

DISTRICT OF COLUMBIA BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The Board of Education ("Board"), pursuant to the authority set forth in D.C. Code, 2001 Edition, §§38-101 & 38-102 et seq., hereby gives notice of proposed rulemaking action taken by the Board at its meeting held on February 13, 2006 to amend Chapters 20 and 50 of the Board Rules (Title 5 of the D.C. Municipal Regulations).

This amendment, if enacted, will effect the following actions: establish the definition of homeless children and youth for the purpose of determining residency in the District of Columbia Public Schools and public charter schools and establish a process for enrolling homeless children and youth in the District of Columbia Public Schools.

The Board gives notice of its intent to take final rulemaking action on this proposed rulemaking in not less than thirty (30) days from publication of this notice in the D.C. Register.

Add Section 2010:

2010 ENROLLMENT OF HOMELESS STUDENTS

2010.1 Homeless children, as defined in section 5-5099, must be immediately enrolled in a District of Columbia Public School. The LEA shall make a school placement based on the "best interest" of the homeless child, youth or unaccompanied minor. In determining "best interest," unless otherwise requested by the parent, the LEA must:

- (a) To the extent feasible, continue the child or youth's education in the student's school of origin --**
 - (1) for the duration of homelessness if a family becomes homeless between academic years or during an academic year; OR**
 - (2) for the remainder of the academic year if the child or youth becomes permanently housed during the academic year; OR**
- (b) Enroll the child or youth in any public school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.**

- (c) In determining "best interest" of the child or youth, the LEA shall consider the following:
- (1) Continuity of instruction;
 - (2) Age of the child or youth;
 - (3) Safety of the child or youth;
 - (4) Length of stay in shelter;
 - (5) Likely area where family will find permanent housing;
 - (6) Student's need for special instructional programs;
 - (7) Impact of commute on education;
 - (8) School placement of siblings;
 - (9) Time remaining in school year.

- 2010.2 If the LEA sends the child or youth to a school other than the school of origin or the school requested by the parent or guardian, the LEA must provide a written explanation to the parent or guardian, including the right to appeal under the enrollment dispute provision.
- 2010.3 In the case of an unaccompanied youth, the LEA homeless liaison must assist the youth in placement/enrollment decisions, consider the youth's wishes, and provide notice to the youth of the right to appeal under the enrollment dispute provisions.
- 2010.4 The school selected shall immediately enroll the child or youth in school, even if the child or youth lacks records normally required for enrollment, such as previous academic records, medical records, birth certificate, or other documentation.
- 2010.5 Nothing in this section shall be interpreted to supercede admission criteria established for schools or programs that have specific admissions requirements and selection criteria that have been approved by the Board of Education.
- 2010.6 **Dispute Resolution.** If a dispute arises between a school and parents or guardian or an unaccompanied youth, over school selection or enrollment, the LEA must immediately enroll the child or youth in the school in which the parent, guardian or unaccompanied minor seeks enrollment, pending resolution of the dispute.
- (a) The child, youth, parent or guardian shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision.
 - (b) The LEA must refer the child, youth, parent or guardian to the LEA Liaison, who must carry out the dispute resolution process

set forth in the State Plan within 15 (fifteen) days of receiving a notice of appeal.

- (c) If the dispute is not resolved by the LEA Liaison in the required timeframe, or the child, youth, parent or guardian is dissatisfied with the resolution, the child, youth, parent, or guardian may file a complaint with the State Complaint Office.

Amend Section 2099 as follows:

DEFINITIONS

2099 **School of Origin** – the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

Unaccompanied Minor – a youth not in the physical custody of a parent or guardian.

Amend Section 5099 as follows:

DEFINITIONS

5099 **Homeless Children and Youth** – individuals who lack a fixed, regular, and adequate nighttime residence. These individuals shall include children and youth, under the age of eighteen (18) who are:

- (a) sharing the housing of other persons due to loss of housing, economic hardship or similar reasons; or
- (b) living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodation; or
- (c) living in emergency shelters; or
- (d) in a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or
- (e) living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; or
- (f) living in a hospital due to abandonment; or
- (g) migratory children, as defined in section 1309 of the Elementary and Secondary Education Act of 1965, who qualify

as homeless because they live in circumstances described above;
or

(h) Unaccompanied minors, who qualify as homeless because they live in circumstances described above.

Written comments on the proposed rulemaking are invited from interested citizens. Such comments should be addressed to Mr. Russell Smith, Executive Director, D.C. Board of Education, 825 North Capitol Street, N.E., Washington, D.C. 20002. This rulemaking is available on the District of Columbia Public Schools website at http://www.k12.dc.us/dcps/boe/boe_frame.html. Copies of this rulemaking are available from the Office of the Board of Education by calling (202) 442-4289.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under Section 7a of the Health Care Privatization Amendment Act of 2001 ("Act"), effective July 12, 2001 (D.C. Law 14-18; D.C. Official Code § 7-1405.01), as amended, and Mayor's Order 2004-127, dated August 2, 2004, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 33 of Title 22 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of this publication of this notice in the D.C. Register, after affirmative approval of the regulations by the Council of the District of Columbia, and not effective before June 1, 2006.

The Department of Health is working to further streamline the eligibility process for the D.C. HealthCare Alliance ("Alliance") program, which includes comprehensive health services to low-income residents. Specifically, the Department is implementing an integrated application process that allows applicants to apply for the Alliance, Food Stamps, Medicaid, and cash assistance at the same time. The Department also plans to coordinate the Alliance's eligibility process with that of the Medicaid program. In this way, enrollees can easily move from the Alliance to Medicaid as their circumstances change. Finally, the Department seeks to maintain the Alliance's strong community presence and continue to offer expedited access to medical services. Collectively, these reforms should make it easier for Alliance applicants to apply for and retain their health insurance and other benefits, thereby ensuring better continuity of coverage and care.

Chapter 33 (Health Care Safety Net Administration) of Title 22 of the DCMR (Public Health and Medicine) shall be amended as follows:

Add the following provision to Section 3301:

3301.2 The eligibility requirements stated in Section 3301.1 above shall not apply to a person seeking health care services available on or after June 1, 2006 to qualifying indigent residents through the D.C. HealthCare Alliance and paid by the Health Care Safety Net Administration ("HCSNA").

Add the following provisions to Section 3303:

3303.3 Section 3303.1 and 3303.2 shall not apply to a contract or contract modification effective on or after June 1, 2006 for health care services to indigent residents through the D.C. HealthCare Alliance.

Add a new Section 3304 providing as follows:**3304 ELIGIBILITY CRITERIA EFFECTIVE JUNE 1, 2006**

- 3304.1 The Income Maintenance Administration ("IMA") shall determine eligibility for all Medicaid and Medical Assistance programs in a manner consistent with the eligibility requirements at 42 CFR Part 435 and those below.
- 3304.2 Eligibility for the D.C. HealthCare Alliance is limited to residents of the District of Columbia who are not eligible for Medicaid and who live in households:
- (a) With a countable income of less than 200 percent of the Federal Poverty Level; and
 - (b) With countable resources less than \$4,000 (or \$6,000 if the individual lives with a spouse or cares for a child who is residing in the home).
- 3304.3 In verifying an applicant's eligibility, IMA shall accept any form of proof that reasonably attests to District residency, income, and resources.
- 3304.4 Acceptable forms of verification (either copies or originals) for residency shall include but not be limited to the following:
- (a) Valid motor vehicle operator's permit (or a non-driver identification card) that is issued by the District's Department of Motor Vehicles;
 - (b) A voter registration card with an address in the District of Columbia;
 - (c) A copy of a lease or a rent receipt for real property located in the District of Columbia;
 - (d) A utility bill for real property located in the District of Columbia; and
 - (e) A letter from a verifiable source confirming that the applicant resides in the District.
- 3304.5 Acceptable forms of verification (either copies or originals) for countable income shall include but not be limited to the following:
- (a) Paystubs or earnings statements received within the previous thirty (30) days;
 - (b) For a newly employed applicant, an offer of employment that states the amount of salary to be paid;
 - (c) For self-employed persons, recent tax filings or other documents that reflect recent income;
 - (d) A declaration by a person that he or she has no income, does not rent an apartment in his or her own name, and is not listed as a mortgagee on the place where he or she resides;
 - (e) Social Security, Veterans, unemployment, or worker's compensation benefit statements;
 - (f) Documents showing child support or alimony received; and
 - (g) Documents showing any other unearned income, including income from stocks, bonds, annuities, private pension, or retirement accounts.

- 3304.6 Acceptable forms of verification (either copies or originals) for countable resources shall include but not be limited to the following:
- (1) Bank statements (if the combined account balances are greater than \$1,000);
 - (2) Documents showing the value of any stocks, bonds, annuities, private pension, retirement accounts, and other financial investments; and
 - (3) Documents showing the value of any real property other than the applicant's primary residence.
- 3304.7 IMA shall not routinely require further verification of residency for homeless applicants if the applicant attests that he or she:
- (a) Is homeless;
 - (b) Lives in the District of Columbia; and
 - (c) Intends to remain in the District of Columbia.
- 3304.8 When the applicant or enrollee indicates he or she is homeless, IMA may request verification of residency if it has substantial reason to believe that the applicant or enrollee is not homeless or is not a District resident.
- 3304.9 The foregoing eligibility requirements and the procedures in § 3305 below shall not apply to the medical care and health services provided through the School Health Program or to persons who are in the custody of the Department of Corrections or the Metropolitan Police Department.

Add a new Section 3305 providing as follows:

3305 ELIGIBILITY PROCEDURES EFFECTIVE JUNE 1, 2006

- 3305.1 Applicants shall complete, sign, and date an application form (as designated by Mayor) and submit this form to IMA. Applicants may mail, fax, or deliver their application in person to IMA. Applicants may also submit their application to an out-stationed IMA employee working in a community setting.
- 3305.2 IMA shall determine eligibility and send a notice to applicants within the same timeframe as required under the Medicaid program at 42 CFR § 435.911.
- 3305.3 IMA shall conduct expedited determinations (on the same or next business day) for any applicant if he or she has an urgent medical need (as certified by a clinician). Persons may request such expedited eligibility determinations from the IMA Office of the Administrator by phone, by fax, or in person.
- 3305.3 Eligibility shall begin on the first day of the month of application, which is consistent with the Medicaid requirement at 42 CFR § 435.914(b).

- 3305.4 Applicants who submit a signed recertification form approved by the Mayor to IMA (by mail, fax, or in person) shall continue to receive Alliance coverage until IMA sends them an adequate and timely notice of redetermination, which is consistent with the Medicaid requirement at 42 CFR § 435.916.
- 3305.5 IMA shall take no action to terminate, discontinue, or suspend eligibility without giving the person adequate and timely notice consistent with the Medicaid requirement at 42 CFR § 435.919.
- 3305.6 To determine countable income, IMA shall aggregate income and disregard the first \$100 in earnings. Further, IMA shall apply the disregards and exclusions detailed in Supplement 8b to Attachment 2.6-A of the District's Medicaid State Plan.
- 3305.7 To determine countable resources, IMA shall aggregate resources that are available to the applicant and apply the disregards and exclusions detailed in Supplement 8a to Attachment 2.6-A of the District's Medicaid State Plan.
- 3305.8 All of an applicant's resources are presumed to be available. An applicant may rebut this presumption by proving to the satisfaction of the District that a resource is not available to the applicant. An applicant rebuts the presumption by establishing a legal or other actual barrier to disposal of the asset that cannot reasonably be overcome. Resources that are not available are not included in the calculation of an applicant's countable resources.
- 3305.9 Eligibility may not begin before the first day of the month in which the applicant applied for benefits.

Add a new Section 3306 providing as follows:

3306 RIGHTS AND DUTIES OF APPLICANTS EFFECTIVE JUNE 1, 2006

- 3306.1 An applicant may voluntarily request and receive assistance in applying for benefits from IMA staff or any other person of the applicant's choice. However, an applicant may also refuse such assistance.
- 3306.2 An applicant may name an authorized representative to act on his or her behalf. An applicant also has the right to refuse to name an authorized representative.
- 3306.3 If an applicant names an authorized representative to act on his or her behalf, the authorized representative may apply for benefits, receive correspondence from IMA or the HCSNA, may report changes to IMA, may recertify for benefits, and may address other administrative matters.
- 3306.4 An applicant must attend a face-to-face eligibility interview if an IMA employee requests such an interview.

- 3306.5 An applicant (or his or her authorized representative) must report any changes in the applicant's household circumstances by contacting the IMA Change Center. Such changes would include but are not limited to changes of address, changes in income, and changes of household composition. Such changes would also include changes in health insurance status (i.e., when an applicant has any change in private health insurance coverage, Medicare, etc.). A person who fails to report a change within 10 days of the date of the change may lose their benefits; the person may also face civil and criminal penalties.
- 3306.6 An applicant (or his or her authorized representative) must recertify on an annual basis in order to maintain his or her eligibility.
- 3306.7 An applicant (or his or her authorized representative) may request a Fair Hearing from IMA or from the Office of Administrative Hearings to contest an eligibility determination, redetermination, or the lack thereof.
- 3306.8 An applicant (or his or her authorized representative) must give true, accurate, and complete documents and information. A person who gives a false, deceptive, or misleading document or information may lose his or her benefits and face civil and criminal penalties.
- 3306.9 Each applicant (or his or her authorized representative) must provide the applicant's Social Security number if he or she has one, subject to the terms of Mayor's Order 92-49 dated April 29, 1992, which governs inquiries into a person's citizenship and immigration status.
- 3306.10 An applicant (and his or her authorized representative) must cooperate with District investigators (and their duly authorized agents) who review the applicant's eligibility record. This requirement for cooperation includes being interviewed by investigators. An applicant who fails to cooperate may lose his or her benefits. An applicant (and his or her authorized representative) may face civil and criminal penalties.
- 3306.11 An applicant must surrender to the District Government any reimbursements or other payments received from an insurance company, court settlement, or other source for health care or medical services that were covered (and paid for) by the District of Columbia's Medicaid or Medical Assistance programs.

Delete Section 3399 and replace it with the following:

3399 DEFINITIONS

- 3399.1 When used in this Chapter on or after June 1, 2006, the following terms shall have the meaning ascribed:

Available resources – resources for which the applicant has both legal authority and actual ability to use for self-support (i.e., the resources are “available”).

Countable income – sources and types of income as defined by the Social Security Administration’s Supplemental Security Income (SSI) program as modified by the provisions of Supplement 8b to Attachment 2.6-A of the District’s Medicaid State Plan.

Countable resources – sources and types of resources as defined by the Social Security Administration’s Supplemental Security Income (SSI) program as modified by the provisions of Supplement 8a to Attachment 2.6-A of the District’s Medicaid State Plan. An applicant’s primary residence and primary vehicle are excluded under this definition. The terms “resources” and “assets” are synonymous.

D.C. HealthCare Alliance (Alliance) – the program for comprehensive, community-centered health care and medical services established pursuant to Contract No. DCFRA#-00-C-039 (or any related or subsequent contract) and the Health Care Privatization Amendment Act of 2001, effective July 12, 2001 (D.C. Law 14-18; D.C. Official Code §§ 7-1401 *et seq.*).

District – the Government of the District of Columbia and the term “District government” used in the regulations enacted by the District of Columbia Financial Responsibility and Management Assistance Authority and published at 48 *D.C. Register* 9140.

Health Care Safety Net Administration (HCSNA) – the administration within the Department of Health that administers and monitors compliance with any contract made pursuant to the Health Care Privatization Amendment Act of 2001, effective July 12, 2001 (D.C. Law 14-18; D.C. Official Code §§ 7-1401 *et seq.*).

Homeless person – an individual lacking a fixed night-time address.

Household – an assistance unit that consists of either one person or several people who live together and whose needs, assets, and income are combined to determine eligibility. Inclusion in the assistance unit is governed by the Medicaid rules at 42 CFR Part 435 Subpart A and related provisions of Titles IV, XVI, and XXI of the Social Security Act of 1935, 42 U.S.C. §§ 601 to 698b, 1381 to 1397jj, and 1396 to 1396u-3 (2005).

Federal Poverty Level – the income level, which varies by household size, under which families in the continental United States are formally considered to be in poverty. The Secretary for the U.S. Department of Health and Human Services publishes a revised poverty level each year in the *Federal Register*.

Income Maintenance Administration (IMA) – the Administration within the Department of Human Services (DHS) that determines eligibility for Medicaid/Medical Assistance, Food Stamps, Temporary Assistance for Needy Families (TANF), Interim Disability Assistance (IDA), General Assistance for Children (GC), Refugee Assistance, and Burial Assistance.

Medicaid – a federally funded program that pays for medical care and health services for certain low-income persons. The program was established by and funded pursuant Title XIX and Title XXI of the Social Security Act of 1935, 42 U.S.C. §§ 1396 to 1396u-3 (2005).

Medical Assistance program – a locally funded program that pays for medical care and health services for certain low-income persons who are ineligible for the federally funded Medicaid program. The Medical Assistance program includes the Immigrant Children's Program; it also includes the D.C. HealthCare Alliance program (except for the School Health Program and the medical care program for persons in custody of the Department of Correction and the Metropolitan Police Department).

Resident – a person who is presently living in the District of Columbia voluntarily and not for a temporary purpose and has no current intention of moving out of the District of Columbia.

All persons interested in commenting on the subject matter of this proposed rulemaking action may file comments in writing not later than thirty (30) days after the publication of this notice in the D.C. Register. Comments should be sent to the Office of the Deputy Director, Health Care Safety Net Administration, District of Columbia Department of Health, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of this notice are available, at no cost, by writing to the above address.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Housing and Community Development, pursuant to the authority set forth in §5 of the District of Columbia Home Purchase Assistance Act of 1978, as amended, D.C. Law 2-103, D.C. Official Code §42-2604 (2001), and Mayor's Order No. 80-8 (January 14, 1980), hereby gives notice of the intent to amend, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, Title 14 of the District of Columbia Municipal Regulations (DCMR), Chapter 25, Home Purchase Assistance Program (HPAP). Specifically, the proposed rulemaking amends subsections 2501.2, 2501.3, 2501.10, 2501.11, 2501.15, 2502.4, 2502.5, 2502.6, 2502.7, 2503.1, 2504.2, 2505.1, 2505.4, 2505.5, 2505.7, 2505.9, 2508.1, 2508.2, 2509.1, 2509.2, 2510.1, 2510.3, 2510.4, and 2599. The amendment deletes subsections 2501.14, 2504.1 and 2504.3.

The purpose of the rulemaking is to (1) change the HPAP eligibility residency requirement to a preference for District residency; (2) establish a single level of applicant contribution toward settlement expenses; (3) permit the DHCD Director to waive an applicant's contribution for certain economically vulnerable households; (4) permit DHCD to establish the maximum level of HPAP financial assistance based on prevailing residential real estate market conditions; (5) replace the three-tiered eligible income levels with a single eligible income category; (6) establish a single set of loan terms for all HPAP assistance; (7) extend the Notice of Eligibility period to a maximum of 180 days; (8) establish a household income eligibility limit equal to 110% of the Area Median Income; (9) allow settlement to proceed for homes that do not fully meet code requirements, subject to completion of code corrections prior to occupancy, and (10) revise the definitions consistent with the amendments to this chapter.

The proposed rulemaking shall be submitted to the Council of the District of Columbia for a 45-day period of review, excluding Saturdays, Sundays, legal holidays and days of Council recess. If the Council does not approve or disapprove the proposed rulemaking during the 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204); D.C. Official Code § 2-501 *et seq.*

Chapter 25 (Home Purchase Assistance Program) of Title 14 DCMR, is amended as follows:

Subsection 2501.2 is amended to read as follows:

2501.2 At the time of application, the applicant shall be the head of a household meeting a District of Columbia residency preference as described in subsection 2501.14 and shall have Gross Household income less than or equal to 110% of the Area Median Income. Applicants who do not meet any of the residency preferences shall not be considered eligible for the Program.

Subsection 2501.10 is amended to read as follows:

2501.10 The applicant shall have available to be applied toward the down payment or settlement costs and shall commit for the purchase of a dwelling unit or cooperative share not less than five hundred dollars (\$500), or fifty percent (50%) of all household assets in excess of three thousand dollars (\$3,000) that are in a form capable of ready conversion into cash, whichever is larger.

Subsection 2501.11 is amended to read as follows:

2501.11 The household contribution under §2501.10, may be waived by the Director where there is demonstrated need, the applicant household is elderly, handicapped, disabled, or a displaced household, and the household income of the applicant is less than or equal to 80% of the Area Median Income.

Subsection 2501.14 is amended to read as follows:

(a) In considering applications for program eligibility, residency preferences shall be determined in the following manner: First preference shall be given to applicants who have maintained residency for at least one year immediately preceding application. Within this category of applicants, there shall be further priority consideration given to households that have been recently displaced or are facing imminent displacement from existing housing accommodations.

(b) Second preference shall be given to applicants who have been employed in the District without residency for one year immediately preceding application.

(c) Third preference shall be given to applicants who neither resided in the District or were employed in the District for one year immediately preceding application, but who can demonstrate prior residency for at least three consecutive years while an adult over the age of eighteen (18).

Subsection 2501.15 is amended to read as follows:

2501.15 To be eligible for purchase or for securing occupancy rights, a property shall be located in the District of Columbia and shall be a single-family, condominium or cooperative dwelling unit, to be used as the applicant's primary residence.

Subsection 2505.5 is amended to read as follows:

2502.5 Settlement may be allowed on a property which does not fully meet code requirements, at that time, if a determination is made by DHCD that adequate, financially feasible provisions have been made by the buyer or the seller to correct all code defects or violations necessary to protect the health and safety of the occupants prior to occupancy of the property and not later than six months after the settlement..

Settlement is also subject to the federal and District lead safe housing regulations, including but not limited to, HUD Disclosure and Notice requirements and the EPA

pamphlet; Visual Assessment; Paint Stabilization, if any required, use of Safe Work Practices and Clearance. Housing built after 1978 is exempt from these regulations. 24 CFR Part 35 Subpart K; DCMR Title 20, Chapter 8, Section 806 (1998).

Subsection 2503.1 is amended to read as follows:

2503.1 The amount of financial assistance available to eligible households at any qualified income level shall be determined by DHCD based on prevailing trends in the residential real estate market. DHCD shall publish financial assistance limits, not less than one time each fiscal year and shall remain in effect until a subsequent notice is published.

Subsection 2504.1 is deleted in its entirety.

Subsection 2504.2 is amended to read as follows:

2504.2 Loans made to any income-eligible household under this Program shall require monthly Principal-Only payments in an amount equal to the loan amount amortized over a four hundred eight (480) month period, and payment shall begin five (5) years from the date of the loan execution.

Subsection 2504.3 is deleted in its entirety.

Subsection 2505.1 is amended to read as follows:

2505.1 Except as provided for in §§ 2505 through 2506, all financial assistance under the Program shall be Principal-Only Loans repayable, after five (5) years, consistent with subsection 2504.2 of this Chapter, secured by a lien or subordinated trust on the property purchased or by other security instrument provided for in this chapter or deemed appropriate by the Department.

Subsection 2505.4 is amended to read as follows:

2505.4 In cases where an applicant is determined to be unable to afford the monthly payments of principal required under a Principal-Only Loan, and where the applicant is a Displacee Household, and would be required to move from the home he or she now occupies if monthly payments of principal were required beginning in the sixth year of the loan, but meets all other requirements of this chapter, the applicant may receive an additional deferral of all payments beyond the initial five-year deferred period, subject to review and approval by the Department for a period not to exceed five (5) years after the date of such additional deferment.

Subsection 2505.7 is amended to read as follows:

2505.7 All Loans under HPAP shall be secured by a recorded lien or subordinated trust on the property purchased unless this requirement is explicitly waived as provided for in § 2500.5 of this chapter.

Subsection 2505.9 is amended to read as follows:

2505.9 The Department may, by determination of the Program Administrator, provide additional HPAP assistance in the form of a grant or an unsecured deferred payment loan in amounts needed to cover all or a portion of closing costs, if required to meet the loan-to-value ratio requirements of the first mortgage, to the extent such costs exceed the requirements of § 2501.9 of this chapter.

Subsection 2508.1 is amended to read as follows:

2508.1 Loans made under the Program shall not bear interest, except as may be established under the provisions of § 2506.6.

Subsection 2508.2 is amended to read as follows:

2508.2 The terms of each loan made under the Program shall provide that the principal amount of the loan shall become due and payable on an amortized basis after five (5) years from the date of the loan or payable in full whenever the loan recipient ceases to occupy the property purchased or secured as his or her principal residence, except as provided for under § 2506.

Subsection 2508.3 is amended to read as follows:

2508.3 The DHCD may establish a time limit during which an eligible applicant shall locate and enter into a contract to purchase or an agreement to occupy an eligible property under the Program. The time limit shall not be less than ninety (90) and not more than one hundred eighty (180) days from the date the applicant is notified in writing of his or her eligibility under the Program.

Subsection 2509.1 is amended to read as follows:

2509.1 A prepayment penalty shall be charged to the loan recipient if the property is sold or transferred at any time during the first five (5) years after settlement of the loan, except as provided in § 2506.

Subsection 2509.2 is amended to read as follows:

2509.2 The prepayment penalty shall be equal to the interest on the principal amount of the loan from the date of settlement to the date of sale or transfer, at the rate of interest on the First Mortgage Loan.

Subsection 2510.1 is amended to read as follows:

2510.1 The Department shall establish a household income eligibility limit equal to 110% of the Area Median Income in accordance with the requirements of this section.

Subsection 2510.3 is amended to read s follows:

2510.3 The Department shall take the median income for the Washington, D.C. Metropolitan Statistical Area established periodically by the Secretary of the U.S. Department of Housing and Urban Development (HUD) and from that median income figure calculate one hundred ten percent (110%) to determine the base median income limit.

Subsection 2510.4 is amended to read as follows:

2510.4 The amount calculated shall be applied to a four (4) person household size, and using this amount as a base number, the following percentage adjustments shall be calculated to adjust the income limit by family size:

PERCENTAGE ADJUSTMENTS

Persons in

Household	1	2	3	4	5	6	7	8
Income	70	80	90	Base	108	116	124	132

Subsection 2599.1 is amended by revising the following terms and definitions to read as follows:

Area Median Income - the current median income for the Washington, D.C., Metropolitan Statistical Area, as determined periodically by DHCD (based on the area median income established by the Secretary of the U.S. Department of Housing and Urban Development (HUD), with adjustments for family size.

Dwelling Unit - a single-unit single family home, a fee simple unit in a condominium, or occupancy rights in a cooperative.

First Time Homebuyer - a real property purchaser who had no ownership interest in his or her principal residence at any time during the three (3) year period ending on the date of his or her application for assistance (but including an applicant who has divorced or separated during the three (3) year period where a formal settlement has been made under which the applicant does not receive an ownership interest in a primary residence which had been jointly owned), and who has no other current ownership interest in residential real property.

Grant - financial assistance provided under the Program which does not require repayment. Grants are not normally made under the Program, except in accordance with the special conditions set forth in this chapter.

Gross Household Income – gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period, as defined in 24 Code of Federal Regulations Section 5.609.

Lower Income Household – this term and definition are deleted in their entirety.

Moderate Income – this term and definition are deleted in their entirety.

Principal-Only Loan - a loan which is repaid in regular monthly installments of principal only. All Principal-Only Loans under HPAP shall be secured by a lien or subordinated trust on the property purchased unless this requirement is explicitly waived as provided for in § 2505.7. The loans may also be secured by financing statements or liens on the stock or other assets of a loan recipient, by an assignment of lease(s) or rent(s), or by other means consistent with District of Columbia law.

Program Administrator – the staff person at the D.C. Department of Housing and Community Development designated to manage the Home Purchase Assistance Program.

Unsecured Loan - a loan which requires repayment, subject to the conditions of the Program's loan agreement and for which the recipient has signed a promissory note, but which is not secured by a lien on the property purchased. Unsecured loans shall be made under the Program only under the special circumstances set forth in § 2505.9.

Very Low Income – this term and definition are deleted in their entirety.

All comments for this Proposed Rulemaking can be sent to 801 North Capital Street, NE, Washington, DC 20002, attention Robert Mulderig, Deputy Direct for Residential and Community Services. Copies of this Proposed Rulemaking can be obtained at the same address between the hours of 8:15 am and 4:45 pm.

**THE DISTRICT OF COLUMBIA
LOTTERY AND CHARITABLE GAMES CONTROL BOARD**

NOTICE OF PROPOSED RULEMAKING

The Executive Director of the District of Columbia Lottery and Charitable Games Control Board, pursuant to the authority set forth in D.C. Official Code §§ 3-1306 and 3-1322.01, District of Columbia Financial Responsibility and Management Assistance Authority Order issued September 21, 1996, and Office of the Chief Financial Officer Financial Management Control Order No. 96-22 issued November 18, 1996, hereby gives notice of the proposal of amendments to Chapters 12 ("Bingo, Raffles, Monte Carlo Night Party and Suppliers' Licenses"), 16 ("Monte Carlo Night Parties") and 99 ("Definitions") of Title 30 DCMR. The amendments are necessary to authorize Texas Hold'em as a charitable game playable at Monte Carlo Night Parties. Pursuant to D.C. Official Code § 3-1322.01, the proposed amendments must be submitted to the Council of the District of Columbia ("Council") for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed effective. The Executive Director shall finalize these rules in no less than thirty (30) days from the date of publication of this notice in the *D.C. Register* or as required by D.C. Official Code § 3-1322.01, whichever is later.

**AMEND CHAPTER 12, "BINGO, RAFFLES, MONTE CARLO NIGHT PARTY
AND SUPPLIERS' LICENSES"**

Amend subsection 1204.16 by substituting the following:

1204.16 The Agency shall issue the following two (2) classes of Monte Carlo Night Party licenses:

- (a) A **Class 1** Monte Carlo Night Party license shall allow for the operation of a Monte Carlo Night Party in accordance with the provisions of Chapter 16. A Class 1 Monte Carlo Night Party license shall not include any Texas Hold'em card games. The application fee for a Class 1 Monte Carlo Night Party license shall be one hundred dollars (\$100); and
- (b) A **Class 2** Monte Carlo Night Party license shall allow for the operation of a Monte Carlo Night Party to include Texas Hold'em in accordance with the provisions of Chapter 16. The application fee for a Class 2 Monte Carlo Night Party license shall be five hundred dollars (\$500). A Class 2 Monte Carlo Night Party license shall be required for a Charitable Texas Hold'em Tournament.

Amend subsection 1204.17 by substituting the following:

1204.17 In accordance with D.C. Official Code § 3-1322.01(c) no licensed organization shall hold more than two (2) Monte Carlo night parties in a calendar year.

Amend subsection 1204.18 by substituting the following:

1204.18 The aggregate value of the prize or prizes offered at a Monte Carlo Night Party shall not exceed one hundred thousand dollars (\$100,000).

Amend subsection 1204.19 by substituting the following:

1204.19 The application for a Monte Carlo night party for senior citizen groups shall be ten dollars (\$10).

Amend subsection 1204.20 by substituting the following:

1204.20 The required fees for bingo, raffles and Monte Carlo night party licenses shall cover license fees for the member-in-charge, deputy member-in-charge, and the member responsible for gross receipts.

Amend Chapter 12 by deleting subsection 1204.21 in its entirety.

1204.21 [RESERVED]

AMEND CHAPTER 16, "MONTE CARLO NIGHT PARTIES"

Amend subsection 1602 by substituting the following:

1602 MONTE CARLO NIGHT PARTY GAMES AND EQUIPMENT

1602.1 Only approved games of chance shall be permitted. Approved Monte Carlo night party equipment and games include all of the following:

(a) All wheels;

(b) Roulette;

(c) All dice games;

(d) Chip trays;

(e) Twenty-one or blackjack;

(f) Texas Hold'em;

(g) Raffles conducted by a Monte Carlo night party license organization as set forth in § 1606;

(h) Charity game tickets approved by the Agency. All unsold charity game tickets must be returned to the Agency representatives for destruction at the end of the event;

(i) Any other Agency approved games;

1602.2 The following games and equipment shall not be used at a Monte Carlo night party:

(a) Horse race films;

(b) Slot machines, penny fall money fall, bull dozer or similar type machines or devices;

(c) The game of bingo or bingo equipment;

(d) Poker and other card games where the players compete against each other, with the exception of Texas Hold'em as authorized by this chapter; and

(e) Any other games not specifically approved by the Agency and not listed in §1602.1.

Amend Chapter 16 by amending subsection 1603.16 to read as follows:

1603.16 A wager shall not be placed upon an event or upon a game involving personal skill except that Texas Hold'em may be played as authorized by this chapter.

Amend Chapter 16 by adding new subsections 1603.19 through 1603.30 to read as follows:

1603.19 Texas Hold'em shall not be conducted outside the hours listed on the license.

1603.20 Texas Hold'em shall be conducted as a tournament where all players pay the established entry fee for the same amount of chips.

1603.21 Texas Hold'em shall not be conducted in any manner that assigns a cash redemption value to the chips.

1603.22 Texas Hold'em shall be played with a standard 52-card deck without jokers.

1603.23 Texas Hold'em shall be played at tables large enough to accommodate a dealer and up to 7 players in such a manner as to ensure that the players may examine their cards without disclosing their value to other players.

1603.24 All cards shall be dealt by a Monte Carlo night party worker.

1603.25 The order of finish for the tournament shall be determined by one of the following methods:

- (a) If play continues until all but one player is eliminated, the order of finish shall be the order of elimination from last to first. The last remaining player shall be declared the winner.
- (b) If play stops at a set time as defined in the house rules, the order of finish shall be determined by ranking the value of chips held by each player at the end of play from highest to lowest. The player having the highest value of chips shall be declared the winner.

- 1603.26 Prizes not exceeding \$500 per player per day may be awarded based on the method used for determining the order of finish.
- 1603.27 A player shall not bet on more than one hand in any round of play.
- 1603.28 Wild cards are prohibited.
- 1603.29 Hi/Lo games are prohibited. Winners shall be determined by the highest ranking Texas Hold'em combination.
- 1603.30 Re-buys are prohibited.
- 1603.31 Texas Hold'em shall not be played through the use of any electronic device, electromechanical device, or video terminal.

Amend Chapter 16 section 1604 to read as follows:

1604 METHOD OF PLAY

- 1604.1 In all dice games, the size of the dice shall be a minimum of three quarters of an inch (3/4 inch). The following rules shall be posted when dice games are played:
- (a) The dice shall hit the side boards of the table when thrown. If the dice do not hit the side boards, the roll is void and the dice shall be rolled again.
 - (b) Only the dealer, operator or player may touch the dice. The player shall only touch the dice when it is the player's turn to roll the dice.
- 1604.2 When the game of blackjack is being played, the following rules apply and shall be posted:
- (a) The dealer shall draw on sixteen (16) and under and stand on seventeen (17) and over.
 - (b) A player may only play one (1) hand at a table; and
 - (c) There shall not be more than seven (7) players at one (1) blackjack table.

Amend Chapter 16 by adding new subsections 1604.3 through 1604.5 to read as follows:

- 1604.3 When the game of Texas Hold'em is being played, the following rules apply and shall be posted:
- (a) All suits have the same rank. The rank of cards, from highest to lowest, shall be ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3, 2, except as provided in 1604.3(v)(1) where the ace may be counted low.
 - (b) The dealer shall shuffle the cards prior to each round of play.
 - (c) All players shall place an ante into the pot if required by the house rules.
 - (d) Prior to the first round of play, the dealer shall place the dealer button in front of the player immediately to the dealer's left. The dealer shall move the dealer button to the next player in a clockwise direction prior to commencing each subsequent round of play.
 - (e) The player immediately to the left of the dealer button shall post the required small blind before the beginning of each round of play.
 - (f) The player immediately to the left of the small blind position shall post the required big blind before the beginning of each round of play.
 - (g) When all but two (2) players have been eliminated from the table, the player with the dealer button shall post the small blind and the other player shall post the big blind.
 - (h) All cards shall be dealt in a clockwise direction beginning with the player immediately to the left of the dealer button.
 - (i) The dealer shall commence betting interval 1 by dealing one (1) card to each player face down, then a second card to each player face down.
 - (j) Each player may examine their pocket cards at any time.
 - (k) Each player shall keep their pocket cards in full view of the dealer at all times and must ensure that they are examined in a manner that does not disclose to other players their value. Players may not exchange information concerning their hand.
 - (l) Players that drop from the round of play shall not reveal their pocket cards.
 - (m) Betting for interval 1 shall proceed as follows:
 - (1) The player immediately to the left of the big blind position is the first to act and must call, raise, or drop.

- (2) When all but two (2) players have been eliminated from the table, the player with the dealer button is the first to act and must call, raise, or drop.
 - (3) Betting continues in a clockwise direction until each player has an opportunity to call, raise, or drop with the exception of the player in the big blind position who may also check if no other player has raised.
- (n) The dealer shall commence betting interval 2 by burning a card and then dealing three board cards face up in the middle of the table, commonly referred to as the Flop.
- (o) Betting for interval 2 shall proceed as follows:
- (1) The player immediately to the left of the dealer button is the first to act and must bet, check, or drop.
 - (2) Betting continues in a clockwise direction until each player has an opportunity to bet, check, call, raise, or drop.
- (p) The dealer shall commence betting interval 3 by burning a card and dealing one board card face up, commonly referred to as the Turn.
- (q) Betting for interval 3 shall proceed as in 1604.3(o).
- (r) The dealer shall commence betting interval 4 by burning a card and dealing one board card face up, commonly referred to as the River.
- (s) Betting for interval 4 shall proceed as in 1604.3(o).
- (t) Upon completion of four betting intervals:
- (1) If only one player remains in the round of play, (i.e., all but one player has dropped), the player is not obligated to show their hand.
 - (2) If two or more players remain in the round of play:
 - (A) It shall be the obligation of the player who made the last bet to show their hand.
 - (B) If no player has placed a bet, it shall be the obligation of all players to show their hands.
- (u) Any combination of a player's pocket cards and/or board cards may be used to construct a standard five card poker hand.
- (v) The dealer shall:

- (1) Declare the last remaining player the winner or determine the winning hand among the remaining players in accordance with the following ranking of poker combinations:
 - (A) Royal Flush is a hand containing an ace, king, queen, jack, and 10 of the same suit.
 - (B) Straight Flush is a hand containing five cards of the same suit in consecutive ranking. An ace may count high or low.
 - (C) "4 of a Kind" is a hand containing four cards of the same rank.
 - (D) "Full House" is a hand containing "3 of a Kind" and "1 Pair."
 - (E) "Flush" is a hand containing five cards of the same suit but not in consecutive ranking.
 - (F) "Straight" is a hand containing five cards of consecutive rank regardless of suit. An ace may count high or low.
 - (G) "3 of a Kind" is a hand containing three cards of the same rank.
 - (H) "2 Pair" is a hand containing two pairs.
 - (I) "1 Pair" is a hand containing two cards of the same rank.
 - (J) "High Card" is a hand that does not contain "1 Pair" or better.
 - (2) Resolve ties in the following manner:
 - (A) In the event of equal ranking poker combinations of "4 of a Kind," "3 of a Kind," "2 Pair," or "1 Pair," the high card not used in the poker combination shall break the tie.
 - (B) If a tie cannot be broken, the pot shall be split equally.
 - (3) Award the pot(s) to the player(s) with the winning hand.
- (w) The dealer shall collect all cards and shuffle them prior to the next round of play.
- (x) The dealer shall move the dealer button to the next player in a clockwise direction.
- (y) If only two players remain in a round of play, and one player does not have enough chips to call the bet made by the other player, then the player with the fewest chips may move all-in and the player with the most chips shall remove enough chips from their bet to make it equal to the bet of the player moving all-in. The round of play will then continue with no further betting.

- (z) If two or more players wish to bet more than the bet of another player moving all-in, the dealer shall establish a side pot.
 - (1) The player moving all-in is eligible to win only the main pot, consisting of the antes, blinds, all previous bets, the bet of the player moving all-in, and the bets of the other players matching the all-in bet.
 - (2) The players with chips remaining may continue placing bets into the side pot(s) and are eligible to win both the main pot and side pot(s).
- (aa) A player is eliminated from the tournament when either of the following occurs:
 - (1) The player is unable to post the required ante or blind.
 - (2) The player has lost all of their chips.
- (bb) No misdeal may be called after the first bet.
- (cc) In the event of a misdeal, additional antes or blinds shall not be required.
- (dd) Any dispute concerning Texas Hold'em shall be referred to the member-in-charge, or if the member-in-charge is unavailable, then the deputy member-in-charge.

1604.4 House rules for Texas Hold'em must be approved by the Agency.

1604.5 House rules for Texas Hold'em must be posted and made available to players.

AMEND CHAPTER 99, "DEFINITIONS"

Amend subsection 9900.1 by adding the following:

Ante- A term used in a Texas Hold'em game, a small forced bet required of all players before each hand.

All-In- when a player bets all their chips in a Monte Carlo Night Party game.

Betting Interval- in Monte Carlo Night Party games, the period of play when each player has an opportunity to bet, check, raise, call, or drop.

Big Blind- a term used in a Texas Hold'em game for the mandatory bet (typically twice the amount of the small blind) placed by the player to the left of the small blind position before any cards are dealt.

Board Cards- a term used in a Texas Hold'em game for the community cards dealt face up in the middle of the table that may be used by all players in constructing a standard five-card poker hand.

Burn- a term used in Monte Carlo Night Party games, to discard the top card from the deck face down.

Call- a term used in a Texas Hold'em card game when a player places enough chips into the pot to make their contribution equal to the contribution of any other player, but no greater.

Check- in a Texas Hold'em card game when a player remains in the round of play but does not wish to place a bet, provided no previous player has made a bet during that betting interval.

Dealer Button- in a Texas Hold'em card game, an object used to designate the player in the dealer position if that player were actually dealing the cards.

Drop- a term used in a Texas Hold'em card game, also known as fold, means a player discards their hand and no longer participates in the round of play.

Hand- a term used in a Texas Hold'em card game for any combination of two pocket cards and/or five board cards which are used to create a standard five card poker hand.

Hi/Lo- a variation of Texas Hold'em in which the highest and lowest poker hands split the pot (prohibited, see § 1603.29).

Monte Carlo Night Party - a licensed charitable gaming event to raise funds for charitable purposes at which games of chance customarily associated with a gambling casino are played and participants wager with imitation money to purchase prizes at the end of the event in accordance with D.C. Official Code § 3-1322.01 (2001).

Pocket Cards- a term used in a Texas Hold'em card game for the two cards dealt face down to each player that can only be used by that player in constructing a standard five-card poker hand.

Raise- a term used in a Monte Carlo Night Party card game when a player places enough chips in the pot to call, plus one or more chips.

Re-buy - a term used in a Texas Hold'em card game for the fee paid by an eliminated player to reenter the tournament (prohibited, see § 1603.30).

Round of Play- a term used in a Texas Hold'em card game for the period of play commencing with the first card dealt by the dealer and concluding with the awarding of the pot.

Side Pot- a term used in a Texas Hold'em card game for a new pot established by the dealer after a player has gone all-in, and additional bets have been placed.

Small Blind- a term used in a Texas Hold'em card game for a mandatory bet (typically half the amount of the big blind) placed by the player immediately to the left of the dealer button before any cards are dealt.

Texas Hold'em - a card game played at licensed Monte Carlo Night parties, authorized and played pursuant to the rules found at Title 30 of the DCMR.

Wild Card- a term used in a Texas Hold'em card game for a card that may serve as any other suit or value in making a poker hand (prohibited, see § 1603.28).

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days from the date of publication of this notice in the Register. Comments should be filed with the Executive Director, District of Columbia Lottery and Charitable Games Control Board, 2101 Martin Luther King, Jr., Avenue, S.E., Washington, D.C. 20020. Copies of these proposed rules may be obtained at the address stated above.

METROPOLITAN POLICE DEPARTMENT**NOTICE OF PROPOSED RULEMAKING**

The Chief of Police, pursuant to section 114(a) of the First Amendment Assemblies Act of 2004 (Act), effective April 13, 2005 (D.C. Law 15-352, D.C. Official Code § 5-331.14 (a)) (2001), hereby gives notice of the adoption of the following rules governing the issuance of police passes for media personnel. The Chief of Police also gives notice of intent to take final rulemaking action to adopt these rules in not less than thirty (30) days from the publishing of this notice in the D.C. Register.

Title 24 DCMR, Section 2102 (Police Press Passes) is amended as follows.

2102 POLICE PRESS PASSES – GENERAL PROVISIONS AND APPLICATION PROCEDURES

- 2102.1 The Chief of the Metropolitan Police Department is authorized to issue press passes or credentials to media representatives of print, electronic, university or college, television, radio, and newsreel media who are designated by their employers to gather information or pictures for distribution or broadcast to the general public as news. A media representative is any employee or agent of a print, electronic, university or college, television, radio and newsreel outlet whose duties include the gathering of information or pictures for distribution or broadcast to the general public as news. Media representative does not include self-employed or freelance writers or persons who are employed in business, advertising or circulation departments of media organizations.
- 2102.2 Press passes or credentials shall be issued only to media representatives of the print, electronic, university or college, television, radio or newsreel media whose duties require them to cover events such as demonstrations, fires, crime scenes and weather-related events and to disseminate information to the general public as news. Press passes or credentials shall not be issued to persons who are employed in business, advertising, or circulation departments of media organizations. Nor shall such passes be issued to self-employed or freelance writers.
- 2102.3 Passes shall be in the form and number approved by the Chief of Police and shall not be valid for more than one year. Pursuant to this subsection, the Chief shall have the authority to limit the total number of press passes and credentials issued in any one calendar year.
- 2102.4 The holder of a press pass or credential is authorized to enter designated areas, set aside by authorized members of the Metropolitan Police

Department, for the purpose of gathering, photographing or reporting news events.

- 2102.5 The holder of a press pass or credential is not restricted from gaining reasonable access to any area that the general public is permitted to enter at or near a First Amendment assembly or a police or fire scene.
- 2102.6 The holder of a press pass or credential is not authorized to cross a police or fire line if, in the judgment of a Metropolitan Police Department officer or official, to do so would interfere with the management of a police or fire scene or would endanger the public safety.
- 2102.7 Possession of a press pass or credential does not by itself authorize the holder to enter a building or private property that may be located within a police or fire line.
- 2102.8 The holder of a press pass or credential shall agree in writing to assume all risks incident to the use of the pass or credential, to obey all orders and directions of any member of the Metropolitan Police Department and to comport himself or herself in a manner that does not interfere with, hinder, or obstruct any authorized person engaged in preserving the peace, maintaining order, and protecting life and property. Any conflicts or disagreements with such orders or directions shall be resolved through consultation with the Metropolitan Police Department's Director of the Office of Public Information or his or her designee.
- 2102.9 The Chief of Police shall have the discretion to accept or honor the press pass or credential issued to a media representative outside the District of Columbia. The holder of such a press pass or credential may be subject to the requirements of this section, including a background investigation as set forth in section 2102.12 of this section.
- 2102.10 The Chief of Police shall have the authority to appoint an advisory committee composed of representatives of the media, universities and colleges, which may make recommendations concerning the implementation of these rules.
- 2102.11 Press passes or credentials shall be issued only to universities and colleges in the District of Columbia and to media organizations with offices in the District of Columbia. A media organization is any organization whose purpose is to gather and disseminate information to the public as news. The Chief of Police has the discretion to limit the number of press passes or credentials to any one university, college or media organization.
- 2102.12 An applicant for a press pass or credential shall be subject to a criminal history check before the issuance of the press pass or credential. The

Chief of Police shall withhold the issuance of a press pass or credential to any person convicted of a felony, a crime of violence as defined in D.C. Official Code § 23-1331(4), or a crime of moral turpitude.

- 2102.13 Press passes and credentials shall be plainly exposed to view whenever the persons to whom they are issued use them.
- 2102.14 Press passes or credentials shall expire not later than December 31st of each year, but may be renewed on the condition that the expired passes or credentials issued for the preceding months shall be surrendered with the request for renewal.
- 2102.15 The Metropolitan Police Department shall impose a fee of \$50.00 for the issuance of each press pass pursuant to this section. The Chief of Police may amend the amount of the fee imposed for the issuance or renewal of press passes to reflect an amount that, in the Chief of Police's judgment, will defray the approximate costs to the Metropolitan Police Department of the issuance or renewal of the passes or credentials.
- 2102.16 Press passes and credentials shall not be transferable.
- 2102.17 A press pass or credential issued pursuant to this section expires upon the termination of employment of the media representative from the media organization for which the pass or credential was issued. Upon termination of such employment, the media representative shall immediately surrender the pass or credential to the employer, who shall forward the press pass or credential to the Metropolitan Police Department Office of Public Information.

Comments on these proposed rules should be submitted in writing to Terrence D. Ryan, General Counsel, Metropolitan Police Department, Room 4125, 300 Indiana Avenue N.W., Washington, D.C. 20001, within thirty (30) days of the date of the publication of this notice in the D.C. Register. Additional copies of these proposed rules are available from the above address.

METROPOLITAN POLICE DEPARTMENT**NOTICE OF PROPOSED RULEMAKING**

The Chief of Police, pursuant to section 208(a) of the Police Investigations Concerning First Amendment Activities Act of 2004 (Act), effective April 13, 2005 (D.C. Law 15-352, D.C. Official Code § 5-333.01 *et seq.*), hereby gives notice of the adoption of the following rules governing investigations and preliminary inquiries involving First Amendment activities, including the authorization, conduct, monitoring, and termination of investigations and preliminary inquiries, and the maintenance, dissemination, and purging of records, files, and information from such investigations and preliminary inquiries. The Chief of Police also gives notice of intent to take final rulemaking action to adopt these rules in not less than forty-five (45) days from publication of this notice in the *D.C. Register*.

Title 24 DCMR, "Public Space and Safety" is amended by adding the following new chapter 26.

CHAPTER 26 Metropolitan Police Department Investigations of Criminal Activity Conducted Under the Guise of First Amendment Activities**2600 Authority and Purpose**

2600.1 The purpose of this chapter is to provide rules within the Metropolitan Police Department (MPD) pursuant to section 208(a) of the Police Investigations Concerning First Amendment Act of 2004 (Act), effective April 13, 2005 (D.C. Law 15-352, D.C. Official Code § 5-333.01 *et seq.*) to govern investigations and preliminary inquiries involving First Amendment activities, including the authorization, conduct, monitoring, and termination of investigations and preliminary inquiries, and the maintenance, dissemination, and purging of records, files, and information from such investigations and preliminary inquiries. These rules do not apply to criminal investigations or inquiries that do not involve criminal activity conducted under the guise of First Amendment activities.

2601 Statement of Policy

2601.1 The District of Columbia is often the site of demonstrations and MPD must be prepared to deal with those groups and individuals that come not to exercise their Constitutional rights, but rather to engage in criminal acts under the guise of First Amendment activities.

2601.2 The rules of this chapter enable MPD officers to perform their duties with certainty, confidence and effectiveness while at the same time protecting the guarantees of the Constitution. These rules are binding on all MPD members who are engaged in the investigation of criminal activity as they pertain to First Amendment activities.

2601.3 It is MPD policy that investigations involving any criminal activity conform to the guarantees of the Constitution and that care is exercised in the conduct of those

investigations so as to protect constitutional rights, and that matters investigated are confined to those supported by a legitimate law enforcement purpose.

2602 General Principles

- 2602.1 To prevent criminal activity conducted under the guise of First Amendment activities and criminal acts of civil disobedience threatening public safety or security of the city, MPD must, at times, initiate investigations in advance of unlawful conduct. It is important that such investigations not be based on activities protected by the First Amendment. MPD members may not investigate, prosecute, disrupt, interfere with, harass, or discriminate against any person engaged in First Amendment activity for the purpose of punishing, retaliating, preventing, or hindering the person from exercising his or her First Amendment rights. When, however, statements advocate any criminal activity, or indicate an apparent intent to engage in any criminal conduct, an investigation under these rules may be warranted.
- 2602.2 Investigative action may be required under exigent circumstances before authorization otherwise necessary under these rules can reasonably be obtained, in order to protect life or substantial property interests; to apprehend or identify a fleeing offender; to prevent the hiding, destruction or alteration of evidence; or to avoid other serious impairment or hindrance of an investigation.
- 2602.3 When any investigative action, taken under exigent circumstances, would require an approval under ordinary conditions, such approval shall be obtained as soon as practicable in accordance with the provisions of these rules.
- 2602.4 Where a regular approval or request is required to be in writing, the approval or request following exigent circumstances shall also be in writing.
- 2602.5 Investigations shall be terminated when all logical leads have been exhausted and no legitimate law enforcement purpose justifies their continuance.
- 2602.6 Investigation of any criminal activity, committed by any person or group or member of such group, shall be initiated by, and conducted under the supervision of the commanding officer, Office of the Superintendent of Detectives; commanding officer, Special Investigations Branch; and the commanding officer, Intelligence Section. Nothing in this subsection, however, is intended to prevent any MPD member from reporting his or her observations of suspicious conduct that involves any criminal activity by any person or group or group member, or any other criminal activity, to his or her commanding officer or to the Office of the Superintendent of Detectives, Special Investigations Branch, Intelligence Section.
- 2602.7 The commanding officer of the Intelligence Section shall inform and advise the commanding officer, Office of the Superintendent of Detectives, concerning the status of any investigations conducted pursuant to these rules. This does not preclude the immediate notification of any investigation of an exigent nature.

2603 Levels of Investigation

- 2603.1 There are two levels of investigative activity: Preliminary Inquiry and Full Investigation.
- 2603.2 The levels are intended to provide MPD with the necessary flexibility to act in advance of the commission of any criminal activity threatening public safety or security of the city.
- 2603.3 If available information shows that the threshold standard for a preliminary inquiry or full investigation is satisfied, then the appropriate investigative activity may be initiated immediately, without progressing through more limited investigative stages.

2604 Preliminary Inquiries

- 2604.1 Preliminary inquiries occur where MPD receives information or an allegation not warranting an investigation because there is not yet "reasonable suspicion" of any criminal activity.
- 2604.2 MPD may initiate preliminary inquiries in response to information indicating the possibility of any criminal activity.
- 2604.3 Preliminary inquiries may be opened immediately, depending on the circumstances presented.
- 2604.4 Preliminary inquiries permit MPD to respond in a measured way to ambiguous or incomplete information, with as little intrusion as the needs of the situation permit.
- 2604.5 Preliminary inquiries are used when there is no complainant involved or when an allegation or information is received from a source of unknown reliability.
- 2604.6 Preliminary inquiries are subject to the limitations on duration under Section 2604.9 and are carried out to obtain the information necessary to make an informed judgment as to whether a full investigation is warranted.
- 2604.7 Preliminary inquiries are not required when facts or circumstances reasonably indicate any criminal activity. In such cases, a full investigation can be immediately opened.
- 2604.8 Preliminary inquiries may be authorized by the commanding officer, Office of the Superintendent of Detectives, or the appropriate supervisor. The official authorizing the preliminary inquiry must ensure that the allegation or other information, which warranted the inquiry is documented and preserved.
- 2604.9 Preliminary inquiries shall be completed within 60 days after initiation of the first investigative step. The date of the first investigative step is not necessarily the same date on which the first incoming information or allegation was received.

- 2604.10 The commanding officer, Office of the Superintendent of Detectives, or designee, may grant an extension of time in an inquiry for one subsequent 60-day period. All extension requests shall be in writing, and shall include a statement describing the information already collected and demonstrating why additional time is required to pursue the inquiry. The action taken on any such request for extension shall also be recorded in writing.
- 2604.11 The Chief of Police may grant an extension of time for inquiries requiring more than 120 days. All extension requests shall be in writing, and shall include a statement describing the information already collected and demonstrating why additional time is required to pursue the inquiry. The Chief of Police shall approve a preliminary inquiry under this section that is to remain open for more than 120 days, and shall do so in writing, stating the justification for the preliminary inquiry.
- 2604.12 All lawful investigative techniques may be used in preliminary inquiries. Undercover officers, informants, and mail covers may be used in an authorized preliminary inquiry after written approval and authorization is obtained from the Chief of Police or his designee. Mail openings and wire interception and interception of oral communications, as defined in D.C. Official Code §23-541 (2001), shall not be used in a preliminary inquiry.
- 2604.13 Investigative techniques that may be used without prior authorization from a supervisor in the course of an authorized preliminary inquiry include, but are not limited to:
- (a) examination of MPD indices and files, public sources of information, including available federal, state and local government records;
 - (b) interviews of complainant(s), potential subject(s), previously established informants, and other sources of information;
 - (c) interviews of persons who should readily be able to corroborate or deny the truth of the allegation, except this does not include pretext interviews or interviews of a potential subject's employer or coworkers (unless the interviewee was the complainant); and
 - (d) physical, photographic or video surveillance provided that such surveillance does not require a warrant.
- 2604.14 If there is an immediate threat of criminal activity, verbal authority by the designated MPD commanding officer to use the investigative techniques described in 2604.12 is sufficient until a written authorization can be obtained; provided, that other legal requirements have been met. The required written authorization shall be obtained within 5 days of the occurrence of the emergency.

- 2604.15 Preliminary inquiries failing to disclose sufficient information to justify a full investigation shall be terminated.
- 2604.16 MPD shall record terminations of preliminary inquiries and destroy all information that would identify individuals associated with such inquiries.
- 2604.17 MPD shall maintain summaries of terminated preliminary inquiries, omitting information that would identify individuals. Such records shall be maintained in the Intelligence Section consistent with MPD's records retention schedule.
- 2604.18 All requirements regarding preliminary inquiries shall apply to preliminary inquiries that have been extended pursuant to Section 2604.10 or 2604.11.
- 2604.19 A MPD member may initiate a preliminary inquiry relating to a First Amendment assembly, for public safety reasons, without authorization, as follows:
- (a) Members may gather public information regarding future First Amendment assemblies and review notices and approved assembly plans.
 - (b) Members may communicate overtly with the organizers of a First Amendment assembly concerning the number of persons expected to participate, the activities anticipated, and other similar information regarding the time, place, and manner of the assembly.
 - (c) Members may communicate overtly with persons other than the organizers of a First Amendment assembly to obtain information relating to the number of persons expected to participate in the assembly.
 - (d) Members may collect information on prior First Amendment assemblies to determine what police resources may be necessary to adequately protect participants, bystanders, and the general public, and to enforce all applicable laws.
- 2604.20 Filming and photographing First Amendment assemblies may be conducted by MPD members for the purpose of documenting violations of law and police actions, as an aid to future coordination and deployment of police units, and for training purposes. Filming and photographing of First Amendment assemblies may not be conducted for the purpose of identifying and recording the presence of individual participants who are not engaged in unlawful conduct.

2605 Full Investigations

- 2605.1 A full investigation may be initiated when facts or circumstances reasonably indicate that a criminal act has been, is being, or will be committed. A full investigation may be conducted to prevent, solve or prosecute such criminal activity.

- 2605.2 Reasonable suspicion is a belief based on articulable facts and circumstances indicating a past, current, or impending violation of law. The reasonable suspicion standard is lower than the standard of probable cause; however, a mere hunch is insufficient as a basis for reasonable suspicion. A suspicion that is based upon the race, ethnicity, religion, national origin, lawful political affiliation or activity, or lawful news-gathering activity of an individual or group is not a reasonable suspicion. In determining whether there is reasonable suspicion of a criminal act an investigator may take into account any facts or circumstances that a prudent investigator would consider.
- 2605.3 The standard for opening a full investigation is satisfied where there is not yet a current substantive or preparatory criminal act, but facts or circumstances reasonably indicate that such criminal conduct will occur in the future.
- 2605.4 Any lawful investigative technique may be used in a full investigation, subject to the requirements and limitations of Sections 2604 and 2606, except that the following techniques may be used in an authorized investigation after written approval and authorization is obtained from the Chief of Police or his designee:
- (a) Wire Interception and Interception of Oral Communications, as denied in D.C. Official Code § 23-541;
 - (b) Undercover officers and informants; and
 - (c) Mail covers, mail openings, pen registers, and trap and trace devices.
- 2605.5 A full investigation may be authorized with concurrence by the commanding officer, Office of the Superintendent of Detectives; upon a written recommendation setting forth the facts or circumstances reasonably indicating that a criminal act has been, is being or will be committed.
- 2605.6 A full investigation may be initially authorized for a period of 120 days. An investigation may be continued upon renewed authorization every 120 days, up to one year. Renewal authorization shall be obtained from the commanding officer, Office of the Superintendent of Detectives. All requests for renewal authorization and action thereon, shall be in writing, shall describe the information already collected, and shall demonstrate that an extension is reasonably necessary to pursue the investigation. The Chief of Police shall approve investigations open for more than one year in writing, and shall state the justification for the investigation.
- 2605.7 Authorizations shall be reviewed, every 2 months, by a panel consisting of the Assistant Chief, Special Services Command, Commanding officer of Office of the Superintendent of Detectives, Commanding officer of the Special Investigations Branch, Commanding officer of the Intelligence Section and the General Counsel, before the expiration of the period that the investigation and each renewal thereof is authorized.

2605.8 An investigation that has been terminated may be reopened upon a showing of the same standard, and pursuant to the same procedures, as required for initiation of an investigation. All requirements regarding investigations shall apply to reopened investigations. Any information pertaining to people found to be not associated with the criminal activity will be destroyed.

2606 INVESTIGATIVE TECHNIQUES

2606.1 Nothing in these rules shall be interpreted as prohibiting any MPD member from, in the course of their duties, visiting any place, and attending any event that is open to the public, or reviewing information that is in the public domain, on the same terms and conditions as members of the public, so long as members have a legitimate law enforcement objective; provided, that any undercover activities shall be authorized as required by sections 2604 and 2605. When conducting investigations under these rules, MPD may use any lawful investigative technique. All requirements for the use of such methods under the Constitution, applicable statutes, and MPD regulations or policies must be observed.

2606.2 Where the conduct of an investigation presents a choice between uses of more or less intrusive methods, MPD may consider whether the information could be obtained in a timely and effective way by the less intrusive means.

2606.3 Undercover officers and informants shall refrain from: participating in unlawful acts or threats of violence; using unlawful techniques to obtain information; initiating, proposing, approving, directing, or suggesting unlawful acts or a plan to commit unlawful acts; being present during criminal activity or remaining present during unanticipated criminal activity, unless it has been determined to be necessary for the investigation; engaging in any conduct the purpose of which is to disrupt, prevent, or hinder the lawful exercise of First Amendment activities; attending meetings or engaging in other activities for the purpose of obtaining legally privileged information, such as attorney-client communications or physician-patient communications; and recording or maintaining a record concerning persons or organizations who are not a target of the investigation or preliminary inquiry, unless the information is material to the investigation or preliminary inquiry, or the information would itself justify an investigation or preliminary inquiry under these rules.

2607 FILES AND RECORDS

2607.1 The Chief of Police or his designee shall evaluate information to be retained in an Intelligence Section file for the reliability of the source of the information and the validity and accuracy of the content of the information prior to filing. The file shall state whether the reliability, validity, and accuracy of the information have been corroborated. The Chief of Police or his designee shall purge records that are not accurate, reliable, relevant, and timely.

- 2607.2 MPD shall not collect or maintain information about the political, religious, social, or personal views, associations, or activities of any individual, group, or organization unless such information is material to an authorized investigation or preliminary inquiry involving First Amendment activities.
- 2607.3 No information shall be knowingly included in an Intelligence Section file that has been obtained in violation of any applicable federal, state, or local law, ordinance, or regulation. The Chief of Police, or his designee, shall be responsible for establishing that no information is entered in Intelligence Section files in violation of this subsection.
- 2607.4 MPD may disseminate information obtained during preliminary inquiries and investigations conducted pursuant to these rules to federal, state or local law enforcement agencies, or local criminal justice agencies when such information:
- (a) falls within the investigative or protective jurisdiction or litigation-related responsibility of the receiving agency;
 - (b) may assist in preventing an any criminal act or the use of violence, or any other conduct dangerous to human life; or
 - (c) is required to be disseminated by interagency agreement, statute, or other law.
- 2607.5 All requests for dissemination of information from an Intelligence Section file shall be evaluated and approved by the Chief of Police or his designee. All dissemination of information shall be done by written transmittal or recorded on a form that describes the documents or information transmitted, and a record of the dissemination shall be maintained for a minimum of one year.
- 2607.6 Intelligence Section file information shall not be disseminated to any non-law enforcement agency, department, group, organization or individual, except as authorized by law.
- 2607.7 All documentation required under these rules shall be maintained by the Intelligence Section, Special Investigations Branch, and the Office of the Superintendent of Detectives in accordance with general police department practice and applicable record retention and destruction rules, regulations and procedures.
- 2608 PROTECTION OF PRIVACY AND OTHER LIMITATIONS**
- 2608.1 The law enforcement activities authorized by these rules do not include maintaining files on individuals solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of any other rights secured by the Constitution or laws of the United States. Such law enforcement activities must have

a valid law enforcement purpose and must be carried out in conformity with all applicable statutes and Department regulations and policies.

- 2608.2 Section 2608.1 does not limit any activities authorized by or carried out under other sections of these rules. The specification of authorized law enforcement activities under this section is not exhaustive, and does not limit other authorized law enforcement activities of the MPD.
- 2608.3 Nothing in these rules shall limit the general reviews or audits of papers, files, contracts, or other records in the possession of the MPD or the District of Columbia, or the performance of similar services at the specific request of another government agency. Such reviews, audits, or similar services must be for the purpose of detecting or preventing violations of law that are within the investigative responsibility of MPD.
- 2608.4 Nothing in these rules is intended to limit the Metropolitan Police Department's responsibilities to investigate certain applicants and employees, or to pursue efforts to satisfy any other of its legal rights, privileges, or obligations.
- 2608.5 These rules are solely for the purpose of internal MPD, Intelligence Section guidance. These rules are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal, nor do they place any limitation on otherwise lawful investigative and litigative prerogatives of MPD.

2609 Training

- 2609.1 MPD shall require all members assigned to the Intelligence Section, Special Investigations Branch, to attend training on the Police Investigations Concerning First Amendment Act of 2004 and the rules promulgated to implement the Act.
- 2609.2 MPD shall require all members assigned to the Intelligence Section, Special Investigations Branch, to sign an acknowledgement that they have received, read, understood, will abide by, and will maintain a copy of this Act and the rules promulgated to implement it.

2610 Monitoring of Investigations and Preliminary Inquiries

- 2610.1 The commanding officer, Office of the Superintendent of Detectives, or a commanding officer of similar rank designated in the MPD regulations, shall monitor the compliance of undercover officers and informants with the requirements of these rules.
- 2610.2 The Chief of Police shall annually prepare a report on the MPD's investigations and preliminary inquiries involving First Amendment activities. The report shall be transmitted to the Mayor and Council and a notice of its publication shall be

published in the District of Columbia Register. The report shall include, at a minimum:

- (1) The number of investigations authorized;
- (2) The number of authorizations for investigation sought but denied;
- (3) The number of requests from outside agencies, as documented by forms requesting access to records of investigations conducted pursuant to this title;
- (4) The number of arrests, prosecutions, or other law enforcement actions taken as a result of such investigations; and
- (5) A description of any violations of the rules issued pursuant to the Police Investigations Concerning First Amendment Activities Act of 2004, and the actions taken as a result of the violations, including whether any officer was disciplined as a result of the violation.

2699 Definitions

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

“First Amendment activities” means constitutionally protected speech or association, or conduct related to freedom of speech, free exercise of religion, freedom of the press, the right to assemble, and the right to petition the government.

“First Amendment assembly” means a demonstration, rally, parade, march, picket line, or other similar gathering conducted for the purpose of persons expressing their political, social, or religious views.

“Informant” means a person who provides information to the police department motivated by the expectation of receiving compensation or benefit, or otherwise is acting under the direction of the MPD.

“Intelligence Section” means the Intelligence Section of the Special Investigations Division of MPD, or its successor section or unit.

“Intelligence Section file” means the investigative intelligence information gathered, received, developed, analyzed, and maintained by the Intelligence Section of the Metropolitan Police Department, pursuant to an investigation or preliminary inquiry involving First Amendment activity.

“Investigation” means an examination of information that occurs when there is reasonable suspicion to believe that criminal activity or activities are being planned or conducted under the guise of First Amendment activities.

“Legitimate law enforcement objective” means the detection, investigation, deterrence, or prevention of crime, or the apprehension and prosecution of a suspected criminal; provided, that a person shall not be considered to be pursuing a legitimate law enforcement objective if the person is acting based upon the race, ethnicity, religion, national origin, lawful political affiliation or activity, or lawful news-gathering activity of an individual or group.

“Mail cover” means the inspection and review of the outside of envelopes of posted mail and other delivered items.

“Mail opening” means the opening and inspection and review of the contents of posted mail and other delivered items.

“Minimization procedures” means reasonable precautions taken to minimize the interference with First Amendment activities, without impairing the success of the investigation or preliminary inquiry.

“MPD” means the Metropolitan Police Department.

“Preliminary Inquiry” means a basic examination of information arising from an allegation of criminal activity under the guise of First Amendment activities.

“Reasonable suspicion” means a belief based on articulable facts and circumstances indicating a past, current, or impending violation of law. The reasonable suspicion standard is lower than the standard of probable cause; however, a mere hunch is insufficient as a basis for reasonable suspicion. A suspicion that is based upon the race, ethnicity, religion, national origin, lawful political affiliation or activity, or lawful news-gathering activity of an individual or group is not a reasonable suspicion.

Comments on these proposed rules should be submitted, in writing, to Terrence D. Ryan, General Counsel, Metropolitan Police Department, Room 4125, 300 Indiana Avenue NW, Washington, D.C. 20001, within forty-five (45) days of the date of the publication of this notice in the D.C. Register. Additional copies of these proposed rules are available from the above address.

DISTRICT OF COLUMBIA PUBLIC LIBRARY

NOTICE OF PROPOSED RULEMAKING

The Interim Director and the Board of Trustee's of the District of Columbia Public Library at its regular meeting held February 8, 2006, introduced and took final action to approve and adopt the proposed amendment(s) to §§ 802, 803, and the new legislation to §804, respectively, to Chapter 8, Title 19 of the D.C. Municipal Regulations.

The District of Columbia Public Library Board of Trustee's, pursuant to the authority set forth in An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896, 29 Stat. 244, ch. 315, § 5; April 1, 1926, 44 Stat. 230, ch. 98, § 5; Mar. 3, 1979, D.C. Law 2 – 139, § 3205 (jjj), 25 DCR 5740; Sept. 5, 1985, D.C. Law 6 – 17, § 2, 32 DCR 3582; Apr. 12, 1997, D.C. Law 11-259, § 316, 44 DCR 1423; Oct. 21, 1998, 112 Stat. 2681 – 146, Pub. L. 105 – 277, § 156 (codified at D.C. Official Code section 39-105, 2001 Ed.); 27 DCRR § 2.1, 24 DCR 11011, 11014 (June 30, 1978); as amended by Final Rulemaking published at 38 DCR 1011 (February 8, 1991), hereby gives notice of its intent to adopt the following amendments to §§ 802, 803, and 804 to Chapter 8, Title 19 of the D.C. Municipal Regulations in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The proposed amendments to §§ 802 and 803 and the newly adopted § 804 will establish the current regulations that shall apply to customers regarding lending materials to our customers, including out-of-state customers, and fines that will apply for late, lost and damaged materials.

These final rules will be effective upon publication of this notice in the DC Register.

Title 19 Chapter 8 §§ 802, 803, and 804 of the D.C. Municipal Regulation shall read as follows:

Amend § 802 to Chapter 8, Title 19 of the D.C. Municipal Regulations as follows:

802 CIRCULATION OF LIBRARY MATERIALS

802.1 The following lending periods shall apply to the circulation of library materials:

- (a) Most library materials 21 days
- (b) High-demand library materials 7 days
(with no renewal)

802.2 Books and other materials may be recharged to the same borrower for another loan period; providing, that the following conditions are met:

- (a) The items were returned on time from the original loan period; and

(b) There are no reserve requests waiting.

802.3 All library materials may be returned to any D.C. Public Library branch with the exception of compact discs ("CDs") and digital video discs ("DVDs"), which must be returned to the library location from which they were borrowed.

802.4 Teachers and licensed childcare providers may apply for the educator card to obtain juvenile library materials for instructional purposes.

802.5 Borrowers may not use the educator card to check out adult materials.

Amend § 803 to Chapter 8, Title 19 of the D.C. Municipal Regulations to read as follows:

803 FINES AND PENALTIES

803.1 The following fines for overdue library materials shall be charged (the fines are calculated per item):

Materials	Number Allowed	Renewal Limit	Loan Period	Fine per day	Maximum Fine	Replacement Fee [^]
Books	50	2	21 days	\$0.20	\$10.00	\$30.00
Books (7-day high demand)	5	0	7 days	\$0.20	\$10.00	\$30.00
Books (mass m. paper)	50	2	21 days	\$0.20	\$6.00	\$8.00
J Books	50	2	21 days	\$0.00	\$0.00	\$20.00
J Books paperback	50	2	21 days	\$0.00	\$0.00	\$6.00
J kits*	5	2	21 days	\$0.00	\$0.00	\$20.00
Adult kits**	5	2	21 days	\$0.20	\$10.00	\$30.00
Audio books Adult	5	2	21 days	\$0.20	\$10.00	\$50.00
J Audio books	5	2	21 days	\$0.00	\$0.00	\$50.00
Adult CD	10	1	21 days	\$0.20	\$10.00	\$18.00
J CDs	10	1	21 days	\$0.00	\$0.00	\$15.00
Adult videocasse	10	1	21 days	\$1.00	\$10.00	\$15.00

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J videocassette	10	1	21 days	\$0.00	\$0.00	\$15.00
Adult DVD	10	1	21 days	\$1.00	\$10.00	\$20.00
J DVD	10	1	21 days	\$0.00	\$0.00	\$20.00
Adult magazines	10	1	21 days	\$0.20	\$6.00	\$ 8.00
J magazines	10	0	21 days	\$0.00	\$0.00	\$4.00
Music scores, libretto	10	1	21 days	\$0.20	\$10.00	\$30.00
Educator card***	50	0	60 days	\$0.00	\$0.00	See J fine
Photographs	10	0	21 days	\$0.20	\$10.00	\$15.00
Reference Materials (any)	1	0	1 day	\$5.00	\$50.00	\$100.00
\$20.00 Reciprocal fee	50		21 days			
*Media + Jbook=Jkit						
**Media + Adult book = Adult kit						
***YA/J materials only, no media, no microfilms, no adult						
^Listed replacement fee + a \$10.00 processing fee						

803.2 A processing fee of \$10.00 shall be charged to the borrower for replacement of any lost or damaged item.

- 803.3 All borrowers shall pay the replacement cost of any lost or damage item. See § 803.1 above.
- 803.4 When library materials are ten days overdue the Library shall send a notice to the borrower.
- 803.5 There is no charge to children for overdue juvenile library materials that were checked-out and returned to the library.
- 803.6 Children and adults are charged for any checked-out lost or damaged item. Children and adults will be charged the replacement cost plus a processing fee. Both children and adults borrowing privileges shall be revoked until their account has been cleared.
- 803.7 The librarian or designee can at his/her discretion forgive fines for library materials. This option can be utilized when the borrower provides reasons such as: hospitalization, death in family, incarceration, fire, flood, or other catastrophic personal hardship.
- 803.8 The librarian or designee is authorized to cancel fines when the borrower claims that the library material was returned and it is found in the library or the library was closed due to an emergency.

Delete the current § 804 titled Rental Fees and add a new § 804 titled Non-Reciprocal Fees to Chapter 8, Title 19 of the D.C. Municipal Regulations as follows:

804 NON-RECIPROCAL FEES

- 804.1 An annual fee of \$20.00 will be charged for a library card for customers who do not reside in the District of Columbia or the following surrounding areas: Maryland: Montgomery or Prince Georges County; Virginia: Arlington, Fairfax, Loudoun, Prince William County, Alexandria and Falls Church County's.
- 804.2 The non-reciprocal fee shall be refunded to the out-of-state borrower if the borrower returns all items and the temporary library card within ninety (90) days.

Any person desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the D.C. Register. Comments should be submitted to Grace Perry-Gaiter, General Counsel, 901 G Street, N.W., 4th Floor, Washington, D.C. 20001. Copies of the proposed rulemaking may be obtained by writing to the address stated above.