised that this advice is provided to you pursuant to section 219(a) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012 (D.C. Law 19-124, D.C. Official Code § 1-1161.01 et seq.), which empowers me to provide such guidance. As a result, no enforcement action for violation of the District’s Code of Conduct may be taken against you in this context, provided that you have made full and accurate disclosure of all relevant circumstances and information in seeking this advisory opinion.

Finally, you are advised that the Ethics Act requires this opinion to be published in the District of Columbia Register within 30 days of its issuance, but that your identity will not be disclosed unless and until you consent to such disclosure in writing, should you wish to do so. I encourage individuals to so consent in the interest of greater government transparency. Please, then, let me

³⁰ 5 C.F.R. § 2641.201(h)(1).

³¹ U.S. OGE Advisory Opinion 99 x 14, dated July 7, 1999.

³² 5 C.F.R. § 2641.201(h)(5); *see also United States v. Medico Indus., Inc.*, 784 F.2d 840, 843 (7th Cir. 1986) (stating that the parties, facts, and subject matter must coincide to trigger the prohibition of § 207(a)). *See also Brown v. Dist. Of Col. Bd. Of Zoning Adj.* 486 A.2d 37, 52 (1984) (agreeing that “when there has been a series of transactions involving the same parties, the same property, and similar (not necessarily single) objectives, the factual contexts are likely to overlap sufficiently that the party who moves for disqualification under DR 9-101(B) will have established a prima facie case, even though the technical legal issues themselves are different”).

³³ *See* OGE Advisory Opinion, 90 x 4, dated March 7, 1990.

know your wishes about disclosure. Please let me know if you have any questions or wish to discuss this matter further. I may be reached at (202) 481-3411, or by email at Brentton.wolfingbarger2@dc.gov.

_____/s/_____
Brentton Wolfingbarger
Director of Government Ethics
Board of Ethics and Government Accountability

HEALTH BENEFIT EXCHANGE AUTHORITY**NOTICE OF PUBLIC MEETING****Executive Board of the Health Benefit Exchange Authority**

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 1225 I Street, NW, 4th Floor, Washington, DC 20005 on **Wednesday, March 13, 2019 at 5:30 pm**. The call in number is 1-650-479-3208, and access code is 735 967 052. The Executive Board meeting is open to the public. If you have any questions, please contact Debra Curtis at (202) 741-0899.

DEPARTMENT OF HEALTH (DC HEALTH)**PUBLIC NOTICE**

The District of Columbia Board of Veterinary Medicine (“Board”) hereby gives notice of a cancellation of its regular meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2016 Repl.)

The Board’s upcoming meeting, scheduled for March 21, 2019 from 9:30 AM to 12:30 PM is cancelled due to scheduling conflict. The Board will resume its regular monthly meeting on Thursday, April 18, 2019. The meeting will be open to the public from 9:30 am until 10:00 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, D.C. Official Code § 2-575(b), the meeting will be closed from 10:00 am to 12:30 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The Board’s subsequent meetings will be held on a monthly basis on the third Thursday of each month.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.

**DEPARTMENT OF HEALTH (DC HEALTH)
HIV/AIDS, Hepatitis, STD, Tuberculosis Administration (HAHSTA)**

**NOTICE OF FUNDING AVAILABILITY (NOFA)
HAHSTA_SBIRT_03.22.19 (RFA)**

**Comprehensive Screening, Brief Intervention,
and Referral to Treatment (SBIRT) Electronic
Health Record Integration and Delivery**

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:	Comprehensive Screening, Brief Intervention, and Referral to Treatment (SBIRT) Electronic Health Record Integration and Delivery
Funding Opportunity Number:	F0-HAHSTA-PG-00003-00
Program RFA ID#:	HAHSTA_SBIRT_03.22.19
Opportunity Category:	Competitive
DC Health Administrative Unit:	HIV/AIDS, Hepatitis, STD and TB Administration
DC Health Program Bureau	Prevention and Intervention Services Bureau
Program Contact:	Jonjelyn Gamble (202) 671-5060 Jonjelyn.Gamble@dc.gov
Program Description:	HAHSTA, Prevention & Intervention Services Bureau is requesting applications from eligible organizations to integrate a comprehensive Screening, Brief Intervention, and Referral to Treatment (SBIRT) process into the clinical practice and electronic health records to identify persons with substance use disorder.
Eligible Applicants	Not- for profit, public, and private primary care and community health providers, clinics, organizations, and FQHCs located and licensed to conduct business within the District of Columbia; and experienced in providing services to individuals with opioid use disorders.

Anticipated # of Awards:	Up to 8
Anticipated Amount Available:	\$900,000.00
Floor Award Amount:	\$50,000.00
Ceiling Award Amount:	\$112,500.00

Funding Authorization

Legislative Authorization	Federal Funds
Associated CFDA#	93.788
Associated Federal Award ID#	H79TI081707
Cost Sharing / Match Required?	No
RFA Release Date:	Friday, March 22, 2019
Pre-Application Meeting (Date)	Tuesday, March 26, 2019
Pre-Application Meeting (Time)	1:00 PM-3:00 PM
Pre-Application Meeting (Location/Conference Call Access)	899 North Capitol Street, NE 4 th Floor Washington, DC 20002
Letter of Intent Due date:	Not applicable
Application Deadline Date:	Friday, April 19, 2019
Application Deadline Time:	6:00 PM
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghouse http://opgs.dc.gov/page/opgs-district-grants-clearinghouse . DC Health EGMS https://dcdoh.force.com/GO__ApplicantLogin2

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, Tuberculosis Administration (HAHSTA)**

**NOTICE OF FUNDING AVAILABILITY (NOFA)
RFA# HAHSTA_VAMAI03.22.19**

Minority AIDS Initiative (MAI) Youth Reach for Virginia Providers Only

The District of Columbia, Department of Health (DC Health) is soliciting applications from qualified applicants to provide 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:	Minority AIDS Initiative (MAI) Youth Reach for Virginia Providers Only
Funding Opportunity Number:	FO-HAHSTA-PG-00113-019
Program RFA ID#:	HAHSTA_VAMAI03.22.19
Opportunity Category:	Competitive
DC Health Administrative Unit:	HIV/AIDS, Hepatitis, STD, Tuberculosis Administration
DC Health Program Bureau	Care and Treatment Division
Program Contact:	Ebony Fortune, Part A Program Coordinator, ebony.fortune@dc.gov, 202.671.4819
Program Description:	The HIV/AIDS, Hepatitis, STD, Tuberculosis Administration is soliciting applications from qualified organizations to provide services under the MAI Youth Reach program targeting individuals between the ages of 13 - 30.
Eligible Applicants	Not-for-profit organizations, including healthcare entities and universities; government-operated health facilities; for-profit health and support service providers demonstrated to be the only entity able to provide the service. All applicants must be located within and provide services within the 11 cities and 6 counties of the Northern Virginia jurisdiction of the Washington, DC EMA.
Anticipated # of Awards:	2
Anticipated Amount Available:	\$400,000.00
Floor Award Amount:	\$150,000.000
Ceiling Award Amount:	\$N/A

Funding Authorization

Legislative Authorization	Ryan White HIV/AIDS Treatment Extension Act of 2009
Associated CFDA#	93.914
Associated Federal Award ID#	H89HA00012
Cost Sharing / Match Required?	No
RFA Release Date:	March 22, 2019
Pre-Application Meeting (Date)	March 28, 2019
Pre-Application Meeting (Time)	10:00am – 12:00pm
Pre-Application Meeting (Location/Conference Call Access)	899 North Capitol Street, NE, 4 th Floor, Washington, DC 20002
Letter of Intent Due date:	Not required
Application Deadline Date:	April 19, 2019
Application Deadline Time:	6:00 PM
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghouse http://opgs.dc.gov/page/opgs-district-grants-clearinghouse . DC Health EGMS https://dcdoh.force.com/GO_ApplicantLogin2

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.

MAYA ANGELOU PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Apple Computers**

Maya Angelou Public Charter School (MAPCS) is located at 5600 East Capitol Street NE, Washington DC 20019. Our mission is to create learning communities in lower income urban areas where all students, particularly those who have not succeeded in traditional schools, can succeed academically and socially.

All bid proposals will be accepted until **12:00 PM on April 4, 2019**.

Interested vendors will respond to the advertised Notice of RFP via upload to <https://app.smartsheet.com/b/form/cfd4b326e9764a11a8de88ebdbed1771>.

Complete RFP details can be found at www.seeforever.org/requestforproposals. Any proposal received after **12:01 PM on April 4, 2019** is deemed non-responsive and will not be considered. Proposals will not be accepted by oral communications, telephone, electronic mail, telegraphic transmission, or fax.

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD**NOTIFICATION OF 2019 BOARD MEETINGS**

The District of Columbia Public Charter School Board (“DC PCSB”) hereby gives notice, of DC PCSB’s intent to hold a public meeting at 6:30pm on the following dates:

Monday, January 28, 2019

Monday, February 25, 2019

Monday, March 18, 2019

Monday, April 22, 2019

Monday, May 20, 2019

Monday, June 17, 2019

Monday, July 15, 2019

Monday, August 19, 2019 (tentative)

Monday, September 16, 2019

Monday, October 21, 2019

Monday, November 18, 2019

Monday, December 16, 2019

For questions, please call 202-328-2660. An agenda for each meeting will be posted 48 business hours in advance of the meetings on www.dcpsb.org. The location for all meetings is currently to be determined.

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 April 1, 2019.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on March 1, 2019. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

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

Effective: April 1, 2019

Page 2

Ahmadi	Dodi	Pinnacle Title & Escrow 1724 I Street, NW, Suite 125	20006
Balfour	Shirley E.	Baker DC, LLC 1000 Potomac Street, NW, Suite 106	20007
Brower Jr.	Michael	Wells Fargo Bank 600 Maryland Avenue, SW	20024
Brown-Royal	Kendall	PNC Bank 1931 Massachusetts Avenue, NW	20036
Brynteson	Raymond G.	Brynteson Reporting, Inc 888 16th Street, NW, Suite 800	20006
Caetellow	Anne E.	Olender Reporting 1100 Connecticut Avenue, NW	20036
Croson	Angela H.	Capitol Process Services, Inc 1827 18th Street, NW	20009
Dhhaliwal	Moira A.	The Bernstein Companies 3299 K Street, NW, Suite 700	20007
Dickey	Trenita S	Alexander Graham Bell Association for the Deaf and Hard of Hearing 3417 Volta Place, NW	20007
Dixon	Joseph A.	George Washington Hospital 900 23rd Street, NW	20037
Dunn	Willie F.	Medical Faculty Associates at The George Washington University 2150 Pennsylvania Avenue, NW, Suite 5-416N	20037
Foster	Ruth E.	Kotz Partnership 2828 Connecticut Avenue, NW, Suite 901	20008
Fuentes-Servellon	Rosa A.	VIKA Capitol, LLC 4910 Massachusetts Avenue, NW, Suite 16	20016

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

Effective: April 1, 2019

Page 3

Gagliardi	Judith R.	Self 637 3rd Street, NE, Apt. 204	20002
Garrett	Mykeia A.	United States Department of Education 400 Maryland Avenue, SW	20202
Haynesworth	A. Denise	Self 3000 Stanton Road, SE	20020
Hibbert	Angela M.	Washington Express Visas and Documents 1725 Desales Street, NW	20036
Howard	Leslie	National Trust for Historic Preservation in the United States 2600 Virginia Avenue, NW, Suite 1100	20037
Ilijic	Patricia	PAHO/WHO Federal Credit Union 2112 F Street, NW, Suite 201	20037
Jackson	Deborah B	The Jackson Investment Company, LLC 125 Yuma Street, SE, Suite 101	20032
Jones	LaWanda R.	Department of Energy and Environment 1200 First Street, NE	20002
Jones	Sharon Carolyn	Arnold & Porter 601 Massachusetts Avenue, NW, 9113B	20001
Katzin	Laura	National Strategies 1990 K Street, NW, Suite 320	20006
Kirimlis	Stelios	Courtesy Title and Escrow Corp 1433 H Street, NW	20005
Kirimlis	Valli X.	Courtesy Title and Escrow Corp 1433 H Street, NW	20005
Krug	Marie B.	Pinnacle Title & Escrow 1724 I Street, NW, Suite 125	20006
Messele	Fantu G.	TD Bank 1275A First Street, NE	20904

**D.C. Office of the Secretary
Recommendations for Appointments as DC Notaries Public****Effective: April 1, 2019****Page 4**

Pinnix	Jeanette L.	DC Department of Motor Vehicles 95 M Street, SW, Suite 300	20024
Poliansky	Jaime	Hyman, Phelps & McNamara, PC 700 13th Street, NW, Suite 1200	20005
Sabogal de Lanzone	Gisella	PAHO/WHO Federal Credit Union 2112 F Street, NW, Suite 201	20037
Shepherd	Anthony	Quality Printers 301 Kennedy Street, NW	20011
Solomon	Bari Rachael	Pinnacle Title & Escrow 1724 I Street, NW, Suite 125	20006
Theodore	Yvette	Quality Printers 301 Kennedy Street, NW	20011
Thompson	Barbara J.	Capitol Services Management, Inc 3215 Martin Luther King Jr , Avenue, SE	20032
Vo	Doan T.	Worldwide Settlements 1100 H Street, NW, Suite 480	20005
Watts	Gervel A.	Planet Depos 1100 Connecticut Avenue, NW	20036
Williamson	John L.	Self (Dual) 3726 Connecticut Avenue, NW, Apt. #402	20008
Wright	Sabrina G.	F S Taylor & Associates, PC 1420 N Street, NW, Suite 100	20005

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY

Northeasterly, Deanwood Cultural Arts Activation Grant

Updated 2/25/2019

The Department of Small and Local Business Development (DSLBD) is excited to announce that we will be soliciting applications for *Northeasterly*, a summer 2019 Deanwood Cultural Arts Activation Grant.

The grant or grants are to utilize commercial spaces, indoors or out, in the Deanwood neighborhood of Washington, DC encouraging the commercial activation of a cultural arts district.

DSLBD intends to award up to two (2) grants, of between \$20,000 and \$60,000, from the \$60,000 in total available funding for summer 2019.

How do I apply?

For additional guidance please see the Request for Applications (RFA) on the DSLBD website that will be released on or before March 1, 2019: <http://dslbd.dc.gov/service/current-solicitations-opportunities>.

Deadline

The deadline to apply online is **Friday, March 29, 2019 at 2:00 p.m.** Applications will only be accepted through the online application system.

Who can apply?

DC-based for profit and non-profit organizations either located within or with significant connections to the Deanwood neighborhood. See the Request for Applications for additional eligibility requirements.

How can the funds be used?

The grants must support commercial activations that fit the standard definition of a cultural arts district. The funds can support programming, marketing, and operation of activations. Examples of allowable and disallowed uses are detailed in the RFA linked to above.

How will awardees be selected?

Grant recipients will be selected through a competitive application process. All applications from eligible applicants received on or before the deadline will be forwarded to an independent review panel to be evaluated, scored, and ranked based on the following criteria:

1. Capacity and Experience of the Applicant (25 points)
2. Strength of the Activation Plan (25 points)
3. Financial Viability of Applicant (25 points)
4. Creativity and Innovation (25 points)

A program team will review the recommendations. The Director of DLSBD will make the final determination of grant awards. Grantee(s) will be selected by April 12, 2019.

Questions?

We encourage interested applicants to attend an *Application Information Session*. Please refer to the RFA for the most accurate information about the date, time, and location of this meeting.

Questions may be sent to Kate Mereand at the Department of Small and Local Business Development at Katherine.Mereand-Sinha@dc.gov or Virginia-Marie.Roure@dc.gov. All questions must be submitted in writing.

Reservations

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of this Notice of Funding Availability (NOFA) or RFA, or to rescind the NOFA or RFA at any time.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY

We Aspire: Entrepreneurial Ecosystem Builder Grant**Updated 2/25/2019**

The Department of Small and Local Business Development (DSLBD) is excited to announce that we will be soliciting applications for *We Aspire*, a summer 2019 Entrepreneurial Ecosystem Builder Grant.

The grant or grants are to further develop and enhance the resource mix available to We Aspire clients. We Aspire clients are returning citizen entrepreneurs connected with DLSBD and can include Aspire alumni, as well as current Aspire Side Hustle participants. Grantees are expected to integrate We Aspire clients into their proposals either as program participants or as collaborators. DSLBD will facilitate connecting with We Aspire clients and projects are not required to be connected to We Aspire clients prior to application and award.

DSLBD intends to award up to five (5) grants, of between \$20,000 and \$50,000, from the \$100,000 in total available funding for summer 2019.

How do I apply?

For additional guidance please see the Request for Applications (RFA) on the DSLBD website that will be released on or before March 1, 2019: <http://dslbd.dc.gov/service/current-solicitations-opportunities>.

Deadline

The deadline to apply online is **Friday, March 29, 2019 at 2:00 p.m.** Applications will only be accepted through the online application system.

Who can apply?

DC-based for profit and non-profit organizations prepared to work closely with the Department to weave service offerings into ongoing Department and We Aspire programming. Collaboration is highly encouraged and coalitions of Aspire alumni businesses may apply. See the Request for Applications for additional eligibility requirements.

How can the funds be used?

The grants must support business development for multiple DC returning citizens, either directly or through service offerings. Examples of allowable and disallowed uses are detailed in the RFA linked to above.

How will awardees be selected?

Grant recipients will be selected through a competitive application process. All applications from eligible applicants received on or before the deadline will be forwarded to an independent review panel to be evaluated, scored, and ranked based on the following criteria:

1. Capacity and Experience of the Applicant (25 points)
2. Anticipated Impact for Returning Citizens (25 points)
3. Financial Viability of Applicant (25 points)
4. Creativity and Innovation (25 points)

A program team will review the recommendations. The Director of DLSBD will make the final determination of grant awards. Grantees will be selected by April 12, 2019.

Questions?

We encourage interested applicants to attend an *Application Information Session*. Please refer to the RFA for the most accurate information about the date, time and location of this meeting.

Questions may be sent to Kate Mereand at the Department of Small and Local Business Development at Katherine.Mereand-Sinha@dc.gov or Virginia-Marie.Roure@dc.gov. All questions must be submitted in writing.

Reservations

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of this Notice of Funding Availability (NOFA) or RFA, or to rescind the NOFA or RFA at any time.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Environmental Quality and Operations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Operations Committee will be holding a meeting on Thursday, March 21, 2019 at 9:30 a.m. The meeting will be held in the Board Room (2nd floor) at 125 O Street, S.E. (1385 Canal Street, S.E.), Washington, D.C. 20003. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

- | | | |
|-----|-------------------------------|---|
| 1. | Call to Order | Committee Chairperson |
| 2. | AWTP Status Updates | Vice-President,
Wastewater Ops |
| | 1. BPAWTP Performance | |
| 3. | Status Updates | Senior VP Chief Engineer,
Engineering |
| 4. | Project Status Updates | Director, Engineering &
Technical Services |
| 5. | Action Items | Senior VP Chief Engineer,
Engineering |
| | - Joint Use | |
| | - Non-Joint Use | |
| 6. | Water Quality Monitoring | Senior Director, Water Ops |
| 7. | Action Items | Senior VP Chief Engineer
Senior Director, Water Ops
Director, Customer Care |
| 8. | Emerging Items/Other Business | |
| 9. | Executive Session | |
| 10. | Adjournment | Committee Chairperson |

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

Appeal No. 19374 of Dupont Circle Citizens’ Association, pursuant to 11 DCMR §§ 3100 and 3101, from a March 21, 2016 determination letter issued by the Zoning Administrator, Department of Consumer and Regulatory Affairs, for the conversion of a one-family dwelling into a four-unit apartment house in the R-5-B District at premises 1514 Q Street, N.W. (Square 194, Lot 27).¹

HEARING DATES: December 14, 2016; January 18, 2017; and February 22, 2017²
DECISION DATE: March 15 and 29, 2017

DISMISSAL ORDER

On September 16, 2016, the Dupont Circle Citizens’ Association (the “Appellant” or “Association”) filed an appeal to a decision by the Department of Consumer and Regulatory Affairs (“DCRA”) to issue Building Permit Number B1603105 to 1514 Q LLC (the “Property Owner”) for the conversion of a one-family dwelling into a four-unit apartment building in the R-5-B Zone. On January 25, 2017, DCRA filed a motion to dismiss for lack of standing and untimely filing. On February 8, 2017, the Appellant filed a response to DCRA’s motion. The Board of Zoning Adjustment (the “Board” or “BZA”) rejects DCRA’s claim that the Appellant lacked standing, but grants DCRA’s motion to dismiss for failure to file a timely appeal.

PRELIMINARY MATTERS

Notice of Appeal and Notice of Hearing. The Office of Zoning provided notice of this appeal to Advisory Neighborhood Commission (“ANC”) 2B; ANC 2B05; the Councilmember for Ward Two; the At-Large Councilmembers; the Council Chairman; the Office of Planning; and the ZA. The Office of Zoning scheduled a hearing for December 14, 2016. On October 14, 2016, the Office of Zoning mailed letters providing notice of the hearing to the Appellant, ANC 2B, the Property Owner, the ZA, DCRA, and the Councilmember of Ward Two. Notice was published in the *D.C. Register* on October 21, 2016. (63 DCR 13094.)

¹ The case was filed, and advertised, as an appeal of the July 18, 2016 decision of the Zoning Administrator to issue Building Permit No. B1603105; however, the Board determined that the decision on appeal was first reflected in the March 21, 2016 determination letter. The caption has been revised accordingly.

² The appeal was originally scheduled for hearing on December 14, 2016, but was postponed to January 18, 2017 at the Appellant’s request. On January 18, 2017, the Board continued the hearing to February 22, 2017 and, at that time, scheduled the case for decision on March 15, 2017. The Board postponed the decision to March 29, 2017.

Parties. The parties to this appeal are the Appellant, Department of Consumer and Regulatory Affairs (“DCRA”), the owner of 1514 Q LLC (the “Property Owner”), and ANC 2B. All four are automatic parties to the appeal pursuant to 11-Y DCMR § 501.1.

ANC Reports. ANC 2B submitted a written report to the record. At a public meeting on November 16, 2016, by a vote of 5-2-2, ANC 2B adopted a resolution requesting “an abundance of clarification regarding the gross floor area measurement issue,” but raising no specific issues and concerns with regard to the appeal. (Exhibit 20.) Though it was not a party to the case, ANC 1C also submitted a written report to the record, indicating that at a public meeting on March 2, 2016, with a quorum present, ANC 1C adopted a resolution requesting clarification of the basement/cellar zoning regulations by a vote of 8-0. (Exhibit 22.)

FINDINGS OF FACT

1. The Subject Property is located at 1514 Q Street, N.W. (Square 194, Lot 27) and is owned by 1514 Q LLC (the “Property Owner”).
2. The Subject Property is located in the R-5-B Zone District.³
3. On November 3, 2015, the Property Owner presented proposed renovations to the Subject Property at a public meeting held by the Zoning, Planning and Development Committee of ANC 2B. (Exhibit 27B.)
4. The Property Owner’s proposed renovations included one habitable unit on the lowest level of the building, classified as a cellar. (Exhibit 27A.) Under the Zoning Regulations of 1958, a *cellar* is defined as “that portion of a story, the ceiling of which *is less than* four feet (4 ft.) above the adjacent finished grade,” whereas a *basement* is defined as “that portion of a story partly below grade, the ceiling of which *is four feet (4 ft.) or more above* the adjacent finished grade.” (11 DCMR § 199, definitions of “Cellar” and “Basement”) (emphasis added). A building’s maximum gross floor area is determined by multiplying its land area by the maximum floor area ratio (“FAR”), which is expressed as a number. (11 DCMR § 199, definition of “Floor area ratio”.) The square footage of a cellar is not included in the calculation of a building’s gross floor area, but the square footage of a basement is. (11 DCMR § 199, definition of “Gross floor area.”)
5. Based on concerns about the incorrect classification of the lowest level as a cellar, ANC 2B requested that measurements of the site be verified in the presence of a representative of ANC 2B, DCRA, the Property Owner, and adjacent property owners. (Exhibit 72B.)
6. On February 12, 2016, a DCRA inspector visited the Subject Property with ANC Commissioner Abigail Nichols to confirm the measurements of the lower level windows and ceiling, as well as the adjacent grade to determine if the proposed lower level would

³ Under the Zoning Regulations of 2016, the designation for the zone district of this property is RA-8.

qualify as a basement or a cellar. (BZA Hearing Transcript (“Tr.”) of March 29, 2017, p. 22.)

7. On February 22, 2016, Brian Gelfand emailed the Zoning Administrator (“ZA”) at DCRA, challenging the building permit application filed by the Property Owner and asserting that the application improperly classified the lower level as a cellar rather than a basement for the purpose of excluding the lower level from the zoning FAR calculation. (Exhibit 72A).
8. On March 9, 2016, Brian Gelfand again emailed DCRA to challenge their classification of the lower level as a cellar in this building permit application. (Exhibit 72C.)
9. On March 21, 2016, the ZA issued a determination letter communicating his decision to approve several aspects of the building permit application, including that the lower level is properly classified as a cellar on the basis of plans submitted with the Application and the measurements taken at the February 12, 2016 site visit by DCRA. (Exhibit 27A.) Specifically, in the determination letter the ZA states: “based on the evidence provided to me and attached hereto, the project proposed for the Property satisfies the requirements of Title 11 of the District of Columbia Municipal Regulations in effect as of the date of this letter (the “Zoning Regulations”) and can be constructed as a matter of right.” (Exhibit 27A, at 3.)
10. The determination letter first provides background on the Subject Property and explains the proposed project, attaching the plans submitted with the building permit application for reference. (Exhibit 27A, at 3 and 9-30.)
11. The determination letter provides a comprehensive zoning analysis of the proposed project and makes specific findings as to the proposed project’s compliance with the definition of apartment house in 11 DCMR § 199.1, the R-5-B use regulations of 11 DCMR § 350.4(f), the definition of cellar in 11 DCMR § 199.1, the definition of gross floor area in 11 DCMR § 199.1, the R-5-B FAR requirements in 11 DCMR § 402.4, the R-5-B height requirements of 11 DCMR § 400.1, the R-5-B lot occupancy requirements of 11 DCMR § 403.2, the R-5-B rear yard requirements of 11 DCMR § 404.1, the R-5-B side yard requirements of 11 DCMR § 405.9, and the parking requirements of 11 DCMR § 2120.3. (Exhibit 27A, at 4-7.)
12. In the section of the determination letter analyzing the cellar provisions at issue in this appeal, the ZA applied evidence – such as photos of the Subject Property, an elevation plan, and letters from the project’s architect and structural engineer – to make the following finding: “Accordingly, I have determined that the Cellar Area satisfies the Zoning Regulations’ definition of ‘cellar’, because this evidence ... as authenticated, demonstrates that the ceiling of the Cellar Area ‘is less than four feet (4 ft.) above the adjacent finished grade’ in satisfaction of the definition of ‘cellar’ at 11 DCMR § 199.1 referenced above.” (Exhibit 27A, at 5.)

13. In the section of the determination letter analyzing the FAR provisions at issue in this appeal, the ZA made the following finding: “Accordingly, as I have determined that the evidence provided to me demonstrates that the Cellar Area satisfies the definition of ‘cellar’ in the Zoning Regulations, I hereby confirm that the Cellar Area will not be counted against the FAR permitted in this zone.” (Exhibit 27A, at 6.)
14. Also on March 21, 2016, the ZA published the determination letter on DCRA’s website and emailed the letter to Brian Gelfand, Don Hawkins, and ANC Commissioner Abigail Nichols. (Exhibit 27A, at 1 and Exhibit 27B, at 1.)
15. On March 22, 2016, in response to Mr. Gelfand’s email sent on March 9, 2016, the ZA emailed Mr. Gelfand, Don Hawkins, Abigail Nichols, and Alan Gambrell, rejecting Mr. Gelfand’s assertion that the lower level of the building should be classified as a basement. He ended this email by stating, “I hope this information is helpful in the explanation of my office’s approval of the project.” (Exhibit 27B.)
16. On July 18, 2016, DCRA issued building permit number B1603105 to convert the Subject Property from a one-family dwelling into a four-unit apartment house. (Tr. of February 22, 2017, pp. 114-15.) The approval of the building permit was based on the classification of the lowest level of the project as a cellar and did not alter or reverse the decision communicated by the ZA in the March 21, 2016 determination letter.
17. The Property Owner certified that the project was “under roof” by July 31, 2016. (Exhibit 49C.)
18. During the week of September 5, 2016, Brian Gelfand brought the building permit to the attention of the Dupont Circle Citizens’ Association. (Tr. of February 22, 2017, pp. 156-57.) Mr. Gelfand is a member of the Dupont Circle Citizen’s Association and indicated that he had been a member for about two years, as of the Board’s public hearing on February 22, 2017. (Tr. of February 22, 2017, pp. 165 and 174.)
19. On September 6, 2016, the Zoning Regulations of 2016 (“ZR16”) replaced the Zoning Regulations of 1958 (“ZR 58”).
20. On September 16, 2016, Dupont Circle Citizens’ Association (the “Appellant”) filed this appeal. (Exhibit 1.)
21. The appeal was filed within 60 days of the issuance of building permit number B1603105, but 179 days after the ZA’s issuance of the determination letter on March 21, 2016.
22. At the Board’s public hearing on February 22, 2017, Brian Gelfand and Robin Diener, president of Dupont Circle Citizen’s Association, testified on behalf of the Appellant.

(Tr. of February 22, 2017, pp. 113 and 128-130.) Don Hawkins, Alan Gambrell, and Susan Flinn appeared to testify in support of the Appellant. (Tr. of February 22, 2017, p. 113.)

23. The Appellant is an association that represents the “zoning, planning and other interests of the individuals who reside in the area that includes the subject property.” (Exhibit 2.)
24. The Appellant’s general purposes include to “preserve the historic, architectural, and aesthetic value of property and objects within [the vicinity of Dupont Circle within the boundaries prescribed in the Association’s Articles of Incorporation]; to present views of the Association to government, public, private and other organizations; to engage in any lawful activity and to take legal action to protect the interests of the neighborhood as determined by the Association.” (Exhibit 57.)

CONCLUSIONS OF LAW

The Board is authorized by § 8 of the Zoning Act of 1938, D.C. Official Code § 6-641.07(g)(2) (2012 Repl.), to hear and decide appeals where it is alleged by the appellant that there is error in any decision made by any administrative officer in the administration of the Zoning Regulations. Appeals to the Board of Zoning Adjustment may be taken by “[a]ny person aggrieved ... by an order, requirement, decision, determination, or refusal made by an administrative officer or body ... in the administration or enforcement of the Zoning Regulations.” (11-Y DCMR § 302.1.)

Under the Zoning Regulations, an appeal must be filed within 60 days after the date the appellant “had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier.” (11-Y DCMR § 302.2.) Although this deadline is a “claims processing rule” and therefore not jurisdictional in nature, *see Gatewood v. District of Columbia Water and Sewer Authority*, 82 A.3d 41 (2013) (WASA deadline to file appeal of water bill is non-jurisdictional), the failure to adhere to the rule will result in the dismissal of an appeal unless the 60-day deadline is extended under circumstances stated at 11-Y DCMR § 302.6. This provision allows the Board to extend the 60-day filing deadline for an appeal, only if the appellant demonstrates that:

- (a) There are exceptional circumstances that are outside of the appellant’s control and that could not have been reasonably anticipated that substantially impaired the appellant’s ability to file a zoning appeal to the Board; and
- (b) The extension of time will not prejudice the parties to the zoning appeal. (11-Y DCMR § 302.6.)

Pursuant to 11-Y DCMR § 302.5, the “decision complained of” must be the “first writing . . . to which the appellant had notice.” Further, “[n]o subsequent document, including a building permit or certificate of occupancy, may be appealed unless the document modifies or reverses

the original decision or reflects a new decision.” (11-Y DCMR § 302.5.)⁴

Motion to Dismiss for Lack of Standing

The Board concludes that the Dupont Circle Citizen’s Association (the “Appellant” or the “Association”) is a "person aggrieved" for purposes of bringing this appeal. Membership in the Association includes Brian Gelfand, adjacent neighbor of the Subject Property, as well as individual members residing within the surrounding area. (Findings of Fact No. 18 and 23.) The filing of this appeal represents an effort to ensure that the use of the Subject Property is consistent with applicable regulations, which furthers the general purpose of the Association. (Finding of Fact No. 24.) Therefore, the Appellant is affected more than the general public by the determination made by the Zoning Administrator. *See Goto v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 917, 922- 923 (D.C. 1980) (The Board's decision to allow appeal by neighborhood association and individual upheld where the individual lived immediately behind the subject site and the association represented residents of both the immediate and general area and had a history of appearing in zoning matters before the Board.) On these grounds, the Board must deny the motion to dismiss the appeal for lack of standing.

Motion to Dismiss for Untimely Filing

The Board finds that the Appellant failed to timely appeal the decision of the Zoning Administrator’s March 21, 2016 determination letter, which was later reflected in DCRA’s July 18, 2016 issuance of building permit number B1603105. The Board finds that the Zoning Administrator’s determination letter was the first writing of the decision complained of and that the Appellant had notice of this first writing. As the ZA’s subsequent issuance of the building permit did not modify or reverse the decision reflected in the determination letter, nor did it reflect a new decision, the Board finds that the issuance of the building permit did not restart the 60-day filing deadline for an appeal. Further, the Appellant did not argue that any exceptional circumstances exist to warrant a waiver of this 60-day deadline under Subtitle Y § 302.6. Instead, the Appellant argues that the appeal was timely, as the issuance of building permit number B1603105 was the correct starting point for the purpose of measuring the 60-day deadline for filing an appeal. Absent any justification to grant a waiver of the filing deadline, the Board must dismiss this appeal as untimely filed.

Application of the Procedural Requirements of the Zoning Regulations of 2016

The approvals that are at issue in this appeal occurred before the adoption of the Zoning Regulations of 2016 (“ZR 16”); therefore, if the Board had reached the merits of the appeal, it would have evaluated whether the ZA had erred in the interpretation and application of the Zoning Regulations of 1958 (“ZR 58”), which were in effect at that time. In considering the

⁴ The Appellant claims that the first writing provision of the Zoning Regulations of 2016 is in conflict with D.C. Official Code § 6-641.07(f), arguing that the Board cannot interpret its regulations to conflict with the plain language of its governing statute. The Board has no authority to decide this issue and declines to do so in this Order.

timeliness of the appeal, however, the Board determined that the procedural provisions of ZR 16, cited above, apply to this case, as the appeal was filed after the effective date of ZR 16. The Appellant argues that the Board is required to apply the procedural regulations of ZR 58 instead, as the decisions on appeal occurred before ZR 16 became effective on September 6, 2016.

If the Board were to apply the procedural regulations of ZR 58 to the appeal at hand, the Board would be required to come to the same result and dismiss this case as untimely. Under ZR 58, the provision regarding the 60-day deadline for appeals is identical to that in effect under ZR 16.⁵ The Appellant correctly notes that the procedural regulations of ZR 58 do not specifically include the “first writing” provision, found in Subtitle Y § 302.5 of ZR 16; however, that “first writing” provision merely codified previous Board decisions and case law that established this principle, which also informed the Board’s decisions under the ZR 58 regulations. *See Appeal No. 18300 of Lawrence M. and Kathleen B. Ausubel* (2012) (Finding email sent prior to issuance of a permit was the administrative decision complained of because (1) the email was unambiguous (2) it cleared the way for the issuance of the permit and (3) the ZA made this decision after being fully briefed on the issues).

Merits of the Motion to Dismiss for Untimely Filing

Considering what decisions may give rise to an appeal to the BZA, the D.C. Court of Appeals has held that the “administrative decision complained of” need not take a specific form. *Basken v. D.C. Bd. of Zoning Adjustment*, 946 A.2d 356, 366 (D.C. 2008) (Finding that “regulations do not tie the time for appealing to the BZA to the issuance of a specified type of notice.”). However, in order to serve as the first writing of an administrative decision sufficient to start the clock on the deadline for appeal, the decision must be an unambiguous determination. *Compare Appeal No. 18300 of Ausubel* (2012) (Finding email to be administrative decision complained of because “[t]he wording of the email was crystal clear”) with *Basken*, 946 A.2d at 364 (2008) (Finding building permit ambiguous and, therefore, not the administrative decision complained of because it contained language “subject to zoning approval.”). In these cases, the Board has considered factors such as whether the decision is specific to the property at issue, whether the writing is unambiguous in communicating the decision, and whether the language of the writing suggests that the decision is subject to change. *See e.g. Appeal No. 18793 of Advisory Neighborhood Commission 2A* (2016) (Holding that the issuance of a sign permit was an appealable decision, rather than the earlier issuance of a prior determination letter and building permit, because neither the letter nor building permit clearly signified a decision with regard to the sign’s compliance and approval); *Appeal No 18522 of Washington Harbour Condominium Unit Owners’ Association* (2016) (Dismissing an appeal of a determination letter because the ZA was not “fully briefed on the owners’ proposal,” and the letter did not “clear the way for a permit.”) Here, the Board finds the Zoning Administrator’s determination letter to be first writing of the administrative decision complained of because the letter specifically addressed the

⁵ The parallel provision to 11-Y DCMR § 302.2 in ZR 58 is 11 DCMR § 3112.2(a), which reads as follows: “An appeal shall be filed within sixty (60) days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier.”

property and project at issue, was unambiguous in making determinations of the project's compliance with the Zoning Regulations, and did not leave open the possibility that this decision would be overturned or altered at a later stage.

The Appellant argues that a building permit, rather than a zoning determination letter, must be considered the administrative decision complained of and cites prior BZA cases to support its argument that zoning determination letters cannot be the basis for an appeal. (Exhibit 53.) The cases cited do not support the argument that zoning determination letters are categorically ineligible for appeal, but rather, identify cases in which the zoning determination letter at issue was not sufficiently clear or final to constitute an appealable decision.

In *Appeal No. 18793 of ANC 2A*, the Board found that a zoning determination letter was not the administrative decision complained of because it did “not clearly signify a decision to approve the sign permit,” and similarly, in *Appeal No. 18522 of Washington Harbour Condominium Unit Owners' Association*, the determination letter did not “clear[] the way for a permit.” In contrast, the determination letter in the present case did represent a final decision by the ZA, as evidenced by the unambiguous language of the letter itself. (See Findings of Fact No. 12 and 13.) In *Appeal No. 18568 of Shaw Dupont Citizens Alliance*, DCRA emails were found not to be the administrative decision complained of because they “did not mention the subject property at all.” In contrast, the determination letter at issue in the present case was specifically directed at the Subject Property and analyzed the project's compliance with the regulations in detail. (See Findings of Fact No. 10 and 11.) The Appellant cites several additional cases where a determination letter did not precede the building permits, and therefore the Board did not address whether something other than a building permit could be the first writing.⁶ These cases therefore do not support the Appellant's argument that a determination letter cannot reflect an appealable decision.

Though the Board has established that the ZA's determination letter is the first writing of the decision complained of, Subtitle Y § 302.5 provides an opportunity to appeal a subsequently issued document, such a building permit, when it “modifies or reverses the original decision or reflects a new decision.” The Board finds the building permit in this case did not modify or reverse the decision reflected in the ZA determination letter, nor did it reflect a new decision. As the determination letter provided a detailed analysis of the zoning compliance of the project, leading to the ZA's determination that the project meets the Zoning Regulations, the issuance of the building permit merely reiterated that same decision. Therefore, the Board declines to find that the Appellant was able to appeal the subsequently issued building permit on this basis.

Having established that the ZA's determination letter represents the first writing of the decision complained of, the Board finds that the Appellant knew or should have known of the issuance of the ZA's determination letter. The Appellant, Dupont Circle Citizens Association, argues that they first became aware of the administrative decision complained of after the issuance of the building permit on July 18, 2016, and that they did not receive notice of the March 21, 2016 determination letter. (Exhibit 53.) The Appellant cites a prior BZA case, *Appeal No. 18300 of*

⁶ See BZA Appeals No. 17513, 17468, 18070, and 17915.

Ausubel, where the 60-day clock was measured from the issuance of a ZA email rather than a subsequently issued building permit. The Appellant argued that this case is distinct from the present case because the ZA determination letter was sent directly to the appellant in that case, whereas here the Appellant claims they did not receive actual notice of the ZA letter. DCRA points out that the determination letter was sent directly to several individuals who had raised concerns about the project including Brian Gelfand, a member of the Association who served as their representative at the public hearing on this appeal. (Exhibit 27B.)

The Board finds that when Mr. Gelfand, a member of the Dupont Circle Citizens Association, received notice of the zoning determination letter on March 21, 2016, the Appellant “reasonably should have had notice or knowledge of the decision complained of” at that time. Although the issue of whether an organization or group “reasonably should have had notice” of a decision is more ambiguous than determining whether an individual knew or should have known about a decision, the Board’s finding is consistent with its treatment of notice to civic groups in prior cases. In *Appeal No. 18890 of Concerned Citizens of Argonne Place*, the Board found that the appellant in that case, a neighborhood civic group, had notice of a permit’s issuance because some of its members had met with DCRA to discuss potential zoning violations at the property. Similarly, in this case, the involvement of a Dupont Circle Citizens Association member in raising concerns to DCRA and his receipt of the ZA’s determination letter gave the Appellant actual notice of the administrative decision complained of. At that time, the Appellant “reasonably should have had notice or knowledge of the decision complained of.”

Although the Board finds this appeal was untimely filed more than 60 days after the first writing was issued, there is an additional basis for dismissal of Appellant’s claim. Pursuant to 11-Y DCMR § 302.3, in cases where the decision complained of involves construction of a structure or part thereof, no zoning appeal may be filed later than ten days after the structure or part in question is under roof.⁷ The owner of the property at issue in this case certified that the building was under roof by July 31, 2016. (Exhibit 49C.) The Appellant brought this appeal on September 16, 2016, more than ten days after the building was under roof. The Board also finds the Appellant failed to timely file their appeal on this basis.

Great Weight

The Board is also required to give “great weight” to the issues and concerns raised by the affected ANC. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.)).) In this appeal, the affected ANC – ANC 2B – submitted a written report to the record, requesting “an abundance of clarification regarding the gross floor area measurement issue,” but raising no specific issues and concerns with regard to the appeal. (Exhibit 20.) Though ANC 1C was not an affected ANC, and therefore not a party to the case, the ANC similarly submitted a written report to the record, requesting clarification of the basement/cellar zoning regulations by a vote of 8-0. (Exhibit 22.) As the Board dismissed the appeal on the ground of timeliness before

⁷ Under the Zoning Regulations of 1958, this same requirement is found under 11 DCMR § 3112.2(b)(1).

reaching the merits of the appeal, the issues raised by the ANCs were not legally relevant to the Board's decision in this case. The "great weight" requirement extends only to issues and concerns that are legally relevant. *Bakers Local 118 v. Bd. of Zoning Adjustment*, 437 A.2d 176, 179 (D.C. 1981).

Based on the findings of fact, the Board concludes that the appeal does not satisfy the requirements of timeliness set forth in 11-Y DCMR § 302.2. Accordingly, it is therefore **ORDERED** that this appeal be **DISMISSED**.

VOTE: 3-0-2 (Frederick L. Hill, Carlton E. Hart, and Michael G. Turnbull to DISMISS; Lesylleé M. White not participating, one Board seat vacant).

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: February 27, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

Government of the District of Columbia
Public Employee Relations Board

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In the Matter of:)	
)	
Metropolitan Police Department)	
)	
	Petitioner)	PERB Case No. 19-A-01
)	
	v.)	Opinion No. 1698
)	
Fraternal Order of Police/ Metropolitan Police Department Labor Committee)	
)	
	Respondent)	
<hr/>)	

DECISION AND ORDER

I. Introduction

On October 18, 2018, the Metropolitan Police Department (“MPD”) filed this Arbitration Review Request (“Request”) pursuant to the Comprehensive Merit Personnel Act (“CMPA”), D.C. Official Code § 1-605.02(6), seeking review of an Arbitrator’s Decision and Award (“Award”) dated September 28, 2018. The Award sustained, in part, the grievance filed by the Fraternal Order of Police/Metropolitan Police Department Labor Committee (“Union”) on behalf of Gregory Gulledge (“Grievant”). The Award ordered that the Grievant’s termination be reversed and reduced to a 60-day suspension without pay and that he be reinstated and made whole for his losses. MPD asserts that the Arbitrator exceeded his jurisdiction.

In accordance with section 1-605.02(6) of the D.C. Official Code, the Board is permitted to modify or set aside an arbitration award in only three narrow circumstances: (1) if an arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means.¹ Having reviewed the Arbitrator’s conclusions, the pleadings of the parties, and

¹ D.C. Official Code § 1-605.02(6).

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PERB Case No. 19-A-01
Page 2

applicable law, the Board concludes that the Arbitrator did not exceed his jurisdiction. Therefore, the Board denies the Request.

II. Statement of the Case

The Grievant was a police officer hired by MPD in July 2001.² As the result of two separate off-duty incidents involving a former partner on March 22, 2012, and June 20, 2012, respectively, MPD issued two Notices of Proposed Adverse Action (“Notice”).³ The first Notice regarding the March 22, 2012 incident was served on July 30, 2012, and the second Notice regarding the June 20, 2012 incident was served on October 19, 2012.⁴ The Grievant requested an Adverse Action Hearing in both matters, and the matters were consolidated and heard before an Adverse Action Panel (“Panel”) on January 23, 2013.⁵ For both incidents, the Panel reviewed the same charges. Charge No. 1 provided, in pertinent part, that the Grievant was “deemed to have been involved in the commission of [an] act which would constitute a crime. . . .”⁶ Charge No. 2 stated, in pertinent part, that the Grievant was engaged in “[c]onduct unbecoming an officer including acts detrimental to good discipline . . . or violations of any law . . . of the District of Columbia.”⁷

The Panel issued an initial Findings of Fact and Conclusions of Law, finding the Grievant not guilty of Charge No. 1 relating to the incident on March 22, 2012, but guilty of Charge No. 2 as well as both Charge No. 1 and 2 relating to the June 20, 2012 incident.⁸ The Panel recommended termination of the Grievant.⁹ The Union appealed the Panel’s decision on the Grievant’s behalf to the Chief of Police, who then remanded the decision to the Panel.¹⁰ The Panel issued a second Findings of Fact and Conclusions of Law, sustaining all charges and recommending termination.¹¹ The Grievant unsuccessfully appealed to the Chief of Police and the parties proceeded to arbitration.¹²

III. Arbitration Award

At arbitration, the parties submitted the following issues to the Arbitrator: (1) Whether the evidence presented by MPD is sufficient to support Charge No. 1 and Charge No. 2 against the Grievant for an incident involving his former partner on March 22, 2012; (2) Whether the

² Award at 3.

³ Award at 3-6.

⁴ Award at 6.

⁵ Award at 6.

⁶ Request, Exhibit 2 at 2.

⁷ Request, Exhibit 2 at 2.

⁸ Award at 6.

⁹ Award at 6.

¹⁰ Award at 6.

¹¹ Award at 6.

¹² Award at 6.

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evidence presented by MPD is sufficient to support Charge No. 1 and Charge No. 2 against the Grievant for an incident involving his former partner on June 20, 2012; and (3) Whether termination is an appropriate remedy.¹³

In an Award issued on September 28, 2018, the Arbitrator found that the evidence submitted by MPD was insufficient to support Charges No. 1 and No. 2 against the Grievant for the incident on March 20, 2012, and Charge No. 1 for the incident on June 20, 2012.¹⁴ However, the Arbitrator found that the evidence was sufficient to support Charge No. 2 for the incident on June 20, 2012.¹⁵ The Arbitrator determined that Charge No. 1 of the March 20, 2012 incident and Charge No. 1 of the June 20, 2012 incident were not proven “because the aforesaid are based entirely upon allegations which are not evidence.”¹⁶ Thus, the Arbitrator found that there was no basis for the Panel’s recommendation of termination.¹⁷ The Arbitrator determined that, in reaching a decision on Charge No. 2 of the March 20, 2012 incident, the Panel failed to provide any analysis to support its finding that the Grievant’s conduct violated District law.¹⁸ However, the Arbitrator found that the evidence presented by MPD was sufficient to support Charge No. 2 against the Grievant for the incident on June 20, 2012.¹⁹ Accordingly, the Arbitrator sustained Charge No. 2.

In addressing the third issue of whether termination was the appropriate penalty, the Arbitrator reviewed the Panel’s application of the 12-factor test in *Douglas v. Veterans Administration*, 5 M.S.P.B. 313 (1981) (“*Douglas* Factors”).²⁰ The Arbitrator opined that many of the Panel’s findings “constitute nothing more than a cut and paste job in copying the [Notice] as characterized by the Union.”²¹ Additionally, the Arbitrator stated that there was no indication that the Panel weighed the evidence relating to each factor.²² The Arbitrator added, “[e]ssentially, the Panel’s failure to consider all of the evidence within the record demonstrates that the decision is arbitrary and capricious.”²³ Therefore, the Arbitrator determined that termination was not an appropriate remedy.²⁴

Given that only Charge No. 2 of the June 20, 2012 incident was sustained, and based on the Arbitrator’s review of the Panel’s analysis of the *Douglas* Factors, the Arbitrator determined

¹³ Award at 2.

¹⁴ Award at 8.

¹⁵ Award at 8.

¹⁶ Award at 8.

¹⁷ Award at 12.

¹⁸ Award at 12.

¹⁹ Award at 13.

²⁰ Award at 15-26.

²¹ Award at 17.

²² Award at 17.

²³ Award at 26.

²⁴ Award at 26.

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that the appropriate remedy was a 60-day suspension.²⁵ The Arbitrator directed MPD to reinstate the Grievant to his former position with back pay effective May 3, 2013.²⁶

On October 18, 2018, MPD filed the present Request, seeking review of the Arbitrator's Award. On November 9, 2018, the Union submitted Opposition to Arbitration Review Request.

IV. Discussion

MPD contends that the Board should overturn the Arbitrator's decision because the Arbitrator "did not base his findings on the actual charges listed by MPD in the record."²⁷ Essentially, MPD argues that the Arbitrator indicated that, in order for him to sustain the charges against the Grievant, MPD must have found that the Grievant was charged with a crime. Rather, MPD contends, the charges do not require a finding of guilt and the record evidence supports the charges. As to Charge No. 1, MPD notes that the Arbitrator stated that there were no facts in the record to support the commission of a crime, and that "[s]imply being arrested or charged with a crime is not enough evidence or proof of anything."²⁸ As to Charge No. 2, MPD notes that the Arbitrator found that the charge was not supported by the evidence.²⁹ Similarly, MPD contends that, in weighing the *Douglas* Factors, the Arbitrator stated that the criminal charges and arrest warrant were not evidence of guilt and noted the charges were dismissed by the Court.³⁰ MPD asserts, "the Arbitrator arrived at his own rendition of the charges and viewed the record based on his misreading of the actual charges."³¹ Accordingly, MPD claims that the Award should be reversed.³²

An arbitrator derives his or her jurisdiction from the consent of the parties, as expressed through their collective bargaining agreement.³³ To determine if an arbitrator has exceeded his or her jurisdiction and/or was without authority to render an award, the Board evaluates "whether the award draws its essence from the collective bargaining agreement."³⁴ The Board looks to whether the arbitrator resolves a dispute not committed to arbitration, commits fraud, has a conflict of interest, or is arguably construing or applying the contract.³⁵

²⁵ Award at 28.

²⁶ Award at 28. The Grievant was only entitled to back day retroactive the date that the 60 working day suspension would have been fully served.

²⁷ Request at 10.

²⁸ Request at 10-12.

²⁹ Request at 12.

³⁰ Request at 14.

³¹ Request at 14.

³² Request at 14.

³³ *Washington Teachers' Union, Local No. 6, Am. Fed'n of Teachers v. D.C. Pub. Sch.*, 77 A.3d 441, 446 (D.C. 2013).

³⁴ *Metro. Police Dep't v. Fraternal Order of Police/Metro. Police Dep't Labor Comm. (on behalf of Jacobs)*, 60 D.C. Reg. 3060, Slip Op. 1366 at 5-6, PERB Case No. 12-A-04 (2013).

³⁵ *See id.* at 6 (quoting *Michigan Family Res., Inc. v. Serv. Emp. Int'l Union, Local 517M*, 475 F.3d 746, 753 (6th Cir. 2007)).

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In this case, Article 12, Section 8 of the parties' collective bargaining agreement states, in pertinent part, that an employee may appeal to arbitration and when doing so, the arbitrator has the authority to review the evidentiary ruling of the Panel.³⁶ Moreover, the Arbitrator evaluated each of the three issues that the parties presented at the arbitration hearing.³⁷ After evaluating whether the evidence supported the charges, the Arbitrator determined that the Panel did not meet its burden of proof to sustain Charges No. 1 and No. 2 relating to the March 22, 2012 incident and Charge No. 1 relating to the June 20, 2012 incident. Accordingly, MPD cannot show that the Arbitrator exceeded his jurisdiction in resolving the issues in this matter because the Arbitrator was explicitly authorized to do so by the parties' collective bargaining agreement.

MPD asserts that the Arbitrator reviewed the record based on his interpretation of the charges, which differs from MPD's interpretation of the charges. However, the Board consistently has held that by agreeing to submit the resolution of a grievance to arbitration, it is the Arbitrator's interpretation, not the Board's, which the parties have bargained for.³⁸ "[T]he parties agree to be bound by the Arbitrator's interpretation of the parties' collective bargaining agreement . . . as well as his evidentiary findings and conclusions . . ." ³⁹ The Board has stated that "resolution of disputes over credibility determinations and assessing what weight and significance such evidence should be afforded is within the jurisdictional authority of the arbitrator."⁴⁰ The Board has specifically held that it "will not substitute its own interpretation or that of the Agency's for that of the duly designated arbitrator."⁴¹ Accordingly, MPD's disagreement with the Arbitrator's findings and conclusions does not constitute grounds for the Boards' review. Therefore, there is no basis upon which to modify or set aside the Award.

V. Conclusion

The Board rejects MPD's arguments and finds no cause to set aside or modify the Arbitrator's Award. Accordingly, MPD's request is denied and the matter is dismissed in its entirety.

ORDER

IT IS HEREBY ORDERED THAT:

³⁶ Request, Exhibit 3 at 13.

³⁷ Award at 2.

³⁸ See *Univ. of D.C. v. Univ. of D.C. Faculty Ass'n*, 39 D.C. Reg. 9628, Slip Op. 320 at 2, PERB Case No. 92-A-04 (1992).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Dep't of Corrs. v. Int'l Bhd. Of Teamsters, Local Union No. 246*, 34 D.C. Reg. 3616, Slip Op. No. 157 at 3, PERB Case No. 87-A-02 (1987).

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1. The arbitration review request is hereby denied.
2. Pursuant to Board Rule 559, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By the unanimous vote of Board Chairperson Charles Murphy and Board Members Mary Anne Gibbons, Ann Hoffman, Barbara Somson, and Douglas Warshof.

January 17, 2019

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 19-A-01, Op. No. 1698 was sent by File and ServeXpress to the following parties on this the 22nd day of January, 2019.

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/s/ Sheryl Harrington
PERB

Government of the District of Columbia
Public Employee Relations Board

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In the Matter of:)	
)	
Water and Sewer Authority)	
)	
	Petitioner)	PERB Case No. 18-A-15
)	
	v.)	Opinion No. 1699
)	
American Federation of Government Employees,)	
Local 631)	
)	
	Respondent)	
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DECISION AND ORDER

The Petitioner District of Columbia Water and Sewer Authority (“Authority”) filed an arbitration review request (“Request”) appealing an award issued on July 15, 2018, (“Award”) on a group grievance filed by the Respondent American Federation of Government Employees, Local 631 (“Union”). The Arbitrator upheld the grievance, ordered the Authority to restore the *status quo ante*, and awarded attorneys’ fees and costs. The Authority appeals the Award on the grounds that it is contrary to law and public policy, that it lacks clarity, and that it is devoid of analysis.

The narrow circumstances under which the Comprehensive Merit Personnel Act (“CMPA”) permits the Board to modify, set aside, or remand an award are “if the arbitrator was without, or exceeded, his or her jurisdiction; the award on its face is contrary to law and public policy; or was procured by fraud, collusion, or other similar and unlawful means.”¹ Having reviewed the Award, the pleadings of the parties, the arbitration record submitted by the parties, and applicable law, the Board finds that the Award violates law and public policy in its award of attorneys’ fees and costs but not in any other respect.

¹ D.C. Official Code § 1-605.02(6).

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Page 2

I. Statement of the Case

A. Grievance

On October 12, 2017, the Union submitted a step 3 group grievance alleging unilateral changes to working conditions, violations of a memorandum of understanding, and violations of the parties' collective bargaining agreement ("CBA").

According to the Union, the Authority made two changes to working conditions without notice or bargaining: the first increased from four hours to eight the time employees must wait at the end of a shift before beginning overtime; the second increased from one to two the number of duty stations employees were assigned to during a tour of duty.

Further, the grievance alleged that the Authority violated a May 15, 2017 memorandum of understanding ("MOU") by requiring waste water treatment operators to perform PCS computer² monitoring without training. The grievance alleged that the Authority violated article 12 of the CBA by operating the Waste Water Treatment Process Department without a full staff and by failing to implement and maintain a fatigue risk management program. The grievance further alleged that the Authority's "failure to provide information on the PCS duties is a violation of the MOU, paragraphs 5 through 7 and Article 18 of the Working Conditions Agreement."³ The grievance did not allege that the Union had requested that information from the Authority.

With regard to remedies, the grievance stated that the Union sought an award instructing the Authority to (1) comply with the MOU by training employees before they work on the PCS computer monitoring and by resuming the practices of assigning employees to only one duty station per shift and of having employees wait only four hours before beginning overtime, (2) comply with the CBA, and (3) provide the information the Union sought. The Union also asked that affected employees be made whole for any lost wages and benefits plus interest. Of significance to this arbitration review request, the Union also requested "reimbursement of attorney fees and costs under the Federal Back Pay Act, 5 U.S.C. sec. 5596 and the CMPA."⁴

The day after filing the grievance, the Union sent the Authority a letter with the heading "Corrected Grievance Information Request Regarding Unilateral Changes to Work Practices and Safety Violations in WWT." The letter stated that the information it requested "is needed to process and present our grievances filed October 12, 2017." The letter requested documents related to the various grievances.⁵

The Authority responded to the grievances in a letter dated November 8, 2017. The Authority stated that "the grievance is moot as it pertains to the PCS Monitoring issue and is respectfully denied on the remaining issues."⁶

B. Arbitration

² The record does not disclose what PCS stands for.

³ Request Ex. C-2 at 3.

⁴ *Id.*

⁵ Request Ex. C-5.

⁶ Request Ex. C-3 at 2.

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PERB Case No. 18-A-15
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On November 13, 2017, the Union filed a step 4 grievance invoking arbitration. On July 18, 2018, the Arbitrator, Kenneth E. Moffett, issued the Award, which related at length the testimony of the witnesses and the arguments of the parties before, during, and after the hearing.⁷ Following that recitation, the Award upheld the grievance and stated in pertinent part:

Opinion and Award

After hearing the parties['] arguments in hearing and reading both sides['] Post hearing briefs, I rule in favor of the Union. The Authority had an obligation to give the Union advance written notice and to bargain with the Union over any changes in working conditions. The remedy should return the parties to the status quo that existed prior to Management[']s making the unilateral change.

A return would permit the Union to bargain and address those issues that concern them. The Overtime wait time should be returned to the status quo.

The Authority is ordered to respond to the Union[']s request for information. The Union[']s request for attorney fees and costs, in accordance with the Federal back pay act is granted. The Union has 30 work days from this issuance in this matter to submit the names of employees who lost wages due to the change in overtime wait time and to submit a petition for attorneys['] fees and costs.⁸

C. Arbitration Review Request

On August 10, 2018, the Authority filed an arbitration review request (“Request”) along with exhibits and a brief in support. On August 30 the Union filed a Response with exhibits. Before addressing the merits of the Request, the Response raised two procedural objections to the Request that it asserted were grounds for dismissal.

First, the Response and a supporting affidavit averred that the Request was served on the Union by electronic mail only and not by any of the means of service permitted by Rule 501.11(b).⁹ The Executive Director responded to this objection by sending the Authority a deficiency letter notifying it of the deficiency and allowing it seven days to cure the deficiency in accordance with Rule 501.5. The Authority cured the deficiency within the allotted time.

The Union’s second procedural objection was that the Request was untimely. The Union stated that the CBA requires an arbitration review request to be filed within 20 days after service of the award. This period is a day shorter than that found in Rule 538.1, which was revised in 2015 to increase the filing period from 20 days after service of the award to 21 days after service of the award. The Union moved to dismiss the Request on the ground that it was untimely filed 22 days after the Arbitrator mailed the Opinion and Award on July 18, 2018. However, the

⁷ Opinion & Award 2-18.

⁸ *Id.* at 18-19.

⁹ Response 4 (citing Request 8); Response Ex. 7 (affidavit of Hutchinson).

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Union failed to add the five days that Rules 538.1 and 501.4 allow when an award is mailed. As a result, the Executive Director denied the motion to dismiss. The Union did not move for reconsideration of the Executive Director's decision. Consequently, the Executive Director's decision is final.¹⁰

II. Discussion

The Authority asserts in its Request and supporting brief that the Award is contrary to law and public policy, that it lacks clarity, and that it is devoid of analysis.

A. The Authority's Claim that the Award is Contrary to Law and Public Policy

1. Award of Attorneys' Fees under the Back Pay Act

The first aspect of the Award that the Authority challenges as contrary to law and public policy is its award of attorneys' fees. The Authority contends that the award of attorneys' fees under the Back Pay Act ("BPA") is on its face contrary to law and public policy because the BPA is inapplicable to the Authority.

a. The Authority did not waive its objection.

The Union asserts that the Authority did not raise this issue below: "The Union's grievance requested the arbitrator to apply the Federal Back Pay Act and the Authority did not challenge the arbitrator's authority to apply the Federal Back Pay Act. In the Authority's Post-Hearing Brief, the Authority did not raise any objection to the application of the Federal Back Pay Act."¹¹

Although the Union does not say so expressly, it has raised the question of whether the Authority has waived its objection to the application of the BPA. Because arbitrators derive their authority from the consent of the parties,¹² participating in an arbitration without objecting to the arbitrability of an issue generally results in a waiver of an objection to its arbitrability.¹³

However, the principle that a party can waive the arbitrability of an issue by participating in an arbitration does not mean that an objection that an award is contrary to law is waivable. Quoting the Connecticut Supreme Court in *Board of Trustees for State Technical Colleges v. Federation of Technical College Teachers Local 1942*,¹⁴ the D.C. Court of Appeals said that "a party is not 'estopped to claim, because of a waiver, that the arbitrator's award violates the

¹⁰ See PERB R. 500.4.

¹¹ Response 6 (citing Response Ex. 4 (Authority's Post-Hearing Br.) 3-11).

¹² *Washington Teachers' Union Local No. 6 v. D.C. Pub. Sch.*, 77 A.3d 441, 446 (D.C. 2013).

¹³ *Lopata v. Coyne*, 735 A.2d 931, 937 (D.C. 1999); *D.C. Fire & Emergency Med. Servs. v. AFGE, Local 3721*, Slip Op. No. 756 at 3-4, PERB Case No. 02-A-08 (Aug. 31, 2004). Substantive arbitrability may be challenged by filing a motion to stay arbitration in Superior Court pursuant to the Arbitration Act unless the parties' collective bargaining agreement clearly and unmistakably provides that the issue is to be decided by the arbitrator in the first instance. *Washington Teachers' Union*, 77 A.3d at 453-54. See also *D.C. Pub. Sch. and AFSCME, Dist. Council 20*, Slip Op. No. 1576 at 2-3, PERB Case No. 15-A-08 (Apr. 21, 2016) (quoting *Washington Teachers' Union*). Issues of procedural arbitrability are for arbitrators to decide. *Washington Teachers' Union*, 77 A.3d at 446, 446 n.10; *Brown v. D.C. PERB*, 19 A.3d 351, 358 (D.C. 2011).

¹⁴ 425 A.2d 1247, 1251 (Conn. 1979).

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mandates of specific statutory and regulatory provisions.”¹⁵ In *Board of Trustees*, the court distinguished cases holding that arbitrability was waivable from the case before it where there was no dispute that the question before the arbitrator (the number of sick days employees accrue per year under a contract) was arbitrable but the question before the court was whether the number of sick days the arbitrator found conflicted with state law. The court held that the principle that the issue of arbitrability is waivable “has no place in the context of the present case.”¹⁶

Similarly, the Federal Labor Relations Authority has held that it may consider a statutory bar to an arbitrator’s jurisdiction to rule on a grievance regardless of whether the jurisdictional argument was made to the arbitrator.¹⁷

In the present case, the arbitrability of the grievance is not in dispute. The question is whether one of the remedies ordered by the Arbitrator conflicts with statutory law. Guided by the foregoing authorities, we hold that the Authority is not estopped to claim, because of waiver, that the award of attorneys’ fees under the BPA is contrary to law.

b. The award of attorneys’ fees is contrary to law.

The BPA provides, *inter alia*, that “[a]n employee of an agency who, on the basis of . . . an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowances, or differentials of the employee” is entitled to reasonable attorneys’ fees.¹⁸ An arbitrator does not exceed his authority by looking to the BPA when the collective bargaining agreement is silent on the issue of attorneys’ fees.¹⁹

In challenging the Arbitrator’s award of attorneys’ fees under the BPA, the Authority relies upon *White v. D.C. Water and Sewer Authority*.²⁰ In that case the court stated that it had previously held that the CMPA supersedes the BPA.²¹ The CMPA supersedes the BPA in section 1-632.05(a)(5)(G), which provides, “The following provisions of Title 5 of the United States Code are superseded for all employees of the District of Columbia Government: . . . 5 U.S.C. § . . . 5596(a)(5).” Section 5596(a)(5) defines “agency” for purposes of the BPA to include the government of the District of Columbia. However, the court said that notwithstanding section 1-632.05(a)(5)(G) “the Back Pay Act continues to apply to District employees under the broader CMPA policies of maintaining . . . the pre-CMPA compensation

¹⁵ *Drivers, Chauffeurs, & Helpers Local Union No. 639 v. D.C.*, 631 A.2d 1205, 1211 (D.C. 1993).

¹⁶ 425 A.2d at 1252.

¹⁷ *AFGE Local 1923 v. Soc. Sec. Admin.*, 66 F.L.R.A. 424, 425 (2012); *U.S. Dep’t of the Navy, Naval Air Eng’g Station Lakehurst, N.J.*, 64 F.L.R.A. 1110, 1111 (2010).

¹⁸ 5 U.S.C. § 5596(b)(1)(A)(ii).

¹⁹ *AFSCME, Dist. Council 20, Local 2087 v. Univ. of D.C.*, 166 A.3d 967, 973 (D.C. 2017).

²⁰ 962 A.2d 258 (D.C. 2008).

²¹ *Id.* at 259 (citing *Mitchell v. D.C.*, 736 A.2d 228, 229 n.1 (D.C. 1999)).

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system [including the attorney fees provision of the FBPA] for all employees . . . until a new [compensation system] is enacted to replace it.”²²

The CMPA policy the court referred to is found in section 1-611.04(e), which provides, “Until such time as a new compensation system is approved, the compensation system, including the salary and pay schedules, in effect on December 31, 1979, shall continue in effect. . . .” The court held that the Authority had adopted a new compensation system as provided for in section 34-2202.17(b)²³ and pursuant to that statute it had “exempted itself from the reach of the CMPA’s compensation provisions, including entitlement to attorney fees under the FBPA.”²⁴ The Authority, the court held, “is relieved of application of the CMPA and, thereby, the FBPA.”²⁵

As the Authority correctly notes, in *Housing Authority v. AFGE Local 2725*²⁶ the Board recognized *White*’s holding that the BPA is inapplicable to the Authority. As the BPA is inapplicable to the Authority, compelling the Authority to pay attorneys’ fees under the BPA is contrary to law and public policy, in particular sections 1-632.05(a)(5)(G) and 34-2202.17(b) of the D.C. Official Code as authoritatively interpreted by the court of appeals.

The Union asserts an independent basis for the award of attorneys’ fees. The Union contends that the Arbitrator had equitable powers to fashion a remedy for any violations he found.²⁷

The “equitable powers” of an arbitrator are a matter of contract and are governed by normal principles of contract law.²⁸ Whether the parties’ contract authorizes an award of attorneys’ fees is a matter within the Arbitrator’s purview and not the Board’s. The Arbitrator did not state that the CBA authorized an award of attorneys’ fees or that he was acting under the authority of the CBA in awarding attorneys’ fees. He said only that the “request for attorney fees and costs, in accordance with the Federal [B]ack [P]ay [A]ct is granted.”²⁹ Accordingly, the Board sets aside the award of attorneys’ fees and remands the case to the Arbitrator to reconsider his remedy in the light of this opinion and to issue an award consistent therewith.

2. Order to Respond to Information Request

²² *Id.* (quoting *AFGE v. D.C. Water & Sewer Auth.*, 942 A.2d 1105, 1112-13 (D.C. 2007)).

²³ “Until the Board [of Directors of the Authority] establishes a personnel system and a procurement system, and until rules and regulations pertaining to the Board’s duties have been promulgated, Chapter 3A of Title 2, and § 1-601.01 et seq., and implementing rules and regulations shall continue to apply to the Authority.”

²⁴ *White*, 962 A.2d at 259.

²⁵ *Id.* at 260. As this sweeping language makes clear, the Union’s claim that the holding of *White* is limited to cases not involving a collective bargaining agreement (Opp’n 6) is baseless.

²⁶ 62 D.C. Reg. 2893, Slip Op. No. 1503 at 4-5, PERB Case No. 14-A-07 (2014) (distinguishing *White* and finding the Back Pay Act applicable to the Housing Authority).

²⁷ Opp’n 7, 8.

²⁸ See *Peterson v. Washington Teachers’ Union*, 192 A.3d 572, 576 (D.C. 2018).

²⁹ Award 19. See also Award 3.

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The Arbitrator ordered the Authority “to respond to the Union[’]s request for information.”³⁰ The Authority claims that it already responded to the Union’s request for information as part of a settlement of an unfair labor practice complaint the Union filed. While that unfair labor practice case is not before us, the Authority seeks review of the Award on the ground that ordering production of the information already produced in connection with that case violates law and public policy.

According to the Authority, the law and public policy at issue is the Board’s policy in favor of voluntary settlement of disputes.³¹ The Authority takes the position that compelling it to “furnish the same documents to the Union . . . violates and undermines the established policy and integrity of PERB proceedings and the parties’ mutual agreement in resolving the matter.”³²

Surely, if the Authority has complied with the information request in question, then the Award imposes no obligation on it in that regard. A party may bring more than one action to seek redress for a single injury, but it is limited to one satisfaction for that injury.³³ Where an agency had failed to produce information requested by a union but later produced it pursuant to a Freedom of Information Act request, the Board held that the agency committed an unfair labor practice and would be required to post a notice but would not be ordered to provide again information that it had already provided.³⁴ We find that in this regard the Award does not violate law and public policy.

C. The Authority’s Claim that the Award Lacks Clarity and Is Devoid of Analysis

The Authority makes several criticisms of the Award. It states that the Award is devoid of structure, lacks clarity, and is ambiguous. While the Award is devoid of the structure often found in Arbitration awards, the decision of the Arbitrator is unambiguous. He states: “I rule in favor of the Union. The Authority had an obligation to give the Union advance written notice and to bargain with the Union over any changes in working conditions. The remedy should return the parties to the status quo that existed prior to Management[’]s making the unilateral change.” An arbitrator is not required to explain the grounds for his decision.³⁵ Similarly, ambiguity alone is not grounds for a remand. The Board can remand if clarification of an ambiguity is needed to determine whether the award is contrary to law and public policy or to determine whether the arbitrator exceeded his jurisdiction. In *D.C. Child and Family Services Agency v. American Federation of State, County, and Municipal Employees, District Council 20*,

³⁰ Award 19.

³¹ The Authority quotes Rule 558.6 in support of its assertion that “PERB has articulated a well-established policy regarding voluntary and mandatory settlement of disputes.” The more pertinent rule is Rule 558.1, which provides, “It is Board policy to encourage voluntary efforts of parties to settle or adjust disputes involving issues of representation, unfair labor practices, standards of conduct, or issues arising during negotiations.”

³² Authority’s Br. in Support of Request 6.

³³ *Sanders v. Hudgens*, 184 A.3d 345, 349-50 (D.C. 2018).

³⁴ *FOP/MPD Labor Comm. v. MPD*, 62 D.C. Reg. 16524, Slip Op. No. 1553 at 3, PERB Case Nos. 12-U-05, 12-U-10, and 13-U-28 (2015) (citing *Walter N. Yoder & Sons, Inc. and Sheet Metal Workers Int’l Ass’n, Local Union 100*, 270 N.L.R.B. 652, 652-53 (1984)).

³⁵ *NAGE, Local R3-07 v. Office of Unified Commc’ns*, 65 D.C. Reg. 10091, Slip Op. No. 1673 at 7, PERB Case No. 18-A-07 (2018).

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Local 2401,³⁶ the standard of proof the arbitrator used to determine whether there was cause for a termination was unclear. “In the absence of an articulated standard,” the Board said, “we cannot rule on whether there is merit in the [agency’s] assertion that the arbitration award conflicts with law and public policy or whether the arbitrator exceeded his authority.”³⁷ For that reason, the Board remanded the case to the arbitrator for clarification of the standard of proof he used.³⁸

In the present case, there is no claim that any ambiguity in the Award bears on whether the Award is contrary to law and public policy or whether the Arbitrator exceeded his jurisdiction. Resolution of the Award’s ambiguities is a matter between the Arbitrator and the parties and may be in the parties’ common interest.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Award of attorneys’ fees and costs is set aside. The Board remands the case to the Arbitrator to reconsider his remedy in the light of this opinion and to issue an award consistent therewith. .
2. In all other respects the Award is affirmed.
3. Pursuant to Board Rule 559.1, this decision and order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, Members Ann Hoffman, Barbara Somson, Douglas Warshof, and Mary Anne Gibbons

Washington, D.C.

January 17, 2019

³⁶ Slip Op. No. 956, PERB Case No. 08-A-07 (May 21, 2010).

³⁷ *Id.* at 6-7.

³⁸ *Id.* at 8-9 (citing *U.S. Dep’t of Justice Fed. Bureau of Prisons Fed. Corr. Complex Coleman, Fl. v. AFGE, Council of Prison Locals, Local 506*, 63 F.L.R.A. 351, 354-55 (2009) (remanding case to arbitrator for clarification of the basis of his award in order to determine whether the award was consistent with law)).

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 18-A-15 is being transmitted by File & ServeXpress to the following parties on this the 23rd day of January 2019.

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