

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 March 15, 2006 to amend Chapter 5 of the Board Rules (Title 5 of the D.C. Municipal Regulations).

This amendment, if enacted, will effect the following actions: 1) Eliminate the requirement that the Superintendent of Schools submit any reprogramming of funds equal to or in excess of fifty thousand (\$50,000) to the Board of Education and 2) Require the Board to approve reprogramming for one hundred and fifty thousand dollars (\$150,000) or more at the object category level.

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.

Amend Section 501.12:

- 501.12 (a) The Superintendent of Schools shall submit to the Board of Education, for review and advanced approval, any reprogramming or freeze of funds equal to or in excess of ~~fifty thousand (\$50,000)~~ **one hundred and fifty thousand dollars (\$150,000)**, cumulative for any individual reprogramming, within or across any single object category. The reprogramming for local school operations shall apply to each ~~program within each~~ school as a separate fiscal entity.
- (b) **The Superintendent of Schools shall submit to the Board of Education for review and advanced approval any reprogramming that is greater than fifty thousand dollars (\$50,000) and less than one hundred and fifty thousand dollars (\$150,000), which involves the movement or rescission of budget authority between and within personnel services and non-personnel services object categories. The reprogramming shall be deemed approved if the Board of Education fails to take action within fourteen business (14) days of receipt of the reprogramming request.**
- (c) **The Superintendent of Schools shall immediately submit a request for approval if the reprogramming is required to ensure that there is no disruption of delivery of services or programs to students as follows:**
- (1) **To the President of the Board of Education, who shall be responsible for submitting the request to the Board of Education at the next scheduled meeting; or**

- (2) **In the absence of the President of the Board of Education, the Vice President of the Board of Education shall be authorized to submit such requests for consideration at the next meeting.**
- (d) **The Superintendent shall submit quarterly to the Board of Education a report of all reprogrammings.**

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.

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 March 13, 2006 to amend Chapter 10 of the Board Rules (Title 5 of the D.C. Municipal Regulations).

This amendment, if enacted, will effect the following actions: Authorize the Superintendent to establish a fee of not less than \$30.00 and not more than \$125.00 per application to individuals who seek educational credentials under the state licenses approved by the Board of Education. This rulemaking will also establish a fund specifically designated as the State Certification Service Fee Fund.

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.

Amend§ 5- 1001.19

~~The Superintendent of Schools or designee is authorized to charge the following for the State certification of educational personnel who seek certification under the licenses approved by the Board of Education.~~

Certification Service	Fees
• Additional Endorsement Area	\$30.00
• Duplicate Certificates	\$10.00
• Issuance of Certificate (Provisional/Standard/Substitute One-Year Certification Permit)	\$30.00
• Renewal of the Provisional Certificate	\$30.00
• Transcript Evaluation Only	\$30.00

Each application submitted to the State Education Agency, Office of Academic Credentials and Standards for processing shall be accompanied by a fee established by the Chief State School Officer and shall be in an amount of not less than thirty dollars (\$30.00) and not more than one hundred twenty five dollars (\$125.00). Prior to January 1 of each year, the Chief State School Officer shall determine the amount of revenue which will be required to properly administer the certification provisions for the ensuing fiscal year, and shall establish the application processing fee for such year in the amount deemed necessary for such purposes. The application processing fee shall become effective on July 1 of each year.

- (a) All revenue collected by the Chief State School Officer regarding certification services shall be deposited in the State Certification Service Fee Fund.
- (1) The State Certification Service Fee Fund shall be separate from the Local Operating Funds of the District of Columbia.
 - (2) The State Certification Service Fee Fund shall not revert to the General Fund Balance of the District of Columbia at the end of any fiscal year or at any other time.
- (b) All revenue collected by the Chief State School Officer regarding certification services shall be continuously available for the uses and purposes directly related to State Education Agency, Office of Academic Credentials and Standards activities which include but are not limited to:
- (1) travel,
 - (2) professional training,
 - (3) meetings,
 - (4) stipends,
 - (5) honorariums,
 - (6) professional organization membership dues,
 - (7) day-to-day office operational needs,
 - (8) reimbursements, and
 - (9) maintenance of records by the State Education Agency, Office of Academic Credentials and Standards as authorized and approved by the Chief State School Officer or his/her designee.

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.

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 March 13, 2006 to amend Chapter 30 of the Board Rules (Title 5 of the D.C. Municipal Regulations).

This amendment, if enacted, will effect the following actions: Change the burden of proof in due process hearings from being borne solely by the Local Education Agency to the responsibility of either the parent or LEA depending on which party is seeking relief.

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.

Amend Section 3030.3:

~~3030.3 The LEA shall bear the burden of proof, based solely upon the evidence and testimony presented and testimony presented at the hearing, that the action or proposed placement is adequate to meet the educational needs of the student.~~

The burden of proof shall be the responsibility of the party seeking relief; either the parent /or guardian of a child or the LEA. Based solely upon the evidence presented at the hearing, an impartial hearing officer shall determine whether the party seeking relief presented sufficient evidence to meet the burden of proof that the action and /or inaction or proposed placement is inadequate or adequate to provide the student with a Free Appropriate Public Education (FAPE).

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.

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 March 13, 2006 to amend Chapter 38 of the Board Rules (Title 5 of the D.C. Municipal Regulations).

These amendments, if enacted, will effect the following actions: 1) Provide parents of District of Columbia students, school choice options where schools have been determined persistently dangerous and 2) Mandate certain corrective actions for any Local Education Agency identified as persistently dangerous.

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.

Amend Chapter 38 as follows:

Amend Section 3804.1, .2, .3 (a), (b) & (c) and .4 as follows:

3804.1 ~~Pursuant to the requirements of P.L. 107-110, the District of Columbia Public Schools acting as the State Educational Agency (SEA) shall identify, by July 1 of each year, all public schools within District of Columbia LEAs that are "persistently dangerous" pursuant to criteria established by the SEA and set forth in subsection 3804 (c).~~

3804.1 The District of Columbia Public Schools acting as the State Educational Agency (SEA) shall identify, by July 1 of each year, all public schools within District of Columbia's Local Education Agencies (LEAs) and all public charter schools that are "persistently dangerous" pursuant to criteria established by the SEA and set forth in subsection (3). The identification of "persistently dangerous" schools shall not include juvenile detention facilities.

3804.2 By July 1, the SEA also shall send a letter of concern to each **public charter school**, LEA and school administrator whose

statistics for the previous year indicate that his or her schools are at risk of being identified as persistently the following year.

3804.3

A school is determined to be persistently dangerous if the annual number of officially reported violent crimes against students, on the school grounds, during school operating hours, over a period of two consecutive years is equal to or greater than:

(a) **equal to or greater than five (5)**, for schools with enrollments of 500 students or less, or

(b) **equal to or greater than 1%** of the school's official membership, for schools with enrollments of 501 students or more.

~~(c) The above criterion is effective beginning with the 2004-2005 school year.~~

includes any of the crimes of murder, attempted murder, first or second degree sexual assault, assault with intent to kill, and assault with intent to commit first or second degree sexual abuse.

3804.4

~~Juvenile detention facilities are exempt from the provisions of this section.~~

The above criterion is effective beginning with the 2005-2006 school year.

Amend Section 3808.4 as follows:

The SEA shall remove a school's designation as persistently dangerous if the annual number of documented reported violent crimes against students on the school grounds, during school operating hours, over a period of two consecutive years following its designation is:

(a) **less than five**, for schools with enrollments of 500 students or less; or

(b) **less than 1%** of the school's official membership for schools with enrollments of 501 students or more; **and**

(c) **does not include any of the crimes of murder, attempted murder, first or second degree sexual assault, assault with intent to kill, and assault with intent to commit first or second degree sexual abuse.**

Add Sections 3808.6 and 3808.7

- 3808.6** **The LEA shall become eligible for SEA intervention and support when any of the crimes of murder, attempted murder, first or second degree sexual assault, assault with intent to kill, and assault with intent to commit first or second degree sexual abuse is committed at a school.**
- 3808.7** **The LEA or public charter school shall be subject to the weighted policy for certain crimes, which is defined as follows:**
- (a) The LEA or public charter school shall automatically exceed the threshold for crime for any school year in which any of the crimes listed in 4(c) is committed and will be required to begin corrective action and will be eligible for support from the LEA and SEA if the crime is committed on school grounds, during school operating hours.**
- (b) The LEA or public charter school shall continue corrective action for the remainder of the school year the offense occurred, and the entire school year immediately following the offense.**
- (c) A school required to implement corrective action because of the commission of any of the crimes listed in 4(c) is subject to the same requirements of any other LEA or public charter school that is in year one of identification as a persistently dangerous school except for the school wide transfer option.**

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 § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 42 of Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The purpose of the amendments is to amend the continuing education requirements for renewal, reinstatement, and reactivation of licensure in the District of Columbia to add requirements that licensees obtain cardiopulmonary resuscitation ("CPR") certification and infection control training; to limit the number of continuing education units ("CEUs") that can be granted for internet courses; and to clarify the education programs and activities approved for CEU credit, and to allow the Board the discretion to accept a state board dental examination in lieu of a regional board examination if the Board determines the state board dental examination to be substantially equivalent.

The following rulemaking action is proposed:

17 DCMR Chapter 42, DENTISTRY, is amended to read as follows:

Section 4206.1 is amended to read as follows:

4206.1 This section shall apply to applicants for the renewal, reactivation, or reinstatement of a license, subject to section 4206.2, beginning with the renewal period ending December 31, 2007, and for subsequent terms.

Section 4206.4 is amended to read as follows:

4206.4 An applicant for renewal of a license shall submit proof pursuant to § 4206.9 of having completed twenty-five (25) hours of credit, which shall include current cardiopulmonary resuscitation certification for health care providers ("CPR certification") and four (4) hours of infection control in approved continuing education programs within the two-year (2) period preceding the date the license expires.

Section 4206.5 is amended to read as follows:

4206.5 Not more than eight (8) continuing education units ("CEUs") for approved internet continuing education courses may be accepted in any renewal period, or for reinstatement or reactivation of a license.

Section 4206.6 is amended to read as follows:

4206.6 Internet courses and programs shall not be used to satisfy the continuing education CPR certification requirement.

Section 4206.7 is amended to read as follows:

4206.7 To qualify for a license, a person in inactive status within the meaning of § 511 of the Act, D.C. Official Code § 3-1205.11 (2001) who submits an application to reactivate a license shall submit proof pursuant to § 4206.9 of having completed twenty-five (25) hours of approved continuing education credit, which shall include current CPR certification and four (4) hours of infection control, obtained within the two (2) year period preceding the date of the application for reactivation of that applicant's license and an additional twelve (12) hours of approved continuing education credit for each additional year that the applicant was inactive status beginning with the third year.

Section 4206.8 is amended to read as follows:

4206.8 To qualify for a license, an applicant for reinstatement of a license shall submit proof pursuant to § 4206.9 of having completed twenty-five (25) hours of approved continuing education credit, which shall include current CPR certification and four (4) hours of infection control, obtained within the two (2) year period preceding the date of the application for reinstatement of the applicant's license and an additional twelve (12) hours of approved continuing education credit for each additional year that the license was expired beginning with the third year.

Section 4206.9 is amended to read as follows:

4206.9 An applicant under this section shall prove completion of required continuing education credits by submitting with the application the following information with respect to each program:

- (a) The name and address of the sponsor of the program;
- (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
- (c) The dates on which the applicant attended the program;
- (d) The hours of credit claimed; and
- (e) Verification by the sponsor of completion, by signature or stamp.

Section 4206.10 is amended to read as follows:

4206.10 An applicant for renewal of a license who fails to submit proof of having completed continuing education requirements by the date the license expires may renew the license up to sixty (60) days after expiration by submitting this proof pursuant to § 4206.9 and by paying the required additional late fee.

Section 4206.11 is amended to read as follows:

4206.11 Upon submitting proof of having completed continuing education requirements and paying the late fee, the applicant shall be deemed to have possessed a valid license during the period between the expiration of the license and the submission of the required documentation and payment of the late fee.

A new section 4206.12 is added to read as follows:

4206.12 If an applicant for renewal of a license fails to submit proof of completion of continuing education requirements or pay the late fee within sixty (60) days after the expiration of applicant's license, the license shall be considered to have lapsed on the date of expiration.

A new section 4206.13 is added to read as follows:

4206.13 The Board may, in its discretion, grant an extension of the sixty (60) day period to renew after expiration if the applicant's failure to submit proof of completion was for good cause. As used in this section, "good cause" includes the following:

- (a) Serious and protracted illness of the applicant; and
- (b) The death or serious and protracted illness of a member of the applicant's immediate family.

Section 4207.2(c) is amended to read as follows:

4207.2(c) An educational program given at a conference or convention; and

Section 4207.6(c) is amended to read as follows:

4207.6(c) Serving as a clinical instructor for students of dentistry or dental residents; and

Section 4208.3 is amended to read as follows:

4208.3 The Board may grant a maximum of thirteen (13) continuing education credits per year to an applicant who attends a full time post-graduate education program.

Section 4209.1(d) is amended to read as follows:

(d) Has passed the NERB examination;

Section 4209.1(e) is amended to read as follows:

(e) Has passed a regional board examination, other than the NERB examination, and meets the active practice requirements set forth in § 4209.3(f) of this chapter; or

Section 4209.1(f) is added to read as follows:

(f) Has passed a state dental examination determined by the Board to be substantially equivalent, and meets the active practice requirements set forth in § 4209.3(f) of this chapter.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the D.C. Register, to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET N.W., EAST TOWER
WASHINGTON, D.C. 20005

NOTICE OF PROPOSED RULEMAKING

TELEPHONE TARIFF 06-2, IN THE MATTER OF THE APPLICATION OF
VERIZON WASHINGTON, DC INC. FOR AUTHORITY TO AMEND THE
GENERAL SERVICES TARIFF, P.S.C. - D.C. NO. 203

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to D.C. Code § 2-505¹, of its intent to act upon the Application of Verizon Washington, DC Inc. ("Verizon DC") in the above-captioned matter in not less than thirty (30) days from the date of the publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. On March 9, 2006, Verizon DC filed an application requesting authority to amend the following tariff page:

GENERAL SERVICES TARIFF, P.S.C.-D.C. NO. 203
Section 9C, 2nd Revised Page 1

3. This filing proposes to increase the rates for Connect Request service from \$0.34 to \$0.35. Verizon DC asserts that this increase is within the caps established by Price Cap Plan 2004, adopted by the Commission in Formal Case No. 1005, Order No. 13370 dated September 9, 2004.

4. The complete text of the tariff page is on file with the Commission. Copies of the proposed tariff page can be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Seventh Floor East Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of the tariff page are available upon request, at a per-page reproduction cost.

5. Comments regarding the proposed tariff revisions, setting forth the specific grounds for each representation, should be made in writing to Ms. Dorothy Wideman, Commission Secretary, at the above address. All comments must be received within thirty (30) days of the date of publication of this Notice in the *D.C. Register*. Persons wishing to file reply comments may do so no later than forty-five (45) days within the date of publication of this Notice in the *D. C. Register*. Once the comment and reply periods have expired, the Commission will take final action on Verizon DC's Application.

¹ D.C. Code Ann. § 2-505 (2001).

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia pursuant to the authority set forth under §201(a) of the District of Columbia Public Postsecondary Education Reorganization Act Amendments ("Act") effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code § 38-1202.06) hereby gives notice of its intent to amend Chapter 3 of Title 8, DCMR, entitled "Academic Procedures and Methods", in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The purpose of the proposed rules is to establish the policy and process for the awarding of undergraduate, graduate and law degrees posthumously.

Section 309, Reserved, is retitled "Posthumous Awarding of Degrees" and inserted as follows:

Section 309 Posthumous Awarding of Degrees

- 309.1** The University of the District of Columbia may award undergraduate and graduate, and law school degrees posthumously when appropriate criteria have been met and upon recommendation from the deceased student's major academic department and with the approval of the appropriate Dean and of the Provost and Vice President for Academic Affairs, unfulfilled graduation requirements shall be waived. The posthumous award of a degree recognized the academic achievement of the student in accordance with the standards and conditions established herein.
- 309.2** Posthumous Baccalaureate and Associate Degrees will be awarded if, at the time of the student's death:
- (a) The student was either (1) within 15 semester hours of completing the Bachelor's Degree or within 9 semester hours of completing the Associate's Degree or (2) was enrolled in the final semester leading to completion for the degree;
 - (b) The student was making progress toward the degree with an attained cumulative grade point average of 2.00 or higher; and
 - (c) The student was not involved in or suffering injuries sustained in or resulting from the student's commission of a felony.
- 309.3** Posthumous Master's Degrees will be awarded if, at the time of the student's death:
- (a) The student was either (1) within 9 semester hours of completing all requirements for the Master's Degree or (2) enrolled in the final semester leading to completion of the degree;
 - (b) The student was making progress toward the degree with an attained cumulative grade point average of 3.00 or higher; and
 - (c) If a thesis was a degree requirement, the student had completed enough research and prepared sufficient notes and outlines for a substantive thesis to be completed on schedule; and
 - (d) The student was not involved in or suffering injuries sustained in or resulting from the student's commission of a felony.

- 309.4 Posthumous Juris Doctor Degrees will be awarded if at the time to of the student's death:**
- (a) The student was within one semester of completing all requirements for the Juris Doctor Degree;**
 - (b) The student was in good standing at the David A. Clarke School of Law; and**
 - (c) The student was not involved in or suffering injuries sustained in or resulting from the student's commission of a felony.**
- 309.5 Upon notification of a student's death by any reliable means, the Vice President for Student Affairs shall:**
- (a) Verify the circumstances of death; and**
 - (b) Notify the Registrar to duly annotate the student's academic records; and**
 - (c) Notify the appropriate Department Chairperson.**
- 309.6 Upon review of the student's academic record and verification that all requirements for a posthumous award are met and the approval of the department faculty, the Chairperson shall recommend to the Dean of the School or College that the student be awarded the appropriate degree posthumously at the next regularly Commencement ceremony.**
- 309.7 Upon verification of the fulfillment of all requirements for the award, the Dean shall forward the recommendation to the Provost and Vice President for Academic Affairs. If the Dean finds that one or more elements for the posthumous award of a degree is missing, the Dean shall notify the Department Chair that the recommendation is rejected.**
- 309.8 Upon review of the Dean's recommendation of posthumous degree award, the Provost and Vice President for Academic Affairs shall notify the Registrar to order and record the degree, with the designation "awarded posthumously" and to include the student's name in the Commencement program. The Provost and Vice President for Academic Affairs shall also notify the President of the University and the Board of Trustees of the Award. If the Provost and Vice President for Academic Affairs finds fault with the Dean's recommendation, the Dean shall be advised of its rejection and the reasons therefore.**
- 309.9 Upon notification by the Provost and Vice President for Academic Affairs, the Registrar shall audit the student's record for compliance with all the requirements not only for the degree but also for posthumous award, and, if all is in order, shall record and order the posthumous degree.**
- 309.10 The Provost will notify the Office of Student Accounts to waive any unpaid graduation fees for the student.**
- 309.11 The posthumous award shall be announced publicly by the President and will be presented to a family member at the appropriate commencement ceremony. The name of the deceased recipient shall be read at the beginning of the respective College or School's list of names. If a family member is unable to attend the commencement ceremony, the Registrar's Office will send the diploma to the family member designated in the student's official file in the Office of the Registrar.**

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with the Office of the General Counsel, Building

39 – Room 301Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, DC 20008. Comments of no more than fifteen pages may be submitted by Telecopier (FAX) to (202) 274-5320. Copies of Chapters 13 of both 8 DCMR and 8A DCMR and an analysis of the discrepancies between the two may be obtained from the Office of the General Counsel at the address set forth above.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia pursuant to the authority set forth under §201(a) of the District of Columbia Public Postsecondary Education Reorganization Act Amendments ("Act") effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code § 38-1202.06) hereby gives notice of its intent to repeal of Chapter 13 of Title 8A, DCMR, Leave and Benefits, applicable to the former District of Columbia School of Law, now the UDC David A. Clarke School of Law in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The 1995 Merger Agreement between the then District of Columbia School of Law and the University of the District of Columbia anticipated the need for and required the consolidation of the two varying sets of personnel policies. Elimination of Title 8A, Chapter 13 meets that requirement. Chapter 13 of the University's Rules, Title 8 DCMR, applies to all full-time employees of the University.

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with the Office of the General Counsel, Building 39 – Room 301Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, DC 20008. Comments of no more than fifteen pages may be submitted by Telecopier (FAX) to (202) 274-5320. Copies of Chapters 13 of both 8 DCMR and 8A DCMR and an analysis of the discrepancies between the two may be obtained from the Office of the General Counsel at the address set forth above.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
REVISED NOTICE OF PROPOSED RULEMAKING**

Z.C. Case No. 02 - 19

(Text Amendment – Forest Hills Tree and Slope Overlay District - 11 DCMR)

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Official Code § 6-641.01), hereby gives notice of the intent to adopt an amendment to Chapter 15 of the Zoning Regulations (11 DCMR), MISCELLANEOUS OVERLAY DISTRICTS. The proposed rule would add a new Tree and Slope Protection overlay in the Forest Hills area of the District of Columbia. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register* ("DCR").

This is the second notice of proposed rulemaking for this text amendment. A notice of proposed rulemaking was originally published on December 13, 2002 at 49 DCR 11309. Before the Commission considered final action on the proposed rule, however, it requested that the Office of Planning come up with an alternative approach to accomplish the goals of the proposed overlay district. The Office of Planning submitted a new proposed text, and the Commission published a new notice of public hearing on March 12, 2004 at 51 DCR 2707. The Commission then republished the notice of public hearing on May 21, 2004 at 51 DCR 5207 after it rescheduled the hearing date. The Commission ultimately decided against the alternative approach. Instead, at a decision meeting held March 14, 2005 the Commission decided to apply the provisions of the original proposed rulemaking, but restrict the application of some of its provisions to a limited area within the overlay district.

The following text reflects the Commission's decision at its March 14, 2005 meeting, and is to be given effect for the purpose of processing applications for building permits and certificates of occupancy, as provided by 11 DCMR §§ 3202.5(b) and 3203.7(b) (commonly referred to as the "setdown rule").

The following rulemaking action is proposed:

Title 11, Chapter 15 of the Zoning Regulations (11 DCMR), MISCELLANEOUS OVERLAY DISTRICTS is amended by adding new sections 1516 through 1520 to read as follows:

1516 FOREST HILLS TREE AND SLOPE PROTECTION OVERLAY DISTRICT

1516.1 The Forest Hills Tree and Slope Protection (FH/TSP) Overlay District is established to preserve and enhance the park-like setting of the designated neighborhoods between Connecticut Avenue and Thirty-Second Street on the west and Rock Creek Park on the east, south of Fort Circle National Park and Nevada Avenue, N.W., north of Melvin C. Hazen Park and adjacent to streams and parks, by regulating alteration or disturbance of terrain, destruction of trees, and ground coverage of permitted buildings and other impervious surfaces. It includes Soapstone Valley Park as well as Melvin C. Hazen Park.

shall be a minimum of eight (8) feet and a minimum of twenty-four (24) feet in the aggregate.

1519 RESTRICTIONS (FH/TSP)

1519.1 The provisions of this section shall only apply to Squares 2042, 2043, 2046, 2049, 2231, 2232, 2238, 2239, 2244 to 2248, 2250, 2258, 2272, and 2282.

1519.2 Constructing a building, accessory building, or an addition to a building; creating any impervious surface area; subdividing any unimproved lot; or subdividing any improved lot so as to increase the number of principal structures thereupon shall only be permitted as a matter of right subject to the following tree removal limitations:

- (a) The restrictions of this Section against removing, cutting down, or fatally damaging trees apply only to trees having a circumference of twelve inches (12 in) or greater at a height of four and one half feet (4½ ft.) above ground;
- (b) The prohibitions of this section do not apply to the removal or cutting down of any dead or unhealthy tree or a tree that creates an unsafe condition. The need for removal of any tree shall be certified by an arborist or other tree care professional;
- (c) No tree that has a circumference of seventy-five inches (75 in.) or more at a height of four and one-half feet (4½ ft.) above ground may be removed, cut down, or fatally damaged;
- (d) No more than three (3) trees that have a circumference of more than thirty-eight inches (38 in.) at a height of four and a half feet (4½ ft.) above ground may be removed, cut down, or fatally damaged and none of these may be located within twenty-five feet (25 ft.) of any building restriction line or lot line abutting a public street;
- (e) The total circumference inches of all trees removed or cut down on a lot may not exceed twenty-five percent (25%) of the total circumference inches of all trees on the lot having a circumference greater than twelve inches (12 in.); provided, that this section does not abrogate the right to remove or cut down up to three (3) trees as provided in paragraph (d) of this subsection; and
- (f) Where removal or cutting of trees has occurred that would be prohibited by this section if a building permit were contemporaneously applied for, no building permit shall be issued for a period of seven (7) years from such removal or cutting unless a special exception is granted by the Board of Zoning Adjustment.

1519.3 All residential buildings, accessory buildings, or additions to buildings shall have a front yard setback equal to or greater than the average setback of all structures on the same side of the street in the block where the building in question is located. Where

the building is sited on a corner lot, the building shall be set back from each street on which it borders in a amount that is equal to or greater than the average setback of all structures on the same side of the street in the block were the building in question is located. The required setbacks are depicted in the map entitled: "Required Front Yard Setbacks"; which is a part of this Overlay District and is located in the Office of Zoning and in the Zoning Division of the Department of Consumer and Regulatory Affairs.

1519.4 The minimum lot size for homes within the FH/TSP Overlay district shall be 9,500 S.F. for lots subdivided after the effective date of this provision.

1519.5 To the extent that any person seeks permission for building or terrain alteration on a lot with a slope steeper than twenty-five percent (25%) or with "highly erodible soil" as defined by the Natural Resources Conservation Service of the U.S. Department of Agriculture, that person shall supply to the Zoning Administrator in the Department of Consumer and Regulatory Affairs a professional certification that the plans for alteration and/or construction will follow best geo-technical, structural engineering and arboreal practices.

1520 SPECIAL EXCEPTIONS (FH/TSP)

1520.1 Any exception from the requirements of this FH/TSP Overlay, as distinct from the requirements of the underlying zoning district, shall be permitted only as a special exception, if approved by the Board of Zoning Adjustment after public hearing, under § 3104, and subject to the following requirements:

- (a) Tree removal, grading, and topographical change shall be limited to the maximum extent possible, consistent with construction of a building permitted by the standards of the FH/TSP overlay;
- (b) The applicant shall demonstrate that there are specific physical characteristics of the lot that justify the exception;
- (c) The excepted building and overall site plan of the lot shall be generally consistent with the purposes of the FH/TSP Overlay District and not adversely affect neighboring property; and
- (d) The Board may impose requirements as to design, appearance, tree protection practices during construction, buffering, and other requirements as it deems necessary to achieve the purposes of this section and may vary side and rear yard requirements in order to achieve the purposes of this section.

1520.2 Before taking final action on an application, the Board shall submit the application to the following agencies for review and written reports:

- (a) D.C. Office of Planning;

- (b) District Department of Transportation, Tree Maintenance Division;
- (c) D.C. Department of Parks and Recreation;
- (d) D.C. Department of Consumer and Regulatory Affairs, Soil Erosion and Storm Management Branch; and
- (e) National Park Service, U.S. Department of the Interior.

1520.3 An applicant for a special exception shall submit at least the following materials:

- (a) A site plan for development, including computation and illustration of total lot occupancy and impervious surface ratio, and regulated trees proposed to be removed; and
- (b) A plan and statement indicating how trees to be preserved on the lot will be protected during the construction period, including reference to proposed procedures to guard against long-term damage by such factors as soil compaction.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to Jerrily Kress, Director, Office of Zoning, 441 4th Street, N.W., Washington D.C. 20001. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. A copy of this proposal may be obtained, at cost, by writing to the above address.