

**DISTRICT OF COLUMBIA BOARD OF EDUCATION**

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**NOTICE OF FINAL RULEMAKING**

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The District of Columbia Board of Education ("Board"), pursuant to the authority generally set forth in D.C. Code, 2001 Edition, Section 38-101, and specifically provided in D.C. Code, 2001 Edition, Section 38-102(c) (relating to establishment of guidelines and goals for academic achievement), hereby gives notice of final rulemaking action taken by the Board at its meeting held on June 28, 2006, to amend Chapters 38 of the Board Rules, Title 5 of the D.C. Municipal Regulations regarding State Education Agency Functions of the Board of Education.

This amendment will effect the following actions: establish District-wide standards for knowledge and achievement in social studies for all students in grades pre-kindergarten through 12 that attend public school in the District of Columbia, including public charter schools.

The final rulemaking will take effect upon its publication in the D.C. Register. The proposed rulemaking on this subject was published in the D.C. Register on May 19, 2006.

**Add Section 3814:**

**3814 DISTRICT OF COLUMBIA STANDARDS FOR  
ACHIEVEMENT IN SOCIAL STUDIES**

**3814.1 The "District of Columbia Social Studies Pre-K through Grade 12 Standards" are adopted for use by all public schools in the District of Columbia. The Standards shall be made available to the public:**

- (a) Upon request to the District of Columbia Public Schools Office of Academic Services;
- (b) Through the distribution of copies to each DC public school facility; and
- (c) By posting of the Standards on the District of Columbia Public Schools web page, [www.k12.dc.us](http://www.k12.dc.us).

**3814.2 The Chief State Education Officer shall develop appropriate directives to execute his responsibilities under this section.**

This rulemaking is available on the District of Columbia Public Schools website at [http://www.k12.dc.us/dcps/boe/boe\\_frame.html](http://www.k12.dc.us/dcps/boe/boe_frame.html). Copies of this rulemaking are available from the Office of the Board of Education by calling (202) 442-4289.

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

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**OFFICE OF ADMINISTRATIVE HEARINGS**

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**NOTICE OF FINAL RULEMAKING**

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The District of Columbia Rental Housing Commission and the Chief Administrative Law Judge of the Office of Administrative Hearings, pursuant to the authority set forth in section 202(a)(1) of the Rental Housing Act of 1985, D.C. Law 6-10, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3502.02(a)) and section 8(b)(7) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.05(b)(7)), jointly give notice of the adoption of the following rules that will amend Title 1, Chapter 29 of the District of Columbia Municipal Regulations by adding sections 2920 to 2941, and by adding certain definitions to section 2999. The rules will establish procedures for cases arising under the Rental Housing Act of 1985 that will be heard by the Office of Administrative Hearings beginning on October 1, 2006.

These rules were first published in the *D.C. Register* on November 4, 2005 at 52 D.C. Reg. 9897. Based on the comments received, there are no substantive changes to the proposed rules. Two technical changes were made. The phrase "Administrative Law Judge" was substituted for "hearing examiner" in the fourth line of Section 2933.4, and the citation in section 2941.2 was corrected.

These rules will be effective upon the publication of this notice of final rulemaking in the *D.C. Register*.

**1 DCMR Chapter 29 is amended by adding the following sections:****2920 Rental Housing Cases: Scope**

2920.1 The rules in sections 2920-2941 govern proceedings before the Office of Administrative Hearings in rental housing cases. The rules in 14 DCMR Chapter 38 shall govern proceedings before the Rental Housing Commission, and the rules in 14 DCMR Chapters 39 through 43 shall continue to be applicable, except that those rules shall not be interpreted to govern procedure in the Office of Administrative Hearings.

2920.2 If these rules are silent on a procedural issue before the Office of Administrative Hearings, the issue shall be decided by following the rules found in 1 DCMR Chapter 28.

**2921 Rental Housing Cases: Filing Petitions and Other Documents**

- 2921.1 All petitions to commence a rental housing case shall be filed with the Rent Administrator in accordance with 14 DCMR 3901.
- 2921.2 The timeliness of the filing of any petition shall be measured from the date it is properly filed with the Rent Administrator.
- 2921.3 The Rent Administrator may refuse to accept a petition for filing as provided in 14 DCMR 3901.
- 2921.4 If the Rent Administrator accepts a petition for filing, he or she shall promptly forward it, along with all accompanying documents, to the Office of Administrative Hearings.
- 2921.5 In every case forwarded to the Office of Administrative Hearings, all documents other than a petition and accompanying documents shall be filed with the Office of Administrative Hearings, in accordance with 1 DCMR 2810.

**2922 Rental Housing Cases: Docketing and Notice**

- 2922.1 Upon receipt of a petition, the Office of Administrative Hearings shall, by certified mail or other form of service which assures delivery of the petition, notify the adverse parties named in the petition of their right to make a written request for a hearing on the petition within 15 days after receipt of the notice.
- 2922.2 In the case of tenant petitions, the Office of Administrative Hearings shall send a copy of the petition to the housing provider of the housing accommodation at issue, if not named in the petition as an adverse party, in the manner described in section 2922.1.
- 2922.3 In the case of petitions filed by a housing provider, the housing provider shall provide for each tenant in the housing accommodation one (1) copy of the petition, and an envelope, with priority mail postage prepaid, addressed to each tenant by name and containing the return address of the Office of Administrative Hearings. The Office of Administrative Hearings shall mail the copies to each tenant.
- 2922.4 In the case of petitions filed by a housing provider concerning a building with 10 or more rental units, the housing provider also shall provide a service list containing the name and address of each tenant. There shall be a hard copy of the list, along with a computerized version in Microsoft Word format, arranged so that it may be printed onto labels measuring 1 inch by 2 5/8 inches.

**2923 Rental Housing Cases: Right to a Hearing and Disposition of Petitions Without Hearings**

2923.1 If a hearing is timely requested by any party, the Office of Administrative Hearings shall send notice of the time and place of the hearing by certified mail or other form of service which assures delivery at least 15 days before the commencement of the hearing. The notice shall inform each party of the party's right to retain legal counsel to represent the party at the hearing.

2923.2 After notice to the parties and an opportunity to be heard, the Administrative Law Judge on his or her own motion may dismiss any petition that does not state a claim for which relief may be granted under the Rental Housing Act.

2923.3 The Administrative Law Judge may, without holding a hearing, refuse to adjust the rent ceiling for any rental unit, and may dismiss any petition for adjustment, if a final decision has been issued on a petition filed under the Act for adjustment to the same rental unit or units within six (6) months prior to the filing of the petition, unless the previous ruling was without prejudice to refileing.

**2924 Rental Housing Cases: Parties**

2924.1 Individual tenants involved in any proceeding shall be individually identified.

2924.2 If a tenant association seeks to be a party, the Administrative Law Judge shall determine the identity and number of tenants who are represented by the association.

2924.3 If a majority of tenants are represented by the association, the association shall be a party, and shall be listed in the caption.

2924.4 The housing provider as listed on the registration statement, if any, shall be a party, and shall be named on the caption. If a management agent represents the housing provider in the proceeding, the managing agent also shall be a party, and shall be identified as the agent and named on the caption.

**2925 Rental Housing Cases: Substitution or Addition of Parties**

2925.1 Upon the death of a party, or the dissolution, reorganization, or change of ownership or interest of a party, or a change in the registration statement resulting from an amendment filed under 14 DCMR 4103, the Administrative Law Judge may, upon the motion of a party, the motion of a person seeking to become a party, or the Administrative Law Judge's own motion, substitute or add a party.

2925.2 If it appears to the Administrative Law Judge that the parties have been incorrectly named, the Administrative Law Judge may substitute or add the correct parties upon the motion of a party, the motion of a person seeking to become a party, or the Administrative Law Judge's own motion.

2925.3 No substitution or addition of parties may occur unless all parties, and all persons that may be substituted or added as parties, are given notice and an opportunity to file written arguments in support of, or in opposition to, the substitution or addition of parties.

2925.4 An evidentiary hearing or oral argument on a motion for substitution of parties may be scheduled at the discretion of the Administrative Law Judge.

**2926 Rental Housing Cases: Intervenors**

2926.1 There shall be no intervention as a matter of right in rental housing cases. Intervention by permission may be granted to persons or entities if the proceeding will directly affect their rights or duties and is otherwise appropriate.

2926.2 Persons seeking to intervene shall file a motion for intervention stating the reasons why intervention should be permitted, and must serve a copy of the motion upon all parties to the proceeding.

2926.3 If a motion for leave to intervene is granted, intervenors may participate only with respect to the issues affecting them, as determined by the Administrative Law Judge.

**2927 Rental Housing Cases: Consolidation of Petitions and Expanding the Scope of a Proceeding**

2927.1 On motion of a party, or upon his or her own motion, an Administrative Law Judge may consolidate two (2) or more petitions where they present identical or similar issues, where they involve the same rental unit or housing accommodation, or in any other circumstance in which consolidation would expedite the processing of the petitions and would not adversely affect the interests of the parties.

2927.2 If the Administrative Law Judge determines that the issues raised in a tenant petition affect other tenants or all tenants in the housing accommodation, the Administrative Law Judge may expand the scope of the proceeding to include all affected tenants; provided, that notice shall be given to the additional tenants that they have the right to participate in the proceeding.

2927.3 The notice to other tenants shall state the issues to be decided in the proceeding and that any decision shall be binding upon them.

2927.4 The Administrative Law Judge shall also provide notice to the housing provider of the determination to expand the scope of the proceeding.

2927.5 Tenants and the housing provider shall have a reasonable opportunity to present any arguments in support of or opposition to the Administrative Law Judge's determination.

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**2928 Rental Housing Cases: Service**

- 2928.1 All documents required to be served upon any person under this chapter shall be served upon that person or upon the representative designated by that person, or by law, to receive service of documents.
- 2928.2 When a party has a representative of record, service shall be made upon the representative.
- 2928.3 Service shall be completed in accordance with § 904 of the Act, D.C. Official Code § 42-3509.04.
- 2928.4 Actual receipt of service shall bar any claim of defective service, except for a claim with respect to the timeliness of service.
- 2928.5 Service by mail shall be complete upon mailing.
- 2928.6 All documents filed with the Office of Administrative Hearings shall be served on the other parties on the same day they are filed with the Office of Administrative Hearings.
- 2928.7 A certificate of service shall be filed with every document filed with the Office of Administrative Hearings. The certificate of service shall state the date of service, the persons served, the address at which service was made, and the manner of service.

**2929 Rental Housing Cases: Computation of Time**

- 2929.1 The rules governing computation of time are found at 1 DCMR 2811.

**2930 Rental Housing Cases: Conciliation, Arbitration and Mediation**

- 2930.1 The parties may request conciliation or arbitration of any dispute by the RACD in accordance with 14 DCMR 3913 and 3914.
- 2930.2 The parties may request mediation of any dispute pursuant to 1 DCMR 2815.
- 2930.3 The deadline for issuance of any decision by the Office of Administrative Hearings shall be extended by the number of days during which the parties engage in conciliation, arbitration or mediation pursuant to this section.

**2931 Rental Housing Cases: Hearings**

- 2931.1 Upon the filing of a petition, or an order to show cause, an Administrative Law Judge shall issue a Case Management Order setting a hearing date. In addition to, or instead of, a hearing date, the Administrative Law Judge may set a date for a status conference.

2931.2 All hearings before the Office of Administrative Hearings shall be open to the public.

**2932 Rental Housing Cases: Burden of Proof**

2932.1 Unless otherwise provided in this Section, the proponent of an order shall have the burden of establishing each fact essential to the order by a preponderance of the evidence.

2932.2 In show cause hearings, the burden of proof shall rest upon the Rent Administrator.

2933.3 In retaliation cases, the burden of proof shall be as stated in 14 DCMR 4303.

**2933 Rental Housing Cases: Appearances and Representation**

2933.1 Persons authorized to appear before the Office of Administrative Hearings by 1 DCMR 2838 and 1 DCMR 2839 may represent parties in rental housing cases.

2933.2 In addition, a member or members selected by the members of a tenant association may represent the association and its members.

2933.3 The provisions of 1 DCMR 2838 and 2839, concerning discipline of persons appearing before the Office of Administrative Hearings, apply to representatives in rental housing cases.

2933.4 If it appears to the Administrative Law Judge at any time during the proceedings that the matter under review is so complicated or that the potential liabilities are so great that in the interest of justice a party ought to be represented by an attorney, the Administrative Law Judge shall explain to the party the advantages of obtaining an attorney, and shall explain the party's right to a continuance to obtain an attorney.

2933.5 If the party agrees to obtain the services of an attorney, the opposing party shall be so advised, and the hearing on the matter shall be continued for a reasonable time in order to allow the party to retain counsel and prepare for a hearing. The continuance shall not exceed thirty (30) days.

**2934 Rental Housing Cases: Documents Filed with the RACD**

2934.1 Any party that wishes the Administrative Law Judge to review any document concerning a rental housing accommodation that has been filed with the RACD must introduce a copy of that document into evidence. The document shall be admitted into evidence only in the following circumstances:

- (a) If a copy with an original file stamp (not a copy of the file stamp) is provided; or

- (b) If a copy certified by the Rent Administrator or an authorized employee of RACD is provided.

An Administrative Law Judge shall permit a reasonable continuance to enable a party to obtain a copy of any such document.

**2935 Rental Housing Cases: Interlocutory Appeals**

2935.1 A ruling of an Administrative Law Judge in a rental housing proceeding may not be appealed before issuance of a final order unless the presiding Administrative Law Judge certifies the ruling for review by the Commission.

2935.2 A party may move the Administrative Law Judge to certify to the Commission an interlocutory appeal of any ruling other than a final order.

2935.3 The Administrative Law Judge shall certify an interlocutory appeal only if he or she determines that the issue presented is of such importance to the proceeding that it requires the immediate attention of the Commission, and only if the following are shown:

(a) The ruling involves an important question of law or policy requiring interpretation of the Act, and about which there is substantial basis for difference of opinion; and

(b) Either of the following applies:

(1) An immediate ruling will materially advance the completion of the proceeding; or

(2) Denial of an immediate ruling will cause undue harm to the parties or the public.

2935.4 A party seeking review by interlocutory appeal shall file a motion for certification within two (2) days of service of a ruling by the Administrative Law Judge. The Administrative Law Judge shall rule on the motion within five (5) days following the filing of the motion.

2935.5 If certification is denied, the ruling may be reviewed on appeal from a final order of the Administrative Law Judge.

2935.6 The Administrative Law Judge may stay the proceeding while an interlocutory appeal is pending.

**2936 Rental Housing Cases: Final Orders**

2936.1 The Office of Administrative Hearings shall serve all final orders in rental housing cases upon the parties, by certified mail or by other form of service that assures delivery of the decision to the parties.

2936.2 The Office of Administrative Hearings also shall serve copies of all final orders in rental housing cases upon the Rent Administrator and the Commission.

**2937 Reconsideration**

2937.1 Any party served with a final order may file a motion for reconsideration within ten (10) days of service of that decision.

2937.2 A motion for reconsideration shall be granted only for the following reasons:

- (a) if there has been an intervening change in the law;
- (b) if new evidence has been discovered that previously was not reasonably available to the party seeking reconsideration;
- (c) if there is a clear error of law in the final order;
- (d) if the final order contains typographical, numerical, or technical errors; or
- (e) if a party shows that there was a good reason for not attending the hearing.

2937.3 As required by D.C. Official Code § 2-1831.16(a), the filing of a motion for reconsideration shall not stay a final order unless the Administrative Law Judge grants a stay or applicable law requires a stay.

2937.4 A motion for reconsideration shall be decided by the Administrative Law Judge within thirty (30) days of its filing.

2937.5 If an Administrative Law Judge fails to act upon a motion for reconsideration within the time limit established by section 2937.4, the motion shall be denied by operation of law.

2937.6 If a timely motion for reconsideration of a final order is filed, the time to appeal shall not begin to run until the motion is decided, or denied by operation of law.

**2938 Rental Housing Cases: Show Cause Hearings**

2938.1 A show cause hearing is a proceeding initiated by the Rent Administrator after an investigation by the Rent Administrator has resulted in a determination that there are substantial grounds to believe that violations of the Act may have occurred.

2938.2 If an investigation by the Rent Administrator finds substantial grounds to believe that possible violations of the Act have occurred, the Rent Administrator may file with the Office of Administrative Hearings an order to show cause, and shall serve the notice upon the alleged violator.

2938.3 The order to show cause shall state clearly the section of the Act or applicable rules that allegedly have been violated, along with a brief statement of the evidence found during the investigation that supports the determination that a violation has occurred.

2938.4 The order to show cause also shall set forth the proposed corrective action that the Rent Administrator seeks, or the sanction that the Rent Administrator seeks to have imposed upon the alleged violator.

2938.5 Upon the filing of an order to show cause, the case shall proceed in accordance with the procedures set forth in this chapter.

**2939 Rental Housing Cases: Official Record of a Proceeding**

2939.1 The record of a proceeding in a rental housing case shall consist of the following:

- (a) The final order and any interlocutory orders of the Administrative Law Judge;
- (b) The recordings or any transcripts of the hearings before the Administrative Law Judge;
- (c) All documents and exhibits offered into evidence at the hearing;
- (d) Notices of hearings and proofs of service; and
- (e) All pleadings or other documents filed by the parties or the Rent Administrator at the Office of Administrative Hearings.

**2940 Rental Housing Cases: Relief from a Final Order**

2940.1 Motions for relief from a final order are governed by 1 DCMR 2833.

**2941 Rental Housing Cases: Attorney's Fees**

2941.1 All motions for an award of attorney's fees in a rental housing case shall be filed within ten (10) days of service of the final order.

2941.2 The award of attorney's fees shall be governed by 14 DCMR 4019.

**Section 2999 of 1 DCMR Chapter 29 is amended by adding the following definitions:**

"Commission" means the Rental Housing Commission.

"RACD" means the Rental Accommodations and Conversion Division of the Department of Consumer and Regulatory Affairs.

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“Rental Housing Act” means the Rental Housing Act of 1985, D.C. Law 6-10, effective July 17, 1985, D.C. Official Code § 42-3501.01 *et seq.*

“Rental housing cases” means cases initiated pursuant to the Rental Housing Act, but does not include petitions for declaratory orders pursuant to the Rental Housing Conversion and Sale Act of 1980, as amended, D.C. Law 3-86, effective September 10, 1980, D.C. Official Code § 42-3401.01, *et seq.*