

DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
OFFICE OF CAMPAIGN FINANCE

NOTICE OF FINAL RULEMAKING

The District of Columbia Board of Elections and Ethics (Board), at its regular meeting held April 5, 2006, took final action to adopt the following amendments to Chapter 30, "Campaign Finance Operations," 3 DCMR §§3000-3002, 3004, 3006, 3008-3011, 3013, and 3017 (49 DCR 2731: March 22, 2002); Chapter 31, "Lobbying," 3 DCMR §§3101-3102 (49 DCR 2731: March 22, 2002); Chapter 32, "Financial Disclosure," 3 DCMR §§3200-3202 (49 DCR 2731: March 22, 2002); Chapter 33, "Conflict of Interest," 3 DCMR §§3300 *et seq.* (49 DCR 2731: March 22, 2002); Chapter 34, "Campaign Finance Record Keeping," 3 DCMR §§3400-3402 (47 DCR 2171: March 24, 2000); Chapter 37, "Investigations," 3 DCMR §§3704 and 3710-3712 (49 DCR 2731: March 22, 2002; and Chapter 99, "Definitions," 3 DCMR §9900.1.

The amendments represent updates and changes to the rules of the Board's Office of Campaign Finance (OCF). Specifically, the majority of the rules augments and clarifies campaign finance, lobbying, financial disclosure, conflict of interest and record keeping procedures to provide the general public and OCF filers with a better understanding of the agency processes. Moreover, amendments were incorporated to align the regulations with redesigned OCF applications and forms, especially those listed on the website at www.ocf.dc.gov.

The amendment to §3001.3 refers to D.C. Law 16-0034, the "Exploratory Committee Disclosure Informational Report and Contribution Prohibition Temporary Amendment Act of 2005." The rule will alert the "exploratory" or "testing the waters" candidate to file an informational report with OCF.

Also, the amendments to Chapter 32, the proposed "Conflict of Interest and Use of Government Resources for Campaign-Related Purposes," incorporate regulations spawned by D.C. Law 14-36, the "Campaign Finance Amendment Act of 2001," which was enacted on October 13, 2001. The rules explain the prohibitions on the use of District government resources for campaign related activities. The proposed rulemaking was published at District of Columbia Register, February 10, 2006 vol. 53-no.6-pp 861-883.

AMEND §3000, "Organization of Political Committees," by deleting current subsections 3000.13-3000.18, and substituting the following new subsections:

3000.13 When either the office of chairperson or treasurer of a political committee, pursuant to 3 D.C.M.R. §3000.12, is vacant, the political committee shall perform the following:

- (b) Designate a successor chairperson or treasurer, within five (5) days of the vacancy; and
 - (c) Amend its statement of organization within 10 days of the designation of the successor; Provided, that the successor officer agrees to accept the position.
- 3000.14 A contribution or expenditure shall not be accepted or made by, or on behalf, of a political committee under the following conditions:
- (a) When the office of treasurer is vacant; and
 - (b) No other person has been designated and has agreed to perform the functions of treasurer.
- 3000.15 Each expenditure made for, or on behalf, of a political committee shall be authorized only by the following:
- (a) Chairperson;
 - (b) Treasurer; or
 - (c) Their designated agent, as listed at §3000.1.
- 3000.16 A chairperson shall be required to file the following:
- (a) A statement of acceptance, on a form prescribed by the Director, and a copy of written notification sent to the address of record of the treasurer and candidate, if an authorized committee, within five (5) days of assuming the office; and
 - (b) A statement of withdrawal, on a form prescribed by the Director, and a copy of written notification sent to the address of record of the treasurer and candidate, if an authorized committee, within five (5) days of vacating the office.
- 3000.17 A treasurer shall be required to file the following:
- (a) A statement of acceptance, on a form prescribed by the Director, and a copy of written notification sent to the address of record of the chairperson and candidate, if an authorized committee, within forty-eight (48) hours of assuming the office;
 - (b) Periodic R&E Reports, under §3008, signed by the treasurer or, if unavailable, the designated agent, under §3000.1; Provided, that the treasurer shall be responsible for all Reports and statements due to the Director during the treasurer's tenure; and
 - (c) A statement of withdrawal on a form prescribed by the Director, and a copy of written notification sent to the address of record of the chairperson and candidate, if an authorized committee, within forty-eight (48) hours of vacating the office.

- 3000.18 A person shall not serve as chairperson and treasurer of a political committee simultaneously, except the following: (a) A candidate; or (b) A proposer or opponent of an initiative, referendum or recall measure or charter amendment.
- 3000.19 Each political committee shall amend its Statement of Organization within ten (10) days of any change in information previously reported on its Statement of Organization.

AMEND §3001, "Exploratory, Draft, or "Testing the Waters" Committees," by deleting current subsection 3001.3 and substituting the following new subsection:

- 3001.3 Each committee shall be required to file informational reports, in accordance with §3008.

AMEND §3002, "Candidate Status," by deleting current subsection 3002.5, and substituting the following new subsection:

- 3002.5 An Advisory Neighborhood Commissioner (ANC) Summary Financial Statement shall be filed no later than thirty (30) days after the certification of the election results by the following:
- (a) ANC candidates, pursuant to §1616, who qualified for the ballot by the write-in process;
 - (b) ANC candidates, pursuant to §§1608 and 1609, who qualified for the ballot by the nominating petition process;
 - (c) ANC candidates who accepted contributions or made expenditures; and did not qualify for the ballot, pursuant to §§1608, 1609 and 1616; and
 - (d) ANC candidates who qualified as candidates for selection in the ANC vacancy filling process, pursuant to §1310.

AMEND §3004, "Candidate Waiver from Filing and Reporting Requirements," by deleting current subsection 3004.4, and substituting the following new subsection:

- 3004.4 A candidate may make an expenditure from personal funds to the candidate's designated principal campaign committee, which expenditure shall then be reported by the principal campaign committee as a contribution received; and, as a loan, when accompanied by a written instrument attesting thereto, pursuant to §3011.7.

AMEND §3006, "Designation of Existing Political Committee," by deleting current subsection 3006.1, and substituting the following new subsection:

- 3006.1 Except as provided in §3006.2, an existing political committee may be designated as the principal campaign committee of a candidate if the existing political committee meets the following conditions:
- (a) The Statement of Organization of the existing political committee indicates that the existing political committee is an unauthorized committee, pursuant to §3000.7, including any independent or political action committee; and
 - (b) R&E Reports of the existing political committee are current.

AMEND §3008, "Financial Reports and Statements," by deleting the section in its entirety, and adding the following new section:

3008 FINANCIAL REPORTS AND STATEMENTS

- 3008.1 Candidates, political committees, citizen-service programs and Statehood funds and their treasurers shall make best efforts to obtain, report and maintain information required under Chapter 34 of this title.
- 3008.2 With the exception of ANCs, all contributions, expenditures, debts, contracts, and agreements shall be reported on separate schedules in the R&E Report, in the following manner:
- (a) On a form, prescribed by the Director; or
 - (b) In the format consistent with the form filed under §3008.2(a).
- 3008.3 The R&E Report may be filed by computer diskette furnished by the Director, as an alternative method of electronic filing; Provided, that the original R&E Report, verified by the treasurer, is also filed.
- 3008.4 Each contribution, rebate, refund, or any other receipt of \$15 or more shall be reported.
- 3008.5 All receipts for contributions including in-kind contributions, ticket purchases, dividend, interest, offsets to operating expenditures, including rebates and refunds, transfers, and in the case of citizen-services programs, personal property, shall be itemized and reported on the appropriate sub-schedule of Schedule A in accordance with the Instructions for preparing the R&E Report.
- 3008.6 All receipts for loans made or guaranteed by the candidate or the committee, or owed by the candidate or the committee, shall be itemized and reported on the appropriate sub-schedule of Schedule E.

- 3008.7 Partnership contributions, under §3011.15, shall be itemized and reported on Schedule A, in accordance with the instructions for preparing the R&E Report, in the following manner:
- (a) In the name of the partnership; and
 - (b) In the name of each contributing partner.
- 3008.8 All expenditures for personal services, media, transfers, other items or services, in-kind contributions, refunds of contributions, independent expenditures, offsets to receipts, and in the case of citizen-services programs, personal property, shall be itemized and reported on the appropriate sub-schedule of Schedule B in accordance with the Instructions for preparing the R&E Report.
- 3008.9 Each in-kind contribution, under §§3008.6 and 3008.9, shall be assessed at the current local fair market value at the time of the contribution, and shall be reported on the appropriate sub-schedule of Schedules A and B.
- 3008.10 All net proceeds for any mass sale and collection shall be itemized and reported on Schedule C in accordance with the instructions for preparing the R&E Report.
- 3008.11 All debts and obligations, excluding loans, except in the case of citizen-services programs, shall be itemized and reported on Schedule D in accordance with the instructions for preparing the R&E Report.
- 3008.12 All loans, except in the case of citizen-services programs, shall be itemized and reported on the appropriate sub-schedule of Schedule E in accordance with the instructions for preparing the R&E Report.
- 3008.13 The R&E Report shall be complete, as of five (5) days prior to the date of any filing, under §3017; Provided, that any contribution of two hundred dollars (\$200) or more received after any closing date, under §3017, for the last R&E Report required to be filed prior to an election, shall be reported within 24 hours after its receipt.
- 3008.14 Financial transactions undertaken by credit card shall be reported on the R&E Report in accordance with the instructions for preparing the R&E Report in the following manner:
- (a) Contributions shall be reported for the date upon which the authorized transaction is received;
 - (b) The full amount authorized by the contributor as a contribution shall be reported by the candidate or committee;

- (c) Any service charge(s) deducted by the credit card issuer shall be reported as expenditures made by the candidate or committee as of the date when notified of the deductions; and
 - (d) Any discount from the normal service charge authorized by the credit card issuer shall constitute an in-kind contribution, under §3008.4, from the issuer and shall be reported as an in-kind contribution.
- 3008.15 Every person, other than a political committee, who makes independent expenditures aggregating in excess of fifty dollars (\$50) during a calendar year, shall file an Independent Expenditure Report with the Director, at the times specified in §3017, for any period during which the expenditure occurred.
- 3008.16 The ANC Summary Financial Statement filed by an ANC candidate, under §3002.5, shall include the following:
- (a) Total campaign receipts and expenditures relative to an election, including funds received and expended by the candidate;
 - (b) Certification that the candidate did not receive contributions from any person, other than the candidate, in excess of twenty-five dollars (\$25);
 - (c) Certification that the candidate did not receive any contributions from any person or make any expenditures, including from or by the candidate, to support the candidate's election to office; and
 - (d) The disposal of surplus contributions, if any.

AMEND §3009, "Reports of Initiative, Referendum, Recall and Proposed Charter Amendment Committees," by deleting the section in its entirety, and adding the following new section:

- 3009 **REPORTS OF INITIATIVE, REFERENDUM, RECALL AND PROPOSED CHARTER AMENDMENT COMMITTEES**
- 3009.1 Each committee supporting or opposing an initiative, referendum, recall, or proposed charter amendment shall file R&E Reports during the consideration of a measure for ballot placement, for any one election.
- 3009.2 The Office of Campaign Finance shall prepare the following:
- (a) A schedule of dates based upon the complete period allowed for qualification of a measure for ballot placement by which R&E Reports are due; and

- (b) A revised schedule of dates based upon actual completion of tasks by which R&E Reports are due, when necessary.

3009.3 R&E Reports shall be filed in accordance with the following schedule:

- (a) On or before the commencement of the process for initiative, referendum, recall or proposed charter amendment, or
- (b) In the case of an opponent, ten (10) days after making an expenditure or accepting a contribution in opposition to the measures;
- (c) On the tenth (10th) day of the fourth (4th) month preceding the election;
- (d) On the tenth (10th) day of the second (2nd) month preceding the election; and
- (e) Eight (8) days prior to the election.

3009.4 With the exception of contributions to retire debt and expenditures made to wind down a campaign, pursuant to §3016, contributions shall not be received, nor expenditures made to support or oppose an initiative, referendum, recall, or proposed charter amendment under the following circumstances:

- (a) After the election at which the measure is presented to the electorate; or
- (b) Upon rejection of the petition with signatures as numerically insufficient by the Board of Elections and Ethics; and
- (c) Subsequent to the exhaustion of all administrative and judicial remedies.

3009.5 Following the election, or the failure of an initiative, referendum, recall, or proposed charter amendment to qualify for ballot access, pursuant to this title, and the exhaustion of all administrative and judicial remedies, a committee shall continue to file R&E Reports on January 31st and July 31st of each year until all debts and obligations are satisfied.

3009.6 Upon satisfaction of all debts and obligations, each committee shall immediately file a final R&E Report.

3009.7 In the absence of any debts and obligations, each committee shall, within sixty (60) days following the election, perform the following acts:

- (a) Disburse any remaining funds, if any, in accordance with §3016; and
- (b) File a final R&E Report.

3009.8 A copy of each R&E Report or statement filed with the Director shall be preserved by the person filing the report or statement for a period of not less than three (3) years from the date of filing.

AMEND §3010, "Petty Cash Funds," by deleting current subsection 3010.1, and substituting the following new subsection:

3010.1 A candidate, political committee, Statehood Fund or citizen-service program may maintain a Petty Cash Fund which shall not exceed three hundred dollars (\$300) at any time.

AMEND §3011, "Limitations on Contributions," by adding the following new subsection:

3011.19 With the exception of contributions received to retire debt, contributions shall not be received or accepted after the election or defeat of a candidate for office, or where a candidate notifies the Office of Campaign Finance of the intent to terminate the candidacy.

AMEND §3013, "Limitations on the Use of Campaign Funds," by deleting current subsections 3013.2(e) and (h), substituting the following new subsections, and adding a new subsection:

- 3013.2 (e) Payment or reimbursement for judgments or settlements, unless litigation or agency administrative action arises directly out of the campaign activities of a candidate or principal campaign committee;
- (h) Clothing, except for specialty clothing which is not suitable for everyday use, including, but not limited to, formal wear, if the attire is used in the campaign and is directly related to a campaign purpose; and

3013.3 With the exception of expenditures made to retire debt or wind down the campaign operation, campaign funds shall not be expended following the election or defeat of a candidate for office, or where a candidate notifies the Office of Campaign Finance of the intent to withdraw the candidacy, for the purpose of financing, directly or indirectly, the election campaign of a candidate.

AMEND §3017, "Filings and Deadlines," by deleting subsection 3017.7, renumbering subsection 3017.8 as 3017.9, and substituting and adding the following new subsections:

- 3017.7 All reports and statements filed in person or by first class mail shall be deemed timely filed when received by 5:30 p.m. of the prescribed filing date.
- 3017.8 All reports and statements electronically filed shall be deemed timely filed if received by midnight of the prescribed filing date; Provided, that the original paper report, verified by the treasurer, is also filed within five (5) days of the filing deadline.

AMEND §3101, "Exemption from Registration Requirements," by deleting the section in its entirety, and substituting the following section:

3101 EXEMPTION FROM REGISTRATION REQUIREMENTS

3101.1 A person shall be exempt from the registration requirements if that person serves as any of the following:

- (a) A public official, or an employee of the United States, acting in an official capacity;
- (b) A publisher or working member of the press, radio, or television who, in the ordinary course of business, disseminates news or editorial comment to the general public;
- (c) Any candidate, member or member-elect of an Advisory Neighborhood Commission; or
- (d) Any exempt organization specified in the District of Columbia tax code; Provided, that the activities of the organization do not include lobbying, and the financial result of the activities are attributed solely to the entity.

3101.2 Certain activities shall exempt a person from the registration requirements if that person performs any of the following acts:

- (a) Appears or presents written testimony, on his or her own behalf, or is represented by an attorney, in an informal or formal rule-making, rate-making or adjudicatory hearing before an executive agency or the Tax Assessor;
- (b) Supplies information in response to written inquiries by an executive agency, the Council of the District of Columbia or any public official;
- (c) Inquires only as to the status of specific actions by an executive agency or the Council of the District of Columbia;

- (d) Testifies before, or submits written testimony to, a committee of the Council of the District of Columbia, or the Council, in a proceeding for which there is a public record or testimony submitted for inclusion in the public record;
- (e) Communicates through a newspaper, television, or radio of general circulation or a publication whose primary audience is the organization's membership; or
- (f) Conveys communications, indirectly or directly, by a bona fide political party, as defined in the Campaign Finance Act.

3101.3 A person, who may be exempt from the registration requirements of this chapter, may be a registrant for other purposes under this title; Provided, that the activity of the person shall not constitute a conflict of interest.

AMEND §3102, "Activity Reports," by deleting current subsections 3102.2(e)-(h), and substituting the following subsections:

- 3102.2
- (e) Name and employment information for each official in the executive or legislative branch, compensated and any member of the official's personal staff, who was compensated in any manner by the registrant;
 - (f) Name of each official in the executive or legislative branch with whom the registrant has communicated regarding lobbying activities, in writing or orally, during the reporting period related to lobbying activities;
 - (g) The name, address and nature of business of each person whom the registrant has compensated to lobby on behalf of the registrant, and an exact accounting of the time spent and the expenses incurred; and
 - (h) A pro-rated listing of salaries paid to each lobbyist, including each in-house employee-lobbyist, based on time spent on influencing any legislative action, administrative decisions, or on each piece of local legislation.

AMEND §3200, "Applicability," by deleting current subsection 3200.1, and substituting the following subsection:

- 3200.1 A financial disclosure statement (FDS) shall be filed by the following:
- (a) Any candidate for election to public office, except the office of Advisory Neighborhood Commissioner, who, at the time of candidacy, does not occupy any such office;

- (b) All elected officials, except Advisory Neighborhood Commissioners;
- (c) Members of specific boards and commissions, pursuant to the Act;
- (d) Employees within the excepted and legal services, paid at a rate of DS-13 or above;
- (e) Employees within the management supervisory service, paid at a rate of MS-13, or above;
- (f) Persons serving as subordinate agency heads pursuant to the Personnel Act; and
- (g) Any other public official expressly subject to the financial disclosure provisions of the Act.

AMEND §3201, "Disclosure Requirements," by deleting current subsections 3201.3-3201.4, substituting the following subsections, and adding the following new subsection:

- 3201.3 No public official, required to file a HOIDS, pursuant to §3201.2, shall earn honoraria in excess of ten thousand dollars (\$10,000) during the year in which the right to receive the honorarium accrues, except that any amounts paid to a charitable organization, on behalf of the public official, shall not be calculated as part of the aggregate total.
- 3201.4 Neither the Mayor nor the Chairman of the Council shall earn royalties in excess of ten thousand dollars (\$10,000) during the year in which the right to receive the royalty accrues, except that any amounts paid to a charitable organization, on behalf of the public official, shall not be calculated as part of the aggregate total.
- 3201.5 Public officials, and members of their immediate families, prohibited from receiving royalties, in excess of ten thousand dollars (\$10,000) in any calendar year, include the following:
- (a) Mayor; and
 - (b) Chairman of the Council.

AMEND §3202, "Filing Requirements," by deleting the section in its entirety and adding the following new section:

3202 FILING REQUIREMENTS

- 3202.1 All FDS shall be deemed timely filed in person or by first class mail if received in the Office of Campaign Finance by no later than 5:30 p.m. of May 15th of each year for the prior calendar year.
- 3202.2 The FDS may be filed electronically no later than 12:00 midnight of the filing deadline; Provided that, the paper filing of the FDS, verified by the public official, is filed within five (5) days of the filing deadline.
- 3202.3 The HOIDS shall be filed with the Director of Campaign Finance not later than May 15th of each year for the prior calendar year in which the public official served.
- 3202.4 All HOIDS filed in person or by first class mail shall be deemed timely filed when received in the Office of Campaign Finance by no later than 5:30 p.m. of May 15th of each year for the prior calendar year in which the public official served.
- 3202.5 A public official shall submit an amended FDS and HOIDS within thirty (30) days after changes in any information represented on the FDS and the HOIDS.
- 3202.6 A public official may make a request of the Director, in writing, for an extension of up to thirty (30) days in which to submit the FDS and the HOIDS.
- 3202.7 The Director may extend the period of time for submission of the FDS and the HOIDS by a public official, for good cause shown.
- 3202.8 The list of public official required to file the FDS shall be published in the DC Register in April of each calendar year, and made available to the public, under Chapter 37 of this title.

AMEND Chapter 33, "Conflict of Interest," by deleting the chapter in its entirety and adding the following new chapter:

**CHAPTER 33 CONFLICT OF INTEREST AND USE OF GOVERNMENT
RESOURCES FOR CAMPAIGN-RELATED PURPOSES**

3300 APPLICABILITY

- 3300.1 A conflict of interest shall occur when a public official exerts any "effort to realize personal gain," as defined in §9900.1, through official conduct.
- 3300.2 The use of a government resource for a campaign-related purpose occurs when a person draws upon a service of the District of Columbia government for any campaign matter, pursuant to this title.

- 3300.3 For the purposes of conflict of interest, this chapter shall apply to the following public officials:
- (a) Any candidate for nomination for election, or election, to public office, except the office of Advisory Neighborhood Commissioner, who, at the time of candidacy, who does not occupy any such office;
 - (b) All elected officials, except Advisory Neighborhood Commissioners;
 - (c) Members of specific boards and commissions, pursuant to the Act;
 - (d) Employees within the excepted and legal services, and paid at a rate of DS-13 or above;
 - (e) Employees within the management supervisory service and paid at a rate of MS-13, or above;
 - (f) Persons serving as subordinate agency heads pursuant to the Personnel Act; and
 - (g) Any other public official expressly subject to the financial disclosure provisions of the Act.
- 3300.4 For the purposes of the use of a government resource for a campaign-related purpose, this chapter shall apply to all persons.
- 3300.5 This chapter shall not prohibit a public official from voting on the following matters:
- (a) One which affects a class of persons of fifty (50) or more of which the public official is a member, and the financial gain to be realized is *de minimis*;
 - (b) Compensation of the public official as authorized by law; and
 - (c) Elections laws.
- 3300.6 This chapter shall not apply to any person who registers as a lobbyist and engages in lobbying, pursuant to §3100.

3301 PROHIBITED CONDUCT

- 3301.1 Other than that compensation provided by law for the public official, the public official shall avoid the use of the official position or office to obtain financial gain for the following:
- (a) The public official;
 - (b) Any member of the public official's household; or
 - (c) Any business with which the public official or a member of the public official's household is associated.
- 3301.2 A person shall be prohibited from offering, and a public official, or any member of a public official's household, shall be prohibited from receiving anything of value, based on the following:
- (a) Any understanding that the actions, judgment or vote of the public official would be influenced;
 - (b) Any reasonable inference that the thing of value would influence the public official in his or her discharge of duties; or
 - (c) Any reward, except for political contributions publicly reported under Chapter 30 of this title or transactions made in the ordinary course of business of the offeror.
- 3301.3 A person shall be prohibited from offering, and a public official shall be prohibited from soliciting or receiving any money for advice or assistance given in the course of or relating to the public official's employment; Provided, that the monies were lawfully received by the public official in the public official's entrusted position.
- 3301.4 A public official shall be prohibited from disclosing confidential information given in the course of or because of the entrusted position or activities of the public official which could result in financial gain for the public official or for any other person.
- 3301.5 A public official shall be prohibited from accepting an assignment to serve on a committee if its jurisdiction consists of matters in which the public official, a member of the public official's family, or any business with which the public official is associated, has any financial interest; Provided, that the public official is a member or employee of the Council or Board of Education.
- 3301.6 The Mayor and each member of the Council shall be prohibited from representing another person before any regulatory agency or District of Columbia Court while serving in office, except in the following instances:

- (a) The public official appears before such entity in their official capacity; or
- (b) A member of the Council (excluding the Chairman) licensed to practice law, appears before such entity in any matter which does not affect their official position.

3301.7 Members of boards and commissions are prohibited from appointing the following:

- (a) A member from their respective board or commission to any paid office or position under the supervision of their respective board or commission; and
- (b) A former member from their respective board or commission to any paid office or position under the supervision of their respective board or commission; Provided, that at least 45 days have elapsed since the termination of service to the board of commission by the former member, and the former member has followed the hiring procedures required of other applicants for the paid office or position.

3301.8 District of Columbia Government resources shall be prohibited from use to support or oppose any of the following:

- (a) A candidate for elected office, whether partisan or nonpartisan; or
- (b) An initiative, referendum, or recall measure, or a charter amendment referendum.

3301.9 Resources of the District of Columbia Government shall include, but not be limited to, the following:

- (a) The personal services of employees during their hours of work; and
- (b) Nonpersonal services.

3301.10 Nonpersonal services shall include, but not be limited to, the following:

- (a) Supplies;
- (b) Materials;
- (c) Equipment;

- (d) Office space;
 - (e) Facilities; and
 - (f) Utilities, for example, telephone, gas and electric.
- 3301.11 Certain public officials may express their views on a District of Columbia election, as part of their official duties; and, they include the following:
- (a) The Mayor;
 - (b) The Chairman of the Council;
 - (c) Each Member of the Council;
 - (d) The President of the Board of Education; and
 - (e) Each Member of the Board of Education.
- 3301.12 A public official shall not act on, or decide, any matter in which there is conflict or a potential conflict, created by their financial, personal, family, business, or client interest.
- 3302 REMOVAL FROM INFLUENCE
- 3302.1 When confronted with a conflict or potential conflict of interest, a public official shall remove himself or herself from influence over actions and decisions on the matter on which there is a conflict or potential conflict.
- 3302.2 Removal from influence over actions and decisions shall be accomplished when the public official refrains from taking any action or making any decision that would affect or appear to affect, directly or indirectly, the matter under investigation or the conflict.
- 3302.3 A public official shall remove himself or herself from influence over actions and decisions for the following reasons:
- (a) When the public official has reasonable knowledge of any direct or indirect financial interest or gain which is incompatible with the discharge of duties by the public official;
 - (b) When the public official would be required to take any official action on a matter when a conflict situation is created by a personal, family or client interest; or

- (c) Upon written notice from the Board or the Director that a full investigation has been initiated.

3303 NOTIFICATION OF CONFLICT OF INTEREST

3303.1 When a public official has a conflict or potential conflict of interest, that public official shall prepare a written statement describing the following:

- (a) The matter requiring action or decision; and
- (b) The nature of the potential conflict of interest with respect to such action or decision.

3303.2 The public official shall deliver a copy of the statement to the following:

- (a) The Board of Elections and Ethics, in care of its General Counsel;
- (b) The Director of the Office of Campaign Finance; and
- (c) The immediate superior or superior-designate, if any, of the public official.

3303.3 The immediate superior or superior-designate for each public official enumerated in this subsection shall include one (1) of the following:

- (a) Member of the Council – Chairman of the Council;
- (b) Chairman of the Council – Chairperson *pro tempore* or Vice-chairperson of the Council;
- (c) Member of the Board of Education – President of the Board of Education;
- (d) President of the Board of Education – Vice-president of the Board of Education;
- (e) Member of Advisory Neighborhood Commission, Board or Commissions – Chairperson or President;
- (f) Chairperson of Advisory Neighborhood Commission, Board, or Commission – Chairperson *pro tempore* or Vice-President;
- (g) Member of Board or Commissions – Chairperson or President of Board or Commission; and

- (h) Immediate staff employee of the Council and Board of Education – respective Chairperson.

3304 RECUSAL FROM CONFLICT OF INTEREST BY PUBLIC OFFICIALS

3304.1 After receipt of a statement of conflict or potential conflict of interest from a public official, the superior or superior-designate, pursuant to §3303.3, shall perform the following acts:

- (a) Cause the statement to be printed in the record of proceedings of the body of which the person is a member or employee; and
- (b) Upon request of the affected public official, excuse that public official from votes, deliberations, or other actions, as applicable, on the matter on which a conflict or potential conflict exists.

3304.2 After receipt of a statement of conflict or potential conflict of interest from a public official, the immediate superior of the public official shall reassign the matter to another employee who is not subordinate to the relieved employee; Provided, that the employee does not also have a potential conflict of interest, except for the following:

- (a) The Mayor; or
- (b) A Member of the Council.

3304.3 The public official shall excuse himself or herself from votes, deliberations and other actions on the matter on which a potential conflict exists; Provided, that the public official does not report to an immediate supervisor.

3304.4 If the public official fails to excuse himself or herself from votes, pursuant to §3304, the public official shall not vote, deliberate or act on the matter on which a conflict or potential conflict exists.

3304.5 If the public official fails to excuse himself or herself, pursuant to §3304, and votes, deliberates or acts on the matter in which a conflict or potential conflict exists, a complaint of conflict of interest under Chapter 37 of this title shall issue from one (1) of the following:

- (a) The Board of Elections and Ethics; or
- (b) The Director of the Office of Campaign Finance.

3305 INTERPRETATIVE OPINIONS

- 3305.1 Any person subject to this chapter may request a written interpretative opinion concerning the application of the Act, and Chapters 30-37 of this title.
- 3305.2 The request shall be addressed to the Director in writing.
- 3305.3 Each request shall contain the following:
- (a) The full name and address of the requestor;
 - (b) A query as to an application of the Act, and chapters 30-37 of this title, solely with respect to an actual or potential event concerning a specific or general transaction or activity of the person;
 - (c) Any related documentation.
- 3305.4 The Director shall notify the requestor in writing of the acceptance of each request.
- 3305.5 The Director shall respond in writing to each request within thirty (30) days, after it has been accepted for review by the Office of Campaign Finance.
- 3305.6 If the requestor disagrees with the interpretative opinion issued by the Director, the requestor may request an advisory opinion from the Board of Elections and Ethics, pursuant to Chapter 3 of this title.

AMEND §3400, "Recordkeeping Procedures," by deleting subsections 3400.1-3400.2, and adding the following new subsections:

- 3400.1 To ensure financial accountability, this chapter governs the recordkeeping procedures for the following:
- (a) Candidates, including candidates seeking election to an Advisory Neighborhood Commission;
 - (b) Political Committees;
 - (c) Lobbyists;
 - (d) Citizen-service programs; and
 - (e) Statehood funds.
- 3400.2 Each required filer, under §3400.1, shall obtain and preserve, from the date of registration, detailed records of all contributions and expenditures

disclosed in reports and statements filed with the Director, including the following:

- (a) Check stubs;
- (b) Bank Statements;
- (c) Canceled checks;
- (d) Contributor cards and copies of donor checks;
- (e) Deposit slips;
- (f) Invoices;
- (g) Receipts;
- (h) Contracts;
- (i) Payroll records;
- (j) Tax records;
- (k) Lease agreements;
- (l) Petty cash journals;
- (m) Ledgers; and
- (n) Vouchers.

AMEND §3401, "Expenditures," by deleting subsection 3401.4, and adding the following new subsection:

3401.4 Voided or stale-dated checks shall be handled in the following method:

- (a) Stamped "void" or made non-negotiable; and
- (b) Retained in accordance with §3400.

AMEND §3402, "Receipts," by deleting the section in its entirety, and adding the following new section:

3402 RECEIPT

- 3402.1 To fully identify the donor, receipts shall contain the following information:
- (a) Full name;
 - (b) Mailing address;
 - (c) Occupation and principal place of business, if any; and
 - (d) Date of contribution.
- 3402.2 All receipts shall be handled in the following manner:
- (a) Pre-numbered receipts shall be issued for all contributions received; and
 - (b) Receipts shall be documented by contributor cards and copies of donors' checks.
- 3402.3 Records of receipts and contributions shall be maintained to show the following:
- (a) With the exception of receipts for sales or collections, cumulative totals; and
 - (b) For sales or collections, a detailed record of receipts and expenditures.
- 3402.4 All filers shall separately identify undesignated receipts from designated receipts.

AMEND §3704, "Full Investigations," by deleting subsection 3704.4, and adding the following new subsection:

- 3704.4 The full investigation shall be conducted by evidence gathered and explored by the following:
- (a) Subpoena;
 - (b) Depositions;
 - (c) Interrogatories;
 - (d) Interviews;
 - (e) Audits;

- (f) Affidavits;
- (g) Documents; and
- (h) Other means deemed appropriate.

AMEND §3710, "Cease and Desist Orders Based on Violations," by deleting subsection 3710.1, and adding the following new subsection:

3710.1 Upon a determination, under §3709, that a violation has occurred, the Director may issue an order to the offending party to cease and desist the violation.

AMEND §3711, "Schedule of Fines," by renumbering duplicate subsection 3711.2 as 3711.3, deleting subsection 3711.2(w) and 3711.8, and adding the following new subsections:

3711.2 (w) Accepting, soliciting or giving any thing of value to influence official government actions, or where it could be inferred that the thing of value would influence the public official in the discharge of his or her duties.

3711.3 The aggregate of the penalties imposed under the Director's authority, under §3711.2, may not exceed \$2000 for each violation.

3711.8 If a party fails to pay the ordered fine, the Director may petition for enforcement of its order, within thirty (30) days of the expiration of the period provided for payment of the fine, pursuant to §3711.7, before the Board in an adversary proceeding and an open hearing, pursuant to chapter 4 of this title.

AMEND §3712, "Procedures Regarding Excess Contributions," by deleting subsection 3712.2, and adding the following new subsection:

3712.2 Upon a determination of excess contribution, pursuant to §3712.1, the Director shall notify the person in writing of the following:

- (a) The amount of the excess contribution;
- (b) The expectation of repayment to the contributor of the amount equal to the excess contribution; and
- (c) Repayment shall be accomplished within fifteen (15) days of the notice.

AMEND §9900.1, "Definitions," by adding the following new definitions:

D.C. Official Code – the 2001 Edition of the Code, as amended.

Electronic Filing – as provided by the Office of Campaign Finance, the procedure by which filers may process required forms online through the world wide web at www.ocf.dc.gov.

Mass collections – the receipt of contributions by a committee, candidate or individual, at dinners, luncheons, rallies, and other fundraising events organized by a committee, candidate or individual, pursuant to D.C. Official Code, §1-1102.06(b)(6).

Mass sales – to make available for purchase by a committee, candidate or individual, at dinners, luncheons, rallies, and other fundraising events organized by such committee, candidate or individual, items in bulk such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature and similar materials, pursuant to D.C. Official Code, §1-1102.06(b)(6).

DISTRICT OF COLUMBIA
DEPARTMENT OF MOTOR VEHICLESNOTICE OF FINAL RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in Section 1825 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 50-904); §§ 6 and 7 of the District of Columbia Traffic Act of 1925, effective March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03 and 50-1401.01); § 2 of Title IV of the District of Columbia Revenue Act of 1937, approved September 8, 1950 (64 Stat. 792; D.C. Official Code § 50-1501.02); and Mayor's Order 03-58, effective April 21, 2003, hereby gives notice of the adoption of the following rulemaking that amended Chapters 1, 4 and 99 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). The rulemaking set a limit on the amount of time a written exam is valid, allowed a temporary driver's permit to be issued electronically to any individual who successfully renews a permit online, revised regulations pertaining to the exceptions to the motor vehicle registration requirements to reflect the District of Columbia Revenue Act and federal law, and amended the definition for motor vehicle to conform to the applicable statutory definition. No comments were received. Two grammatical errors were corrected, but no other changes have been made to the text of the proposed rules, as published with the Notice of Proposed Rulemaking in the *D.C. Register* on February 24, 2006, at 53 DCR 1420. These final rules shall be effective upon publication in the *D.C. Register*.

Title 18, DCMR, is amended as follows:

A. Chapter 1, ISSUANCE OF DRIVER'S LICENSES, is amended as follows:

1) Section 104, EXAMINATION OF APPLICANTS FOR DRIVER'S LICENSES, is amended as follows:

a) Subsection 104 is amended by striking the phrase "Provided, that an applicant for a learner's permit need not take the written and eye exam more than once each six (6) month period".

b) By adding two new subsections 104.14 and 104.15 to read as follows:

104.14 For any applicant for a succedent learner's permit under the age of 21, the Director may accept test results from a written examination of the traffic regulations taken not more than 15 months earlier to satisfy the requirements in section 7(a)(2)(B) of the District of Columbia Traffic Act of 1925, effective March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-1401.01(a)(2)(B)).

104.15 Any applicant for a succedent learner's permit 21 years of age or older must take a written examination of the traffic regulations to satisfy the requirements 7(a)(2)(B) of the District of Columbia Traffic Act of 1925, effective March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-1401.01 (a)(2)(B)).

2) Section 107, LICENSES ISSUED TO DRIVERS, is amended as follows:

a) Subsection 107.4 is amended to read as follows:

107.4 The Director may, in his or her discretion, issue a temporary driver's permit to an applicant under the following circumstances:

- (a) While the Director is completing an investigation and determination of all facts relative to the applicant's eligibility to receive a driver's license; or
- (b) After an applicant has renewed his or her driver's license on the Department's website.

b) Two new subsections 107.16 and 107.17 are added to read as follows:

107.16 A temporary driver's permit described in § 107.4 shall expire when a regular driver's license is received, when a regular license has been refused, or on the expiration date of the temporary permit, whichever is sooner.

107.17 The temporary driver's permit issued pursuant to § 107.4 (b) allows the holder to operate a motor vehicle only if the operator also has their expired license in their possession.

B. Chapter 4, MOTOR VEHICLE TITLE AND REGISTRATION, section 411, REGISTRATION OF MOTOR VEHICLES: GENERAL PROVISIONS, is amended as follows:

1) Subsection 411.1 is amended by inserting after the phrase "title" the phrase "and § 8 of the District of Columbia Traffic Act of 1925, approved March 3, 1925 ("Act") (43 Stat. 1123; D.C. Official Code § 50-1401.02)".

2) Subsections 411.2 through 411.6 are amended to read as follows:

411.2 Any person described in § 8(a) (D.C. Official Code § 50-1401.02(a)) of the Act, or who is displaying a valid District of Columbia reciprocity sticker as provided for in § 411.3 and is in compliance with the laws

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authorizing the issuance of that sticker, is exempt from the District's license and registration requirements.

411.3 The Director shall issue reciprocity stickers, upon application, as follows:

- (a) As required by § 8 (D.C. Official Code § 50-1401.02) of the Act;
- (b) To any non-resident service member in accordance with section 571 of title 50 of the United States Code; and
- (c) To any foreign mission, its members, or dependents of its members issued a title and registration by the U.S. Department of State.

411.4 Reciprocity stickers issued pursuant to §§ 411.3(b) or (c) shall be issued for the same duration set forth in § 8(d) (D.C. Official Code § 50-1401.02(d)) of the Act.

411.5 No reciprocity sticker issued for a period of one hundred and eighty (180) days shall be issued to the same person within one (1) year from the expiration date of the previous reciprocity sticker.

411.6 The fee for a one hundred and eighty (180) day reciprocity sticker is two hundred and fifty dollars (\$ 250).

3) Subsections 411.7 and 411.8 are repealed.

C. Chapter 99, DEFINITIONS, is amended as follows:

1) Section 9901, DEFINITIONS, is amended by amending the definition of Motor Vehicle to read as follows:

Motor Vehicle – any vehicle propelled by internal-combustion engine, electricity, or steam, including any non-operational vehicle that is being restored or repaired. The term "motor vehicle" shall not include road rollers, farm tractors, vehicles propelled only upon stationary rails or tracks, electric personal assistive mobility devices, and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour.

D.C. OFFICE OF PERSONNEL
NOTICE OF FINAL RULEMAKING

The Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title VIII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-608.01 *et seq.*) (2001), and Section 2 (b) of the Omnibus Public Safety Agency Reform Amendment Act of 2004 (the "Act"), effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-402 (b)) (2005 Supp.), hereby gives notice that final rulemaking action was taken to adopt the following rules. The Act requires that the Fire Chief establish criteria for Career Service promotions to Battalion Fire Chief and Deputy Fire Chief that addresses the areas of education, experience, physical fitness, and psychological fitness. Accordingly, these rules amend section 875 of Chapter 8, Career Service, of Title 6 of the District of Columbia Municipal Regulations (DCMR), to make changes to the requirements for promotions to Battalion Fire Chief and Deputy Fire Chief in the Fire and Emergency Medical Services Department (FEMSD), as required under the Act. The criteria established, which shall become effective on October 1, 2007, are specified in sections 875.4 through 875.6 of the chapter. Additionally, section 807.1 (b) of the chapter, concerning the age requirements for appointment to a Firefighter position, is being amended to change the maximum age limit from twenty-nine (29) years to thirty-one (31) years; and section 870 of the chapter, concerning the processing of entry-level candidates for firefighter positions in the FEMSD, is being updated. No comments were received and no changes were made under the notice of proposed rulemaking published at 53 DCR 1179 (February 17, 2006). Final rulemaking action was taken on March 21, 2006.

CHAPTER 8

CAREER SERVICE

Chapter 8 of the D.C. Personnel Regulations is amended as follows:

Section 807.1 (b) is amended to read as follows:

- 807.1 (b) For appointment to a Firefighter position, an applicant must have reached his or her nineteenth (19th) birthday, but must not have passed his or her thirty-first (31st) birthday as of the date of application;

The heading of section 870 is changed from "Processing Entry-Level Candidates for Firefighter Positions" to "Processing Entry-Level Candidates for Firefighter/Emergency Medical Technician (EMT) and Firefighter/Paramedic Positions;" and the section is amended to read as follows:

**870 PROCESSING ENTRY-LEVEL CANDIDATES FOR
FIREFIGHTER/EMERGENCY MEDICAL TECHNICIAN (EMT) AND
FIREFIGHTER/PARAMEDIC POSITIONS**

- 870.1 For the purposes of this section, the following terms have the meaning ascribed:

Certificate of Eligibles (Certificate) – the list of candidates selected from a Register for consideration for appointment to a position.

Disposition – the final status of individuals considered for appointment from a Certificate, indicated on a Certificate of Eligibles by means of the coding system described in section 870.8 of this section.

Firefighter/Emergency Medical Technician (EMT) – an employee of the Fire and Emergency Medical Services Department (FEMSD) who is cross-trained as a Firefighter and an EMT.

Firefighter/Paramedic – an employee of the FEMSD who is cross-trained as a Firefighter and a Paramedic. The Term “Paramedic” includes EMT/Intermediate (EMT/I) and Basic Paramedic (EMT/P).

Register – a list of all individuals eligible for consideration for appointment to a position.

Unassembled examination – an examination that does not require a written test.

- 870.2 Appropriate staff within the D.C. Office of Personnel will establish a Register of eligible candidates for the positions of Firefighter/EMT and Firefighter/Paramedic. Each Register will include the numerical rank, name, and social security number of all eligible candidates.
- 870.3 Candidates on the Register will be eligible for appointment only if they successfully complete all the stages of the selection process.
- 870.4 As specified in section 810 of this chapter, a Register may also be established by administering an entry-level examination to eligible candidates or, at the discretion of the Fire Chief, by unassembled examination for the purposes of hiring individuals for the position of Firefighter/Paramedic.
- 870.5 Following the establishment of a Register, each candidate who passes the entry-level examination for Firefighter/EMT and Firefighter/Paramedic or is qualified by unassembled examination will be required to:
- (a) Take a physical abilities test (PAT) to assess his or her physical abilities to perform the duties of a Firefighter/EMT or Firefighter/Paramedic;
 - (b) Undergo a background investigation to determine suitability for appointment; and
 - (c) Be determined to be medically and psychologically qualified to perform in the position for which he or she is being considered.
- 870.6 Processing of candidates on a Register, and the responsibilities and authorities for each step, are as specified in this section.

870.7 Appropriate staff within the D.C. Office of Personnel will transmit a Certificate to the FEMSD. The Certificate will include a sufficient number of candidates to fill available vacancies, and the numerical rank, name, and social security number of qualified candidates on the Register. In the case of a Register established by written examination, the candidates will be listed on the Register in order of their position on the written examination. The D.C. 2000 Employment Application of the certified candidates will be transmitted along with the Certificate. The D.C. Office of Personnel will retain a copy of each D.C. 2000 Employment Application.

870.8 The D.C. Office of Personnel will transmit the Certificate and D.C. 2000 Employment Applications to the FEMSD Agency Recruiting Officer (ARO). The ARO will review the D.C. 2000 Employment Applications and indicate the final status of each candidate in the "Disposition" column of the Certificate, using the following codification system:

- (a) A: The candidate could not be contacted regarding availability for processing by means of the U.S. Postal Service; the mailings were returned to the ARO as undeliverable;
- (b) B: The candidate failed to respond to mailings regarding availability for processing; the mailings were not returned by the U.S. Postal Service to the ARO;
- (c) C: The candidate requested deferral, that is, consideration for processing for appointment at a later date;
- (d) D: The candidate declined further consideration for the position;
- (e) E: The candidate failed to complete the required documentation for the background investigation;
- (f) F: The candidate was determined to be unsuitable for appointment to the position on the basis of the background investigation only;
- (g) G: The candidate failed to report for the medical examination;
- (h) H: The candidate failed to complete the medical examination;
- (i) I: The candidate was determined to be unsuitable for appointment to the position on the basis of the medical examination only;
- (j) J: The candidate was offered the position, but declined appointment to the position;
- (k) K: The candidate was offered the position, but deferred appointment to the position to a later date;
- (l) L: The candidate was appointed to the position;

- (m) M: The candidate did not meet the minimum or maximum age, education or experience, or citizenship requirements for appointment to the position;
- (n) N: The candidate was temporarily suspended from further processing because of pending criminal charges, or the possession of a suspended or revoked motor vehicle license, or charges to that effect; and
- (o) O: Other circumstances not described above.

- 870.9 The ARO will establish a file for all of the candidates to be processed. Each file must contain the D.C. 2000 Employment Application and all other correspondence and documents concerning the processing of the candidate.
- 870.10 The ARO will review each D.C. 2000 Employment Application to ensure that the candidates meet the age and education or experience requirements. Candidates who would be older than the required maximum age, education, or experience requirement on the appropriate date will be informed in writing by the ARO of the reasons why they cannot be considered for a position.
- 870.11 The names of candidates who are excluded from consideration on the basis of the age, education, or experience review will be coded "M" in the "Disposition" column on the Certificate. These candidates will not be given any further consideration for positions filled from this Register.
- 870.12 Using information available on the D.C. 2000 Employment Application, the ARO will send all candidates not coded "M" a letter including an information packet. The letter will advise the candidates of the purpose of and the procedures for completing and returning all forms enclosed with the letter. The letter will also instruct candidates to bring with them original or notarized copies of their birth certificate, high school diploma or equivalency certificate, and D.D. 214 Forms, if applicable.
- 870.13 As needed because of unusual circumstances, the Director, D.C. Office of Personnel, may authorize telephone contacts of candidates to arrange expedited scheduling of medical examinations or other processing steps.
- 870.14 Candidates who do not respond to the letter within ten (10) workdays of the date of the letter will be sent a second (2nd) letter and enclosures, by certified mail. Candidates who do not respond to the certified letter within ten (10) workdays of the mailing date will be coded "A" or "B," as appropriate, in the "Disposition" column on the Certificate (see also section 870.8 (a) and (b) of this section). The names of these individuals will be placed at the bottom of the Register in position order following the name of the last candidate. The Director, D.C. Office of Personnel, will determine whether to consider such candidates, as specified in section 870.45 of this section.
- 870.15 The names of candidates who have indicated that they wish to be considered at a later date will be coded "C" in the "Disposition" column of the Certificate, and the specific date placed to the right of the code. These candidates may be processed on the date requested in order of their position on the Register if prior to that date, the Director, D.C. Office of Personnel, has not terminated the Register.

- 870.16 The names of candidates who have declined consideration for the position will be coded "D" in the "Disposition" column of the Certificate. Their names will be placed at the bottom of the Register in position order following the name of the last candidate. The Director, D.C. Office of Personnel, may approve their consideration at a later date. (See also section 870.8 (d) of this section).
- 870.17 Candidates will be notified by the ARO regarding the scheduling of the PAT required under section 870.5 of this section.
- 870.18 Candidates who successfully pass the PAT will report to the ARO as the initial step of the background investigation and suitability review process. Each candidate will bring an original or notarized copy of his or her birth certificate and high school diploma or equivalency certificate, as well as the D.D. 214 Form, if appropriate.
- 870.19 During the initial screening process, candidates will be provided the following forms and will be expected to complete them, after which the ARO will collect the forms:
- (a) A "Criminal History Request" form (P.D. 70);
 - (b) A "Record Check Request" form (P.D. 697); and
 - (c) A "Release of Information Waiver Authorization" form (P.D. 171).
- 870.20 The ARO will conduct the background investigation of those candidates who pass the PAT. The background investigation will be conducted prior to initial referral to a Suitability Board (Board) established by the Fire Chief in accordance with the requirements of this section, for a provisional determination of suitability. The background investigation will include all of the following elements:
- (a) A local investigation including the following checks:
 - (1) Criminal background check;
 - (2) Traffic record check;
 - (3) Warrant detail check;
 - (4) Morals Division check; and
 - (5) Central Names File check;
 - (b) A report on the candidate from the Washington Area Law Enforcement System (WALES);
 - (c) Department of Motor Vehicles reports from Maryland, Virginia, and the District of Columbia, as appropriate;
 - (d) Out-of-state reports, when necessary, including the following:

- (1) Department of Motor Vehicles reports;
 - (2) State police checks; and
 - (3) Local police checks;
- (e) Checking with present and at least one (1) former employer; and
- (f) Conducting a records check of military service.

870.21 The background investigation pursuant to section 870.20 of this section may be submitted to the Board for a provisional determination, prior to the receipt of the elements listed below in this subsection. The ARO is responsible for ensuring that this information is obtained within a reasonable amount of time following a provisional determination of suitability, and informing the Board or other appropriate agency management official in the event that any information is obtained that may reasonably affect the decision of the Board. The required elements are:

- (a) A report on the candidate from the Federal Bureau of Investigations (FBI) criminal history check;
- (b) At least three (3) personal reference checks; and
- (c) Checks with at least three (3) associates or friends of the candidate.

870.22 The files of candidates whose investigations under section 870.20 of this section have been completed will be transmitted to and reviewed by the Board.

870.23 The Board will be composed of three (3) uniformed members of the FEMSD at a rank no lower than that of Captain.

870.24 The presence of all three (3) members of the Board will constitute a quorum, and no action will be taken by the Board without a quorum present.

870.25 Decisions of the Board will be effected by majority vote. In making its determinations as to the suitability of a candidate for further consideration, the Board may use as reference material the guidelines found within the District Personnel Manual (DPM) (or any other procedural manual developed) and any other procedures issued by the Director, D.C. Office of Personnel.

870.26 The Board's findings and the reasons thereof on the suitability of a candidate will be recorded by the Board on a form expressly designed for this purpose.

870.27 The Fire Chief will establish procedures to ensure that candidates are acted upon by the Board in the same order as listed on the Certificate, except for candidates who are delayed in processing through no fault of the District government.

- 870.28 In the case of an unassembled examination, candidates will be selected based on rank qualification, and in accordance with the residency preference provisions of Chapter 3 of these regulations.
- 870.29 The Board has the authority to consider a variety of factors in determining a candidate's suitability for appointment, but may not consider juvenile records. The possession of one (1) or more of the following background characteristics may make a candidate ineligible for further processing and subsequent appointment:
- (a) A conviction for any felony;
 - (b) A conviction for any serious misdemeanor, including but not limited to petit larceny or sex offenses;
 - (c) Any record of having served a jail sentence; or
 - (d) An admission of drug abuse or reasonable grounds to believe that there has been drug abuse. Excessive use of marijuana would normally be disqualifying; however, each case will be considered individually, during which time all the relevant facts and circumstances will be evaluated before a final decision is made. As a general guide, excessive use may be defined as the use of marijuana on more than fifteen (15) occasions.
- 870.30 The following background variables will be closely reviewed by the Board and may be used to render a candidate ineligible for appointment:
- (a) All military discharges and the reasons for such discharges will be reviewed, including but not limited to performance, conduct, and medical records;
 - (b) The circumstances surrounding a conviction or convictions for disorderly conduct will be reviewed and evaluated on a case-by-case basis;
 - (c) Other acts which would constitute a crime will be individually evaluated;
 - (d) Traffic records will be judged on an individual basis. A pattern of disregard for existing traffic regulations, particularly where the applicant has been convicted of driving under the influence of intoxicants or drugs, may result in the exclusion of the candidate from further processing.
- 870.31 Any material false statements, misrepresentations or omissions made during any phase of the application process will be the basis for disqualification of a candidate.
- 870.32 An applicant's file will be placed in a condition of temporary suspension from further processing for either of the following reasons:
- (a) The applicant has criminal charges pending; or

- (b) The applicant's motor vehicle license has been suspended or revoked, or such action is pending.
- 870.33 The Board will return each candidate's files to the ARO with its recommendation as to whether the candidate should be determined suitable or unsuitable for further processing.
- 870.34 Based upon the Board's recommendation, the ARO will render a decision as to the suitability of each candidate for further processing. If the ARO does not concur with the decision of the Board, he or she will notify the Board and ask for reconsideration.
- 870.35 The names of candidates who have a suspended or revoked drivers license, or charges pending to that effect will be coded "N" on the Certificate by the ARO. (See section 870.8 (n) of this section). Depending upon the nature and seriousness of the charge, candidates who have criminal charges pending may be coded "N" on the Certificate by the ARO. The ARO will inform the candidates in writing of their temporary suspension from further processing, and will advise such candidates to notify the ARO when these impediments have been removed, as well as provide the ARO with appropriate evidence of such removal. Candidates will also be advised that they may be processed at the time of such notification if the Register has not been terminated prior to that date by the Director, D.C. Office of Personnel. These candidates would then be processed in order of their original position number on the Register.
- 870.36 The ARO will inform each candidate who has been deemed unsuitable, in writing, giving the candidate the reasons for the determination. In addition, each candidate will be informed that he or she may submit, within fifteen (15) workdays of the date of the letter informing the candidate of his or her unsuitability, a written request to the ARO to re-evaluate the facts that led to the determination.
- 870.37 When requests for review are received, the ARO will remand the background material to the Board for reconsideration. The ARO will inform the candidates in writing as to the final determination of suitability, including the basis for the determination, and that they may appeal the decision in writing to the Fire Chief (or his or her designee). The decision of the Fire Chief is final.
- 870.38 The names of candidates who failed to provide the required documentation for the background investigation will be coded "E" in the "Disposition" column of the Certificate. The names of those who have been determined to be unsuitable on the basis of the background investigation will be coded "F." These candidates will not be further considered for positions to be filled from the Register being used at the time. (See section 870.8 (e) and (f) of this section).
- 870.39 Upon completion, termination, or suspension from further processing, the ARO will transmit each candidate's file to the D.C. Office of Personnel.
- 870.40 Upon request, and for good reason, the ARO may allow a candidate who fails to report to or complete the medical examination one (1) additional opportunity to take or complete the medical examination.

- 870.41 The Police and Fire Clinic (PFC) will make the medical determination for each candidate and will inform the ARO of its determination in writing.
- 870.42 The ARO will inform the candidates who were medically disqualified by the PFC of the reasons for the disqualification, both orally and in writing. These candidates will also be advised that they may submit a written request asking that the ARO refer the case to the PFC for reconsideration. The request must be submitted within fifteen (15) days of receipt of the letter that informed them of their medical disqualification.
- 870.43 A code of "G" will be placed in the disposition column of the Certificate by the names of any candidate who failed to report for the medical examination after being given a second (2nd) opportunity; a code of "H" will be placed in the disposition column of the Certificate by the name of any candidate who failed to complete the medical examination after being given a second (2nd) opportunity; and a code of "I" will be placed in the disposition column of the Certificate by the name of any candidate deemed unsuitable on the basis of the medical examination. Candidates who have been coded "G," "H," or "I" will not be given further consideration for positions filled from the Register being used.
- 870.44 The Director, D.C. Office of Personnel, or the Fire Chief, may require candidates to complete an updated medical examination or background investigation if more than one hundred and twenty (120) days have elapsed between the date either the medical examination or background investigation were completed and the date of appointment.
- 870.45 Appropriate staff within the D.C. Office of Personnel will contact selectees in writing to tender offers of appointment. Every effort will be made to ensure that appointments are tendered in the order of original position on the Register, with the exception of variances caused by the occurrence of disposition categories "A," "B," "C," "D," "J," "K," and "N" (candidates placed within disposition categories "E," "F," "G," "H," "I," and "M" would not be tendered an offer of appointment), and subject to processing delays not within the control of the FEMSD or the D.C. Office of Personnel. The selectees will be informed of all of the following:
- (a) That the selection is tentative pending completion of the background investigation, if applicable;
 - (b) The components of the background investigation that have not been completed, if applicable;
 - (c) That a report resulting in a determination of unsuitability will result in termination of employment;
 - (d) Where and when to report for appointment; and
 - (e) The procedures for declining or deferring the appointment.

- 870.46 Delays in processing caused by a candidate's action or inaction may result in the candidate being offered an appointment after other candidates who were initially placed in a lower position on the Certificate. Appropriate staff within the D.C. Office of Personnel will be responsible for documenting the reasons for all such offers of appointment, and for providing the Director, D.C. Office of Personnel, with such documentation upon request.
- 870.47 Appropriate staff within the D.C. Office of Personnel will prepare all candidate appointment forms for those candidates who have accepted offers of appointment and will secure the necessary signatures as specified on the forms. A code of "L" will be placed in the disposition column of the Certificate by the names of candidates who have been appointed.
- 870.48 A code of "J" will be placed in the disposition column of the Certificate by the names of candidates who have declined appointment. Their names will be placed at the bottom of the Register in position order following the name of the last candidate. The Director, D.C. Office of Personnel, may approve their consideration at a later date.
- 870.49 A code of "K" will be placed in the disposition column of the Certificate by the names of candidates who have requested deferral of their appointment, with the date indicated in the space to the right. These candidates may be appointed on the date requested in the order of their position on the Register if the Register has not been terminated by the Director, D.C. Office of Personnel, prior to this date.
- 870.50 Candidates whose requested deferral dates exceed thirty (30) days from the date of the original date of appointment may be subjected to an updated background investigation.
- 870.51 Appropriate staff within the D.C. Office of Personnel will provide the ARO with the names of the candidates who have accepted appointment, declined appointment, or deferred appointment, so that the ARO may make the appropriate notations on the Certificate.
- 870.52 The ARO will return the Certificate to the D.C. Office of Personnel before requesting another Certificate.
- 870.53 When each name has been certified and the last Certificate returned to the D.C. Office of Personnel, the Director, D.C. Office of Personnel, will do either of the following:
- (a) Terminate the Register; or
 - (b) If there is a need for any entry-level Firefighter/EMT or Firefighter/Basic Paramedic to be hired, prior to the time that a new Register will be available, instruct the appropriate staff within the D.C. Office of Personnel to arrange for consideration of those candidates who are still eligible and have been placed at the bottom of the Register in accordance with this section, by the same procedure as was used with the candidates previously considered.

Section 875 is amended to read as follows:

875 PROMOTION TO BATTALION FIRE CHIEF AND DEPUTY FIRE CHIEF

875.1 Until September 30, 2007, promotion to Battalion Fire Chief will be accomplished in accordance with the following:

- (a) A Captain will be eligible for consideration for promotion to the rank of Battalion Fire Chief after having served as a Captain for a period of at least one (1) year;
- (b) Whenever one (1) or more promotions are to be made to the rank of Battalion Fire Chief, the Fire Chief will submit to the Mayor a list of the names of all Captains eligible under section 875.1 (a) of this section, together with such other information as the Mayor may require;
- (c) The Fire Chief will submit the final nomination of names to the Mayor for approval; and
- (d) Each individual selected for promotion to Battalion Fire Chief must successfully complete a promotional medical examination by the Board of Police and Fire Surgeons in order to be promoted.

875.2 Until September 30, 2007, promotion to Deputy Fire Chief will be accomplished in accordance with the following:

- (a) Whenever one (1) or more promotions are to be made to the rank of Deputy Fire Chief, the Fire Chief will submit to the Mayor a list of the names of all Battalion Fire Chiefs, together with such other information as the Mayor may require;
- (b) The Fire Chief will submit the final nomination of names to the Mayor for approval; and
- (c) Each individual selected for promotion to Deputy Fire Chief must successfully complete a promotional medical examination by the Board of Police and Fire Surgeons in order to be promoted.

875.3 Section 2 (b) of the Omnibus Public Safety Agency Reform Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-402 (b)) (2005 Supp.), provides that the Fire Chief must establish criteria for Career Service promotions to Battalion Fire Chief and Deputy Fire Chief that addresses the areas of education, experience, physical fitness, and psychological fitness. The criteria established, which will become effective on October 1, 2007, are specified in sections 875.4 through 875.6 of this section.

875.4 Beginning on October 1, 2007, promotion to Battalion Fire Chief will be accomplished in accordance with the following:

- (a) A Captain will be eligible for consideration for promotion to the rank of

Battalion Fire Chief after having served as Captain for at least one (1) year;

- (b) Each candidate must be certified to the Fire Officer II level in accordance with the standards of the National Fire Protection Association (NFPA), or equivalent, and must meet at least one (1) of the following three (3) educational and training requirements:
 - (1) Certification to Fire Officer III level in accordance with NFPA standards, or equivalent;
 - (2) A minimum of forty-five (45) semester hours of college level course work, with at least fifteen (15) semester hours in core subjects such as English composition, mathematics, and science, and the remainder in fire science or administration courses, or the equivalent of fire science or administration courses; or
 - (3) A minimum of thirty (30) hours toward certification as Fire Officer III in accordance with NFPA standards, or equivalent, with an additional fifteen (15) semester hours of college level course work in core subjects such as English composition, mathematics, and science.
- (c) A candidate hired after December 31, 1980 will be considered ineligible for consideration for promotion to the rank of Battalion Fire Chief if his or her record includes a suspension action for a period of fourteen (14) days or more within the three (3) years prior to submission of his or her application for promotion.
- (d) Each candidate will be required to successfully complete a promotional physical at the time of selection.

875.5 Beginning on October 1, 2007, promotion to Deputy Fire Chief will be accomplished in accordance with the following:

- (a) A Battalion Fire Chief will be eligible for consideration for promotion to the rank of Deputy Fire Chief after having served as Battalion Fire Chief for at least one (1) year;
- (b) Each candidate must be certified to Fire Officer II level in accordance with the standards of the National Fire Protection Association (NFPA), or equivalent, and must meet at least one (1) of the following three (3) educational and training requirements:
 - (1) Certification to Fire Officer III level in accordance with NFPA standards, or equivalent;
 - (2) A minimum of forty-five (45) semester hours of college level course work, with at least fifteen (15) semester hours in core subjects such as English composition, mathematics, and science, and the remainder in fire science

or administration courses, or the equivalent of fire science or administration courses; or

- (3) A minimum of thirty (30) hours toward certification as Fire Officer III in accordance with NFPA standards, or equivalent, with an additional fifteen (15) semester hours of college level course work in core subjects such as English composition, mathematics, and science.
- (c) A candidate hired after December 31, 1980 will be considered ineligible for consideration for promotion to the rank of Deputy Fire Chief if his or her record includes a suspension action for a period of fourteen (14) days or more within the three (3) years prior to submission of his or her application for promotion.
- (d) Each candidate will be required to successfully complete a promotional physical at the time of selection.

875.6 The selection process for the Battalion Fire Chief and Deputy Fire Chief is as follows:

- (a) The Fire Chief is authorized to select for promotion any of the members who meet the minimum qualification standards listed in sections 875.4 and 875.5 of this section.
- (b) The Fire Chief will submit the final nomination of names to the Mayor, together with any other information as the Mayor may require.

D.C. OFFICE OF PERSONNEL
NOTICE OF FINAL RULEMAKING

The Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title VIII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-608.01 *et seq.*) (2001), and Section 2 (b) of the Omnibus Public Safety Agency Reform Amendment Act of 2004 (the "Act"), effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-402 (b)) (2005 Supp.), hereby gives notice that final rulemaking action was taken to adopt the following rules. The Act requires that the Fire Chief establish criteria for Career Service promotions and Excepted Service appointments to Battalion Fire Chief and Deputy Fire Chief that addresses the areas of education, experience, physical fitness, and psychological fitness. Accordingly, these rules add a new section 920 to Chapter 9, Excepted Service, of Title 6 of the District of Columbia Municipal Regulations (DCMR), to add criteria for Excepted Service promotions to Battalion Fire Chief and Deputy Fire Chief in the Fire and Emergency Medical Services Department, as required under the Act. The criteria established shall become effective on October 1, 2007. No comments were received and no changes were made under the notice of proposed rulemaking published at 53 DCR 1192 (February 17, 2006). Final rulemaking action was taken on March 21, 2006.

CHAPTER 9

EXCEPTED SERVICE

A new section 920 is added to Chapter 9 of the D.C. Personnel Regulations, to read as follows:

920 PROMOTION TO BATTALION FIRE CHIEF AND DEPUTY FIRE CHIEF POSITIONS – FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

- 920.1 Until September 30, 2007, promotion to Battalion Fire Chief will be accomplished in accordance with the following:
- (a) A Captain will be eligible for consideration for promotion to the rank of Battalion Fire Chief after having served as a Captain for a period of at least one (1) year;
 - (b) Whenever one (1) or more promotions are to be made to the rank of Battalion Fire Chief, the Fire Chief will submit to the Mayor a list of the

names of all Captains eligible under section 875.1 (a) of this section, together with such other information as the Mayor may require;

- (c) The Fire Chief will submit the final nomination of names to the Mayor for approval; and
- (d) Each individual selected for promotion to Battalion Fire Chief must successfully complete a promotional medical examination by the Board of Police and Fire Surgeons in order to be promoted.

920.2 Until September 30, 2007, promotion to Deputy Fire Chief will be accomplished in accordance with the following:

- (a) Whenever one (1) or more promotions are to be made to the rank of Deputy Fire Chief, the Fire Chief will submit to the Mayor a list of the names of all Battalion Fire Chiefs, together with such other information as the Mayor may require;
- (b) The Fire Chief will submit the final nomination of names to the Mayor for approval; and
- (c) Each individual selected for promotion to Deputy Fire Chief must successfully complete a promotional medical examination by the Board of Police and Fire Surgeons in order to be promoted.

920.3 Section 2 (b) of the Omnibus Public Safety Agency Reform Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-402 (b)) (2005 Supp.), provides that the Fire Chief must establish criteria for Excepted Service appointments to Battalion Fire Chief and Deputy Fire Chief that addresses the areas of education, experience, physical fitness, and psychological fitness. The criteria established, which will become effective on October 1, 2007, are specified in sections 920.4 through 920.6 of this section.

920.4 Beginning on October 1, 2007, promotion to Battalion Fire Chief will be accomplished in accordance with the following:

- (a) A Captain will be eligible for consideration for promotion to the rank of Battalion Fire Chief after having served as Captain for at least one (1) year;
- (b) Each candidate must be certified to the Fire Officer II level in accordance with the standards of the National Fire Protection Association (NFPA), or equivalent, and must meet at least one (1) of the following three (3) educational and training requirements:

- (1) Certification to Fire Officer III level in accordance with NFPA standards, or equivalent;
 - (2) A minimum of forty-five (45) semester hours of college level course work, with at least fifteen (15) semester hours in core subjects such as English composition, mathematics, and science, and the remainder in fire science or administration courses, or the equivalent of fire science or administration courses; or
 - (3) A minimum of thirty (30) hours toward certification as Fire Officer III in accordance with NFPA standards, or equivalent, with an additional fifteen (15) semester hours of college level course work in core subjects such as English composition, mathematics, and science.
- (c) A candidate hired after December 31, 1980 will be considered ineligible for consideration for promotion to the rank of Battalion Fire Chief if his or her record includes a suspension action for a period of fourteen (14) days or more within the three (3) years prior to submission of his or her application for promotion.
- (d) Each candidate will be required to successfully complete a promotional physical at the time of selection.

920.5 Beginning on October 1, 2007, promotion to Deputy Fire Chief will be accomplished in accordance with the following:

- (a) A Battalion Fire Chief will be eligible for consideration for promotion to the rank of Deputy Fire Chief after having served as Battalion Fire Chief for at least two (2) years;
- (b) Each candidate must be certified to Fire Officer II level in accordance with the standards of the National Fire Protection Association (NFPA), or equivalent, and must meet at least one (1) of the following three (3) educational and training requirements:
 - (1) Certification to Fire Officer III level in accordance with NFPA standards, or equivalent;
 - (2) A minimum of forty-five (45) semester hours of college level course work, with at least fifteen (15) semester hours in core subjects such as English composition, mathematics, and science, and the remainder in fire science or administration courses, or the equivalent of fire science or administration courses; or

- (3) A minimum of thirty (30) hours toward certification as Fire Officer III in accordance with NFPA standards, or equivalent, with an additional fifteen (15) semester hours of college level course work in core subjects such as English composition, mathematics, and science.
- (c) A candidate hired after December 31, 1980 will be considered ineligible for consideration for promotion to the rank of Deputy Fire Chief if his or her record includes a suspension action for a period of fourteen (14) days or more within the three (3) years prior to submission of his or her application for promotion.
- (d) Each candidate will be required to successfully complete a promotional physical at the time of selection.

920.6 The selection process for the Battalion Fire Chief and Deputy Fire Chief is as follows:

- (a) The Fire Chief is authorized to select for promotion any of the members who meet the minimum qualification standards listed in sections 920.4 and 920.5 of this section.
- (b) The Fire Chief will submit the final nomination of names to the Mayor, together with any other information as the Mayor may require.

D.C. OFFICE OF PERSONNEL**NOTICE OF FINAL RULEMAKING**

The Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with the District of Columbia Military Retirement Equity Act of 2003 (Act), approved November 22, 2003 (P.L. 108-133; 117 Stat. 1386; D.C. Official Code § 5-704 (h)(2)(A) through (D)) (2005 Supp.), hereby gives notice that final rulemaking action was taken to adopt the following rules. The Act provides that certain officers and members, and former officers and members, of the Metropolitan Police Department and Fire and Emergency Medical Services Department who have honorable active military service after December 31, 1956 ("post-1956 military service") performed before the date of separation on which their annuity entitlement is based, may elect to retain credit for the post-1956 military service, by paying a percentage of the amount of basic military pay received. The Act also provides for an "interest-free purchase period," and requires that the Mayor issue rules to explain the process to purchase post-1956 military service. A Notice of Emergency and Proposed Rulemaking implementing the provisions of the Act was published at 52 DCR 1592 (February 18, 2005). Comments on that notice were received from the Office of D.C. Pensions of the U.S. Department of the Treasury, and the District of Columbia Retirement Board. Subsequently, a notice of proposed rulemaking was published at 53 DCR 1196 on February 17, 2006 incorporating the comments received. These rules add a new section 2620 to Chapter 26, Retirement, of Title 6 of the District of Columbia Municipal Regulations (DCMR), explaining the rules for the purchase of post-1956 military service pursuant to the Act; and update section 2600 of the chapter, Continuation of Retirement Benefits. No comments were received and no changes were made under the notice of proposed rulemaking published at 53 DCR 1196 (February 17, 2006). Final rulemaking action was taken on March 21, 2006

CHAPTER 26**RETIREMENT**

Section 2600 is amended to read as follows:

2600 CONTINUATION OF RETIREMENT SYSTEMS

- 2600.1 Section 2602 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-626.02) (2001) provides that the existing retirement systems, which include the Civil Service Retirement System (CSRS) (Chapter 83 of 5 U.S.C.), Teachers' Retirement System, Police and Fire Retirement System, Teachers Insurance and Annuity Association programs, and the Judges' Retirement System, continue to apply to all employees of the District government, except that the CSRS shall not be applicable to individuals first employed by the District government after September 30, 1987.

- 2600.2 The federal regulations in 5 CFR Part 831 and applicable District of Columbia regulations continue to apply to District government employees covered under the CSRS.

A new section 2620 is added to read as follows:

2620 POLICE AND FIRE RETIREMENT SYSTEM – PURCHASE OF MILITARY SERVICE PERFORMED AFTER DECEMBER 31, 1956

- 2620.1 Pursuant to the District of Columbia Military Retirement Equity Act of 2003 (Act), effective November 22, 2003 (117 Stat. 1386; P.L. 108-133; D.C. Official Code § 5-704 (h)(2)(A) through (D)) (2005 Supp.), an officer or member, or former officer or member, of the Metropolitan Police Department (MPD) or Fire and Emergency Medical Services Department (FEMSD) who has honorable active military service after December 31, 1956 (post-1956 military service) performed before the date of separation on which the member's or former member's annuity entitlement is based (covered employee), may elect to retain credit for the post-1956 military service and avoid a reduction in his or her annuity after the member or former member attains the age and eligibility for monthly old age or survivors' benefits under the SSA, by paying a percentage of the amount of basic military pay received, as specified in this section, for deposit in the Police and Firefighters' Retirement Fund, District of Columbia Federal Pension Fund (U.S. Department of the Treasury), or District of Columbia Retirement Board, as applicable.

- 2620.2 Sections 2620.3 through 2620.14 of this section contain the rules for the purchase of retention of credit for post-1956 military service.

- 2620.3 For the purposes of this section, the following terms have the meaning ascribed:

Basic military pay – total earnings received for military service (i.e., basic military pay under 37 U.S.C. § 204) based on the grade of the covered member when the military service was performed.

Interest – any interest required on payments to purchase post-1956 military service in accordance with D.C. Official Code § 5-704 (e)(2) (2001).

Military service – honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

Post-1956 military service – honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States performed after December 31, 1956, excluding military service covered by military leave with pay from a civilian position.

- 2620.4 Post-1956 military service contributions will be calculated at a rate equal to seven percent (7%) of the amount of basic military pay under the Pay and Allowances of the Uniformed Services Act (37 U.S.C. § 204) paid to the covered member for each period of military service performed on or before November 10, 1996.

- 2620.5 For periods of military service performed after November 10, 1996, post-1956 military service contributions will be calculated at a rate equal to seven percent (7%) of the total basic military pay for members hired before November 10, 1996; and at a rate equal to eight percent (8%) of the total basic military pay for members hired after November 10, 1996.
- 2620.6 Active covered members are required to submit appropriate documentation, to be determined by the personnel authority, as proof of the amount of basic military pay received.
- 2620.7 If sufficient evidence is not provided to determine the basic military pay for post-1956 military service, such payment shall be based upon estimates obtained from the U.S. Secretary of Defense, Secretary of the U.S. Department of Transportation, Secretary of the U.S. Department of Commerce, or Secretary of the U.S. Department of Health and Human Services.
- 2620.8 All purchases of post-1956 military service retention credit must be completed prior to the later of October 1, 2006 or the covered member's date of retirement, in order for the covered member to retain credit for the military service.
- 2620.9 An active covered member hired on or before October 1, 2005 must purchase retention of credit for post-1956 military service on or before October 1, 2006 without accruing interest. All post-1956 military service purchased by such a covered member after October 1, 2006 will accrue interest.
- 2620.10 A covered member hired after October 1, 2005 will have twenty-four (24) months from the date of hire to purchase retention of credit for post-1956 military service without interest being charged. All post-1956 military service purchased by such a member after the end of the twenty-four month (24-month) period will accrue interest.
- 2620.11 The interest-free payment periods specified in sections 2620.9 and 2620.10 of this section are considered grace periods. The rate applicable in computing interest for post-1956 military service after the end of either of the grace periods shall be based on the total amount of the covered member's basic military pay, and shall cover the time period from the end of either grace period.
- 2620.12 Covered members may elect to purchase retention of credit for post-1956 military service by paying a lump sum or through payroll deductions.
- 2620.13 A covered member who elects to purchase retention of credit for post-1956 military service may purchase all of the service that covers a specified continuous period of post-1956 military service.
- 2620.14 Payments made for purchase of retention credit for post-1956 military service shall not be refunded except upon separation from police or fire service for reasons other

than retirement. A covered member with less than five (5) years of police or fire service who is separated from the MPD or FEMSD for reasons other than retirement shall be refunded the amount of any lump sum payment and payroll deductions made from his or her salary, including any amounts paid or deducted for purchase of retention credit for post-1956 military service. A covered member with more than five (5) years of police or fire service may, at his or her election, receive a refund, or leave any such payments and payroll deductions in his or her account as a deferred annuity. The receipt of a refund of such payments or deductions shall void all annuity rights.

- 2620.15 The Director, D.C. Office of Personnel, will develop procedures to implement the provisions of the Act, and publish the procedures in the District Personnel Manual. At a minimum, the procedures shall provide guidance concerning:
- (a) Which members and officers are eligible to purchase and retain post-1956 military service;
 - (b) Instructions for the payment of post-1956 military service; and
 - (c) Any forms to be completed, and documentation to be submitted, as proof of post-1956 military service.

DISTRICT OF COLUMBIA PUBLIC LIBRARY

NOTICE OF FINAL RULEMAKING

The Interim Director and the Board of Trustee's of the District of Columbia Public Library ("DCPL") 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. No comments have been received nor have any changes been made to the text of the proposed rules, as published with the Notice of Proposed Rulemaking in the D.C. Register on March 3, 2006 at Volume 53 DCR 1582 - 1585.

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 the adoption of the following amendment to §§ 802, 803, and the newly adopted §804 to Chapter 8, Title 19 of the D.C. Municipal Regulations. The newly adopted 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 children's library materials for instructional purposes.

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

802.6 There is no charge to children for overdue library materials that were checked-out and returned to the library.

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 adult 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	21days	\$0.20	\$10.00	\$30.00
Books (7-day high)	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	5	2	21 days	\$0.20	\$10.00	\$50.00

Adult						
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 videocassette	10	1	21 days	\$1.00	\$10.00	\$15.00
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						
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- 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 If the borrower returns an item within three (3) days of the date due (“deferment period”), no fine will be charged. Although, if the borrower does not return the library material within the deferment period, the borrower will be charged from the initial due date.
- 803.5 When library materials are ten days overdue the Library shall send a notice to the borrower.
- 803.6 Children are charged for any checked-out lost or damaged item. Children will be charged the replacement cost plus a processing fee. Children’s 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.

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., 2nd FLOOR, WEST TOWER
WASHINGTON, D.C. 20005**

NOTICE OF FINAL RULEMAKING

**TELEPHONE TARIFF 05-4, IN THE MATTER OF THE APPLICATION OF
VERIZON WASHINGTON, D.C., 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 of its final rulemaking action, taken in Order No. 13918 (April 7, 2006), to approve the tariff application of Verizon Washington, D.C. Inc. ("Verizon DC")¹ to amend the following tariff pages:

GENERAL SERVICES TARIFF, P.S.C.-D.C.-No. 203

Section 4, 5th Revised Page 5

2nd Revised Page 6

Section 9, 4th Revised Page 2

2. Through this tariff filing, Verizon DC sought to increase the monthly recurring rates for Directory Assistance for Residential and Business customers by 8.7 percent (from \$0.46 to \$0.50), Non Published Listing service by 14.6 percent (from \$0.89 to \$1.02), Non Listed service by 14.9 percent (from \$0.47 to \$0.54), and Residential Additional Listings by 14.8 percent (from \$1.89 to \$2.17).² At the time of the filing, Directory Assistance service was classified as a Basic Service under Price Cap Plan 2004 and thus limited to an increase of 10 percent or less annually.³ Non Published Listing, Non Listed, and Residential Additional Listing services are classified as Discretionary Services under the Plan, which limits increases to 15 percent or less annually.⁴ Verizon DC asserted that the Application complied with Price Cap Plan 2004.

¹ *Telephone Tariff 05-4, 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, Letter from J. Henry Ambrose, Verizon DC Vice President for Regulatory Matters to Christine D. Brooks, Commission Secretary (December 22, 2005) ("Application").*

² See Application at 1.

³ The Commission has since reclassified Directory Assistance as a competitive service under Price Cap Plan 2004. See *Formal Case No. 1005, In the Matter of Verizon Washington, DC Inc.'s Application to Reclassify Local Directory Assistance and Connect Request Services as Competitive Under Price Cap Plan 2004*, Order No. 13908, rel. March 27, 2006, at 1, 10, and 14.

⁴ See Application at 1. See also *Formal Case No. 1005, In the Matter of Verizon Washington, D.C. Inc.'s Price Cap Plan 2004 for the Provision of Local Telecommunications Services in the District of Columbia*, Order No. 13370, rel. September 9, 2004. ("Price Cap Plan 2004" or "Plan").

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3. The Commission issued a Notice of Proposed Rulemaking, published in the *D.C. Register* on January 20, 2006, inviting the public to submit comments on the proposed tariff revision.⁵ No comments were filed. The Commission subsequently approved Verizon DC's Application in Order No. 13918, finding that the proposed tariff revisions were consistent with the requirements of Sections 3(a), 3(a)(1) and (2), and 3(a)(3) of Price Cap Plan 2004. The tariff revisions shall become effective upon the publication date of this Notice of Final Rulemaking in the *D.C. Register*.