

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF FINAL RULEMAKING

Pursuant to the authority set forth in section 861 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979, D.C. Law 2-139, as added by the Legal Service Establishment Amendment Act of 1998 ("Legal Service Act"), effective April 20, 1999, D.C. Law 12-260, D.C. Official Code § 1-608.61 (2001), the Attorney General hereby gives notice that final rulemaking action was taken to adopt the following rules.

These rules amend Chapter 36 of the District of Columbia Personnel Regulations pertaining to the Legal Service. The amendment implements section 2 of Article 36 of the Collective Bargaining Agreement ("CBA") between the American Federation of Government Employees, Local 1403, AFL-CIO, and the Office of the Attorney General for the District of Columbia ("OAG"), which the Council of the District of Columbia approved by Resolution No. 15-794 on December 21, 2004. Section 2(A) of Article 36 of the CBA provides that any performance rating by an OAG attorney in the collective bargaining unit may be appealed within thirty (30) days of receipt by the employee to a three-person committee established by the Attorney General. In an accompanying Office Order, the Attorney General has established that committee, which is empowered to review the basis for a direct supervisor's rating, conduct a hearing, receive written briefs, and issue a written decision that may approve, modify, or reject a performance rating. Section 2A of Article 36 also provides that any decision of the committee shall be appealable to the Attorney General within thirty (30) days of the employee's receipt of the decision and that the Attorney General's decision shall be final and not subject to any further appeal. Section 2(B) of Article 36 requires the Attorney General to establish procedures for the appeals under Section 2(A). This rulemaking is designed to establish those procedures.

No comments were received and no changes made to the rules under the notice of emergency and proposed rulemaking published at 52 DCR 1917 (February 25, 2005). Final rulemaking action was taken on December 15, 2005.

Chapter 36 of the D.C. Personnel Regulations is amended as follows:

The table of contents is amended as follows:

By striking the phrase "3605 Evaluation of Performance – Office of the Corporation Counsel Line Attorneys" and substituting the phrase "3605 Evaluation of Performance – Office of the Attorney General for the District of Columbia Line Attorneys".

Section 3605 (Evaluation of Performance – Office of the Corporation Counsel Line Attorneys) is amended to read as follows:

- 3605 EVALUATION OF PERFORMANCE – OFFICE OF THE ATTORNEY GENERAL FOR THE DISTRICT OF COLUMBIA LINE ATTORNEYS**
- 3605.1 Each supervisor shall prepare a written evaluation for every line attorney under his or her supervision annually, within twenty (20) days after the end of the rating period. Written evaluations shall be prepared using a form that is approved by the Attorney General.
- 3605.2 Each supervisor shall submit evaluations of line attorneys to his or her supervisor for review, comment, or revision. Each supervisor who reviews an evaluation shall complete his or her review within five (5) days of receipt of the evaluation and shall immediately return the draft evaluation to the supervisor who prepared it.
- 3605.3 The supervisor who prepared the evaluation shall complete any revision requested by his or her supervisor within seven (7) days of receipt of the evaluation.
- 3605.4 After completion of any revisions under section 3605.3, the evaluation shall be reviewed by every supervisor in the chain of command from the line attorney up to the Attorney General. Each supervisor within the chain of command shall complete his or her review within five (5) days of receipt of the evaluation and forward the evaluation, along with his or her comments for revision, up the chain of command. The final supervisor in the chain of command below the Attorney General shall, upon completion of his or her review, return the evaluation to the supervisor who prepared it for revision prior to transmittal to the Attorney General.
- 3605.5 The Attorney General shall select at least one, and may select two or more, three (3) member Evaluation Panels of attorneys at the LS-15 grade or above.
- 3605.6 The Evaluation Panel or Panels shall collectively review the evaluations of all line attorneys to assure that the evaluations comply with this Chapter and that performance standards are being applied consistently throughout the Office. When two (2) or more Panels have been appointed, each Panel may review only a proportionate share of all the evaluations submitted. The Evaluation Panel or Panels shall complete their review and make any recommendations for changes to the Attorney General within twenty (20) days of receipt of the evaluations.
- 3605.7 As soon as practicable after the receipt of the recommendations of the Panel or Panels, the Attorney General shall complete his or her review. In reviewing evaluations of line attorneys, the Attorney General may consult with the supervisor who prepared the evaluation, any person who prepared an advisory evaluation, and the supervisors in the chain of command for the relevant unit.
- 3605.8 If the Attorney General decides that an evaluation should be changed, the supervisor who prepared the evaluation shall make all changes that are directed by the Attorney General within five (5) days of receipt of the Attorney General's directive.

- 3605.9 Each supervisor shall review the evaluation with the line attorney evaluated within twenty (20) days of receipt of the approved evaluation from the Attorney General or within twenty (20) days after completion of any revisions directed by the Attorney General. Both the line attorney evaluated and his or her supervisor shall sign the written evaluation to confirm that it has been reviewed.
- 3605.10 If a line attorney disagrees with the written evaluation, he or she may appeal it within thirty (30) days of receipt to a committee established by the Attorney General, the Performance Evaluation Review Committee ("Committee"). The Attorney General shall appoint nine managing attorneys to the Committee, which shall sit in three-member panels as designated by the Attorney General. The Committee shall be empowered to review the basis for the direct supervisor's rating, conduct a hearing, receive written briefs, and issue a written decision which may approve, modify, or reject the performance rating. The line attorney shall initially provide the Attorney General (or his or her designee) with a notice of appeal, including any request for a hearing, within thirty (30) days of receipt of the evaluation. The Committee shall circulate the notice to the line attorney's direct supervisor and to every supervisor in the chain of command between the line attorney and the Attorney General.
- 3605.11 The Committee has the discretion to decide whether to grant any request for a hearing. If a request for a hearing is granted, the committee shall circulate a hearing notice to the line attorney and to every supervisor in the chain of command between the line attorney and the Attorney General, which provides:
- (a) The place of the hearing and a hearing date and time no more than fifteen (15) days from the date of the hearing notice;
 - (b) That the line attorney may review, upon request to his or her direct supervisor, all materials upon which the evaluation is based;
 - (c) That the line attorney may be represented by an approved attorney, or other representative at the hearing; and
 - (d) That the line attorney has the right to testify and present evidence at the hearing.
- 3605.12 The hearing shall be closed except for the line attorney, his or her representative, the line attorney's direct supervisor, and every supervisor in the chain of command between the direct supervisor and the Attorney General. There shall be no discovery procedures except as provided in this section. An official record shall be kept of the hearing. The Committee may hold a pre-hearing conference in order to:
- (a) Formulate and simplify the issues, including the elimination of frivolous claims or defenses;

- (b) Obtain admissions of fact and of documents that will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings on the admissibility of evidence;
 - (c) Obtain identification of all witnesses and documents, which identification shall be binding at the hearing, except as, in the discretion of the committee, the interests of justice warrant the addition of witnesses and documents at the hearing;
 - (d) Achieve settlement of the dispute;
 - (e) Dispose of any pending motions;
 - (f) Set reasonable limits on the time allowed for presenting evidence;
 - (g) Establish a post-hearing briefing schedule, which may permit written briefs or other documents to be filed by the line attorney, the line attorney's direct supervisor, and each supervisor in the chain of command between the line attorney and the Attorney General; and
 - (h) Address such other matters as may facilitate the just and efficient disposition of the matter.
- 3605.13 If the Committee decides, in its discretion, to reject any request for a hearing, in whole or in part, it shall so advise the line attorney, the attorney's direct supervisor, and each supervisor in the chain of command between the line attorney and the Attorney General. The Committee shall circulate a notice that schedules the filing of written briefs or other documents to the line attorney, the line attorney's direct supervisor, and each supervisor in the chain of command between the line attorney and the Attorney General. The Committee may schedule a meeting with the line attorney, the line attorney's direct supervisor, and each supervisor in the chain of command between the line attorney and the Attorney General in order to address the matters raised in the appeal.
- 3605.14 The Committee shall provide the line attorney, the line attorney's direct supervisor, and every supervisor in the chain of command between the line attorney and the Attorney General with a final written administrative decision within thirty (30) days of the conclusion of the appeal proceeding. The final written administrative decision shall be accompanied by notice of the right to appeal the decision to the Attorney General within thirty (30) days of receipt of the decision by the line attorney.
- 3605.15 The Attorney General shall circulate the line attorney's notice of appeal to the line attorney's direct supervisor and to every supervisor in the chain of command between the direct supervisor and the Attorney General.
- 3605.16 The Attorney General shall review the basis for the three-person committee's decision de novo, without taking any additional evidence. As part of this review, the

Attorney General may permit written appellate briefs to be filed in accordance with a schedule established by the Attorney General. No oral arguments shall be permitted. The Attorney General may, in the exercise of his or her discretion, hold a pre-briefing conference for the purposes, among others, of formulating and simplifying the issues, disposing of any pending motions, attempting to settle the dispute, establishing a schedule for the filing of written briefs or other documents, and addressing such other matters as may facilitate the just and efficient disposition of the appeal.

- 3605.17 The Attorney General shall provide the line attorney, the line attorney's direct supervisor, and every supervisor in the chain of command between the direct supervisor and the Attorney General with a final written administrative decision within a reasonable time after the final brief is filed. The Attorney General's decision shall be final and no further appeal shall be allowed.
- 3605.18 Each supervisor shall perform at least one interim evaluation of every attorney under his or her supervision annually, in the ninth month of the rating period. An interim evaluation shall consist of an informal meeting to discuss the line attorney's performance under his or her Individual Accountability Plan. At his or her discretion, a supervisor may provide a written interim evaluation. Any written interim evaluation shall be provided to the attorney evaluated, but shall not be included in the attorney's official personnel file unless the supervisor rates the attorney as "needs improvement" or lower. At his or her discretion, or at the request of the Attorney General, a supervisor may perform interim evaluations no more frequently than once every three (3) months during the rating period. Interim evaluations rating a line attorney as "needs improvement" or lower may be changed by mutual agreement or by the filing of an appeal as provided in this section.

OFFICE OF THE CHIEF MEDICAL EXAMINER

NOTICE OF FINAL RULEMAKING

The Child Fatality Review Committee ("Committee"), pursuant to the authority set forth in the Child Fatality Review Committee Establishment Act of 2001 (CFRCE), effective October 3, 2000 (D.C. Law 14-28), D.C. Official Code § 4-1371.01 *et seq.* (2001), hereby gives notice of the adoption of the following rules to be included in Chapter 51 of Title 28 of the District of Columbia Municipal Regulations ("DCMR"). The purpose of the rules is to reflect the establishment of a Child Fatality Review Committee as part of the District of Columbia Government, and to promulgate rules regarding the manner of review of child fatality cases by the Committee. The proposed rules were published in the *D.C. Register* at 52 DCR 5941 on June 24, 2005. No comments have been received and no changes have been made to the text of the proposal. These rules shall become effective upon publication in the *D.C. Register*.

Title 28 (Corrections, Courts & Criminal Justice) (May 1987) of the DCMR is amended by adding a new Chapter 51 to read as follows:

CHAPTER 51

5100 REVIEW OF CASES BY CHILD FATALITY REVIEW COMMITTEE

- 5100.1 The Child Fatality Review Committee Establishment Act of 2001 (D.C. Law 14-02) the Child Fatality Review Committee ("Committee") shall conduct reviews of the deaths of children who meet the criteria of Section 4605 of the Child Fatality Review Committee Establishment Act of 2001 (D.C. Law 14-28) D.C. Official Code § 4-1371.05 (2001).
- 5100.2 The Committee shall have the discretion to determine the manner of review of cases, including the use of any of the approaches listed below:
- (a) Multidisciplinary/multi-agency reviews of individual fatalities;
 - (b) Multidisciplinary/multi-agency reviews of clusters of fatalities identified by special category or characteristic;
 - (c) Statistical reviews of fatalities; or
 - (d) Any combination of such approaches.
- 5100.3 The Child Fatality Review Team, established by the Committee pursuant to section 4605 (d) of the Act (D.C. Official Code § 4-1371-05(d) (2001), shall

conduct individual reviews of the deaths of children one year of age or older. These reviews shall include, at a minimum, the following:

- (a) Children under the age of 14 years in which evidence illustrates that one or more of the following factors may have been present:
 - 1. Blunt force trauma, child abuse syndrome, or other causes associated with child abuse, including sexual abuse;
 - 2. Malnutrition, dehydration, failure to thrive, or other causes associated with neglect;
 - 3. Head trauma or fractures;
 - 4. Drowning;
 - 5. Asphyxia, suffocation, or strangulation;
 - 6. Evidence of ingestion of drugs, alcohol, or another harmful substance (including pre and/or post-natally);
 - 7. Burns or smoke inhalation;
 - 8. Gunshot wound;
 - 9. Suicide; or
 - 10. Suspicious cause and manner of death.
- (b) Children over the age of 14 years in which evidence illustrates that one of the following factors may have been present:
 - 1. A determination of suicide as the manner of death; or
 - 2. A cause and manner of death suspicious in nature.

5100.4 The Infant Mortality Review Team shall conduct individual reviews of the deaths of children under the age of one year. These reviews shall include, at a minimum, the following fatalities:

- (a) Deaths investigated and certified by the Office of the Chief Medical Examiner; and
- (b) Twenty percent of deaths of infants with 500 grams or greater birth weight.

- 5100.5 A full multidisciplinary/multi-agency team ("Cluster Review Team") shall review groups of cases ("clusters") that share common characteristics and trends that may indicate a prevailing community problem or risk factor for specific types of fatalities. A cluster shall be identified by the following:
- (a) Special categories or common characteristics;
 - (b) Trends;
 - (c) Causes of death;
 - (d) Other contributory factors, such as, parental/child behavior, environmental conditions, etc.; and/or
 - (e) Health conditions.
- 5100.6 The composition of the Infant Mortality Review Team, Child Fatality Review Team and the Cluster Review Team ("the Teams") shall be multi-disciplinary and multi-agency; but may vary upon the type of death and review required.
- 5100.7 The teams shall have broad cross representation of the service areas and professionals identified by the member agencies and organizations.
- 5100.8 Committee members may designate representatives from their respective agencies and organizations who have the requisite administrative or program knowledge and experience to serve on the Teams.
- 5100.9 A minimum of two community members shall participate on each of the Teams.
- 5100.10 The Committee shall make every effort to involve community members from the wards of the decedents whose cases are being reviewed in Team meetings.
- 5100.11 Community members of Teams may not delegate the responsibility to serve on the Team nor designate an alternate.
- 5100.12 The Teams may include participants who are not official Committee appointees.
- 5100.13 The Committee shall identify non-Committee participants in the Teams through a data gathering process from representatives of the agencies and organizations that were involved with a decedent's family.

- 5100.14 Other persons and consultants having expertise in professional areas that are not represented on the Committee may also be invited to participate in Team meetings when the discussion involves issues where their special expertise is required.
- 5100.15 The Committee Coordinator shall identify Team participants.
- 5100.16 The Committee's Co-Chairpersons may grant written requests for non-members to attend Team meeting for the purpose of training and education.
- 5100.17 The individual case reviews may be conducted in a manner that includes decedent, family member and agency identifiers or may be anonymous.
- 5100.18 Review by the Cluster Review Team shall be anonymous and may not focus on details of individual cases. The Committee may permit its established subcommittees to make annual determinations of the specific issues to be addressed through the Cluster Review Team process.
- 5100.19 Recommendations of the Committee shall be issued to the appropriate public agencies on a quarterly basis.
- 5100.20 Subordinate agency directors to whom a Committee recommendation is made shall respond in writing to the Committee within 30 days of issuance of the report containing the recommendation.

28-5101 DEFINITIONS

5101.1 For the purposes of this Chapter, the term:

- (a) "Multidisciplinary/multi-agency reviews of individual fatalities" means a comprehensive review of the circumstances surrounding the death and interventions and organizations prior to, at the time of, or subsequent to the fatal event in order to identify case specific systemic improvements and prevention strategies.
- (b) "Multidisciplinary/multi-agency reviews of clusters of fatalities" means cohort studies of groups of child death cases based on similar characteristics, causes and manners of death, trends or other similar circumstances surrounding the death
- (c) "Statistical reviews of fatalities" means a review of the relevant data factors identified for routine collection for all child fatalities that meet the criteria of Section 4605 of the Act (D.C. Official Code 4-1371.05) (2001).

- (d) "Cluster" means a group of cases identified by special categories or common characteristics, trends, causes of death, or other contributory factors (parental/child behavior, environmental conditions, etc.) and/or health conditions. The reviews shall focus on the common characteristics and trends of the cluster that may indicate a prevailing community problem or risk factor for specific types of fatalities.

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- 5100.6 The composition of the Infant Mortality Review Team, Child Fatality Review Team and the Cluster Review Team ("the Teams") shall be multi-disciplinary and multi-agency; but may vary upon the type of death and review required.
- 5100.7 The teams shall have broad cross representation of the service areas and professionals identified by the member agencies and organizations.
- 5100.8 Committee members may designate representatives from their respective agencies and organizations who have the requisite administrative or program knowledge and experience to serve on the Teams.
- 5100.9 A minimum of two community members shall participate on each of the Teams.
- 5100.10 The Committee shall make every effort to involve community members from the wards of the decedents whose cases are being reviewed in Team meetings.
- 5100.11 Community members of Teams may not delegate the responsibility to serve on the Team nor designate an alternate.
- 5100.12 The Teams may include participants who are not official Committee appointees.
- 5100.13 The Committee shall identify non-Committee participants in the Teams through a data gathering process from representatives of the agencies and organizations that were involved with a decedent's family.

- 5100.14 Other persons and consultants having expertise in professional areas that are not represented on the Committee may also be invited to participate in Team meetings when the discussion involves issues where their special expertise is required.
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- 5100.16 The Committee's Co-Chairpersons may grant written requests for non-members to attend Team meeting for the purpose of training and education.
- 5100.17 The individual case reviews may be conducted in a manner that includes decedent, family member and agency identifiers or may be anonymous.
- 5100.18 Review by the Cluster Review Team shall be anonymous and may not focus on details of individual cases. The Committee may permit its established subcommittees to make annual determinations of the specific issues to be addressed through the Cluster Review Team process.
- 5100.19 Recommendations of the Committee shall be issued to the appropriate public agencies on a quarterly basis.
- 5100.20 Subordinate agency directors to whom a Committee recommendation is made shall respond in writing to the Committee within 30 days of issuance of the report containing the recommendation.

28-5101 DEFINITIONS

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- (d) "Cluster" means a group of cases identified by special categories or common characteristics, trends, causes of death, or other contributory factors (parental/child behavior, environmental conditions, etc.) and/or health conditions. The reviews shall focus on the common characteristics and trends of the cluster that may indicate a prevailing community problem or risk factor for specific types of fatalities.

DISTRICT OF COLUMBIA
BOARD OF EDUCATION

NOTICE OF FINAL RULEMAKING

The Executive Director of the D.C. Board of Education, pursuant to the authority set forth in D.C. Code, 2001 edition, Section 38-101, hereby gives notice of final rulemaking action taken by the Board at its December 14, 2005 Board meeting to amend Chapter 1 of the Board Rules, Title 5 of the D.C. Municipal Regulations, regarding By-Laws of the Board of Education. The revisions require 1) the President to prepare a consent agenda for each State Education Agency and regular meeting, 2) State Education Agency meetings be held on the Monday before the regular meeting, 3) the Board to provide a hour of public comments before the call to order before each regular meeting, 4) the Board to define the time limits for debate and discussion, and 5) the Board members to adhere to a Code of Ethics.

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 October 7, 2005.

Chapter 1 is amended to read as follows:

100 COMPOSITION AND AUTHORITY

100.1 The composition of the Board of Education of the District of Columbia, the manner in which members are elected, qualifications for holding the office of member of the Board of Education, and the term of office of members of the Board are established and set forth in the Code of Laws of the District of Columbia.

100.2 The authority and jurisdiction of the Board of Education are set forth in the Charter of the District of Columbia, and in the Code of Laws of the District of Columbia.

100.3 The Board of Education shall exercise its authority through the official acts of its members taken while the Board is in session, and when a quorum of the Board is present.

100.4 The official acts of the Board of Education shall be recorded in the journal of proceedings of the Board which shall be certified and maintained by the Executive Secretary.

100.5 The Board of Education shall not be bound in any way by any action or statement of an individual member or group of members of the Board, except when that

action or statement is authorized by an official act of the Board or the provisions of this chapter.

100.6 The Board of Education is an independent agency of the government of the District of Columbia that is vested with control of the public schools of the District.

100.7 The head of the agency consists of a nine (9) member Board that includes elected and appointed officials.

100.8 The chief administrative officer of the Board of Education is the Superintendent of Schools.

101 OFFICERS OF THE BOARD

101.1 The Board of Education is headed by a President, elected at large by the voters of the District of Columbia. The Board shall annually elect from among its members a Vice President, Secretary and Treasurer, who shall serve until their successors are elected in accordance with this section.

101.2 The annual election of the Vice President, Secretary and Treasurer of the Board shall be the first order of business on the agenda at the first regular or special meeting held after members are elected in a general election in accordance with D.C. Official Code §§ 1-204.95 and 38-101 (2001) or at the first meeting following the regular meeting in December in a year when no positions on the Board are filled in the general election or by Mayoral appointment.

101.3 The Vice President, Secretary and Treasurer shall be elected by a majority vote of the full Board of Education.

101.4 The meeting during which the annual election of the Vice President, Secretary and Treasurer occurs shall be called to order by the President.

101.5 Nominations for the offices of Vice President, Secretary and Treasurer may be made by any member of the Board of Education. No second shall be required for nomination.

102 VACANCIES IN THE OFFICE OF PRESIDENT OR VICE PRESIDENT

102.1 Whenever a vacancy occurs in the office of the President of the Board of Education, the Board of Education shall select one of the members of the Board to serve as the interim President until the election of a new President.

102.2 Whenever an officer is selected for the office of President, or when an office becomes vacant for any other reason, the Board shall hold a special election to fill the resulting vacant office.

102.3 The special election under § 102.2 shall be held at the next regular meeting of the Board or at a special meeting of the Board held prior to the next regular meeting, which is called for the purpose of holding that special election.

102.4 A vacant office shall be filled by a majority vote of the full Board.

102.5 The Board member elected to fill the vacant office shall serve until the next annual election of officers.

103 VACANCIES IN THE OFFICE OF MEMBER OF THE BOARD

103.1 Whenever a vacancy occurs in the office of member of the Board of Education, that vacancy shall be filled in accordance with the laws of the District of Columbia.

103.2 Whenever the laws of the District of Columbia require that the Board of Education fill a vacancy in the office of an elected member of the Board of Education by appointment, the Board shall make the appointment in accordance with the procedures set forth in this section.

103.3 Whenever the Board of Education determines that a vacancy exists in the office of a member of the Board, it shall issue an official public announcement of the vacancy.

103.4 The Executive Secretary shall notify the Board of Elections when it determines that a vacancy exists.

103.5 The official public announcement of the vacancy shall be published in the D.C. Register, and shall be communicated to the press and media.

103.6 Notice of a vacancy to be filled by appointment shall also be sent to the affected organized citizen groups which are on the mailing list of the Board of Education.

103.7 Whenever the laws of the District of Columbia require that the Board of Education fill a vacancy by appointment, the official public announcement shall do the following:

- (a) Indicate that the vacancy will be filled by appointment;
- (b) Set forth the necessary qualifications for the office; and
- (c) Specify the appointment procedures provided in this section.

103.8 To be qualified for appointment to fill a vacancy, a person shall have the same qualifications for holding the office as were required by law of his or her immediate predecessor.

103.9 The Board of Education shall appoint a qualified individual to the vacant office

at a regular meeting of the Board or at a special meeting of the Board called for that purpose only.

103.10 Appointment to fill a vacancy in the office of an elected member of the Board of Education shall be by a majority vote of the remaining membership of the Board, upon nomination by a member. The voting shall take place in open session, with each member casting a vote for no more than one nominee on each ballot.

103.11 If a majority of the remaining membership of the full Board cannot agree upon the appointment of one of the nominees on the first ballot, voting shall continue on subsequent ballots until a nominee receives a majority vote.

103.12 The Board may recess or adjourn and reconvene at a later time to continue the balloting.

103.13 A person appointed to fill a vacancy in the office of an elected member of the Board of Education shall serve until 12:00 noon on the thirtieth (30th) day after the Board of Elections has certified a successor elected to that office under the laws of the District of Columbia.

103.14 Whenever a vacancy occurs in an office of a member appointed by the Mayor, the vacancy shall be filled in accordance with D.C. Official Code §§ 1-204.95 and 38-101 (2001).

104 DUTIES OF THE OFFICERS OF THE BOARD

104.1 The President shall preside at the meetings of the Board of Education (Board) and the Committee of the Whole. The President may participate in the discussions on matters before the Board, and vote on any action taken by the Board at all monthly meetings, special or emergency meetings, and meetings of the Committee of the Whole.

104.2 The President shall appoint the chairperson and membership of all standing committees and ad hoc committees established by the Board. The President may for good cause remove a committee chairperson or member unless overridden by a two-thirds (2/3) majority vote of the Board at the next regular meeting of the Board.

104.3 Whenever a committee vacancy occurs, the President shall promptly appoint a new committee member. In making the appointment, the President shall give special consideration to newly elected Board members.

104.4 The President shall not serve as chairperson of any committee except the Committee of the Whole, but shall be a member *ex officio* with the right to vote of each standing and ad hoc committee.

104.5 The President shall act as official spokesperson for the Board when the Board is not in session; however, the President shall only represent the position of the Board of

Education as established by the official acts of the Board. The President shall perform other duties as may be authorized by this chapter, the Board, or by the laws of the District of Columbia.

104.6 The Vice President shall assume the duties, responsibilities and privileges of the President in the absence or at the request of the President.

104.7 The Secretary shall supervise record keeping, execute such documents permitted by law, have custody of the books of record of Board proceedings, and perform such other duties as the law requires and the Board assigns.

104.8 The Treasurer shall assume such fiscal monitoring responsibilities as determined by a majority vote of the Board.

104.9 In the absence of both the President and the Vice President, the Secretary shall serve as President *pro tempore* and perform all of the duties of the President.

104.10 The Board may establish and provide for the appointment of clerical, secretarial, and professional personnel necessary for providing direct staff services to the Board.

105 MEETINGS OF THE BOARD OF EDUCATION: STATE EDUCATION AGENCY AND REGULAR MEETINGS

105.1 The Board shall hold separate State Education Agency and regular monthly business meetings in the months of September through July of each year to take actions on, respectively, state education policy and local education policy. The Board may coordinate its State Education Agency and regular monthly meetings to be consecutive; provided, however, that these meetings shall not be held concurrently.

105.2 Unless specifically changed by the Board, the regular meetings shall be held on the third Wednesday of each month at a time and place established by the Board.

105.3 The State Education Agency meetings will be held monthly on Monday the same week as the regular Board meeting, except in August during recess.

105.3 4 The Agenda for the regular meetings of the Board shall include the following:

- (a) A report of the Superintendent, which may include items for the information of the Board, items for referral to Board committees, and items requiring official action by the Board
- (b) A report of the Executive Secretary to the Board which shall include approval of

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the journal of proceedings of the Board and accompanying transcripts, and which may include items for the information of the Board, items for referral to Board committees, and items requiring official action by the Board;

- (c) A report from each standing and ad hoc committee of the Board, which may include items for the information of the Board and recommendations requiring official action by the Board.
- (d) A report of the President of the Board which may include any item for the information of the Board and,
- (e) Provision for time for any member of the Board to present items for information of the Board or for referral by the chair to a Board committee.

105.4 5 The recommendations contained in a committee report which require official Board action shall be automatically placed on the floor as main motions without requiring a second.

105.5 6 Items requiring official action by the Board which are presented by the Superintendent or the Executive Secretary, pursuant to § 105.3, may be placed on the floor for action or referred to the appropriate Board committee for consideration and recommendation at the discretion of the chair.

105.6 7 Items not on the agenda may be added for information or referral to the appropriate Board committee at the discretion of the chair.

105.7 8 The following items may be placed on the floor for action under a waiver of the rules:

- (a) Items not on the agenda;
- (b) Items that have been referred to committee by the chair pursuant to § 105.5; and
- (c) Items presented under § 105.3(d) and 105.3(e).

105.8 9 The President shall prepare a consent agenda for each State Education Agency and regular meeting which shall include those matters which the President believes will be adopted by unanimous vote. The consent agenda shall be approved by the Committee of the Whole at its meeting immediately preceding the State Education Agency and regular meeting for which the agenda was prepared. ~~provided, that the consent agenda is circulated by the President in advance of the Committee of the Whole meeting.~~

105.9-10 Any member may strike a matter from the consent agenda at the Committee of the Whole meeting or at any regular meeting prior to the vote on the consent agenda or by a written objection submitted to the Executive Secretary prior to the meeting. Matters removed from the consent agenda shall be considered in accordance with § 105.3 and 105.4.

105.10 ~~11~~ Items remaining on the consent agenda shall be approved by the Committee of

the Whole and shall be considered at the next regular meeting as part of the agenda established in accordance with § 105.3. Approval of the consent agenda during the State Education Agency and regular meeting shall include the unanimous approval of all matters included in the consent agenda.

106 MEETINGS OF THE BOARD OF EDUCATION: SPECIAL MEETINGS

106.1 The President of the Board of Education may call a special meeting of the Board by informing the Executive Secretary in writing of the purpose of the special meeting not less than forty-eight (48) hours prior to the meeting.

106.2 Any four (4) members of the Board of Education may call a special meeting of the Board by informing the Executive Secretary in writing of the purpose of the special meeting not less than forty-eight (48) hours prior to the meeting.

106.3 Upon receipt of the written call for a special meeting, the Executive Secretary shall inform the members of the Board of Education of the time, place, and purpose of the special meeting. The Executive Secretary shall also provide a copy of the written notice to the secretary assigned to each Board member.

106.4 The Executive Secretary shall also give notice of the special meeting to the public by informing the press and media of the time, place, and purpose of the meeting.

106.5 The agenda of the special meeting shall include only those items set forth in the notice of the purpose of the meeting. Items not on the agenda may be added for information, referral, or action under a waiver of the rules.

107 MEETINGS OF THE BOARD OF EDUCATION: EMERGENCY MEETINGS

107.1 The President of the Board of Education may call an emergency meeting of the Board by informing the Executive Secretary in writing of the nature of the emergency and the purpose of the meeting.

107.2 Upon the request of a call for an emergency meeting, the Executive Secretary shall inform the members of the Board of the time, place, nature of the emergency, and purpose of the emergency meeting. The Executive Secretary shall also provide a copy of the written notice to the secretary assigned to each Board member.

107.3 The Executive Secretary shall also give notice of the emergency meeting to the public by informing the press and media of the time, place, and purpose of the meeting.

107.4 The agenda of an emergency meeting shall include only the item(s) set forth in the notice of purpose of the meeting. No item(s) for action by the Board may be added to

the agenda of an emergency meeting.

107.5 Prior to taking action on the agenda item(s) at an emergency meeting, the majority of the Board members present shall ratify the declaration of an emergency.

108 CONDUCT OF BOARD MEETINGS

108.1 Debate and proceedings of the meetings of the Board of Education and its committees shall be governed by the provisions of *Roberts Rules of Order, Newly Revised*, except as provided otherwise by the Board rules.

108.2 Five (5) members of the Board of Education shall constitute a quorum for the purpose of transacting business at any regular meeting, special meeting, emergency meeting, or meeting of the Board sitting as a Committee of the Whole. An exception to this rule exists when there is more than one (1) vacancy on the Board of Education, at which time a quorum shall be reduced as follows.

Number of Members in Office	Quorum
8	5
7	4
6	4
5	3

108.3 Six (6) members of the Board of Education shall vote affirmatively to waive the rules or adopt any measure requiring a two-thirds (2/3) majority vote. An exception exists when there is more than one (1) vacant office of a member of the Board of Education, the number required for waiver shall be as follows:

Number of Members in Office	Votes Required for Waiver (2/3)
8	5
7	5
6	4
5	4

108.4 Interested parties will be provided time to appear before the Board at open

meetings to address the Board on issues currently before the Board using the following procedures:

~~(a) The Board of Education will provide a period of thirty (30) minutes, after the Call to order and Roll, for public comments.~~

(a) The Board of Education will provide a period of one hour, before the Call to Order and Roll Call, for public comments.

~~(b) Two speakers only to a topic will be heard prior to the open session.~~

(b) Only two speakers from the same organization will be heard.

(c) The President will establish time limits for presentations.

108.5 The journal of proceedings of a prior meeting, including transcripts, or any other matter that has been provided to Board members in writing, may be acted upon without reading the material into the record at the discretion of the chair. If adopted, the material shall be included in the journal of proceedings.

108.6 The chair may make motions, second motions, participate in discussion, and vote on all matters at meetings of the Board.

108.7 Items for referral to a committee of the Board that are presented at a regular meeting, or at other meetings of the Board, shall be referred to the appropriate committee by the chair.

108.8 Items received by the Board between meetings shall be referred to the appropriate committee by the President of the Board.

108.9 Any member of the Board may include written comments on any matter on the agenda in the journal of proceedings of a Board meeting by providing the written statement to the Executive Secretary with a copy to each Board member within three (3) days of the adjournment of the meeting.

108.10 Unless specifically provided by common consent of the Board members present or under waiver of the rules, only the following may address the Board or participate in the discussion of matters at regular monthly, special, or emergency meetings:

(a) Members of the Board of Education;

(b) The Superintendent of Schools or administrative staff designated by the Superintendent; or

- (c) Members of the Board staff designated by the chair.

108.11 During consideration of action or informational items, debate and discussion will be limited to three rounds. During the first round, each member will be limited to three minutes. During the second round, each member will be limited to two minutes. During the third round, each member will be limited to one minute. After each member has spoken or has been afforded the opportunity to speak during the three rounds, debate or discussion will cease and, in the case of an action, the President will move the previous question without the need for a second.

109 COMMITTEES OF THE BOARD OF EDUCATION

109.1 The President of the Board of Education shall annually propose a committee structure for adoption by resolution of a majority of the full Board.

109.2 The standing committee structure shall establish the name, number of members, and jurisdiction of each standing committee of the Board.

109.3 The Board of Education may establish ad hoc committees at any time by resolution of a majority of the full Board which shall set forth the name, number of members, and purpose of the ad hoc committee.

109.4 The Board will use ad hoc committees to exercise oversight and develop policy recommendations.

109.4 5 An ad hoc committee shall be dissolved upon the submission of a final report and recommendation(s) to the Board, or the expiration of a specified term of the committee if set forth in the establishing resolution, or by vote of a majority of the full Board.

109.56 Standing and ad hoc committees of the Board shall not have executive power unless specifically provided by the rules of the Board of Education or unless specifically delegated to the committee to deal with a particular matter by official action of the Board.

109.67 The chairperson of a standing or ad hoc committee shall preside over committee meetings, establish the agenda of committee meetings, and prepare and present the report of the committee to the Board of Education.

109.7 8 The chairperson of a committee may appoint a chairperson *pro tempore* to assume the duties of the chair in the absence of the chairperson.

110 MEETINGS OF BOARD COMMITTEES

110.1 The quorum of a committee shall consist of a majority of the members of the committee.

110.2 The number required to establish a quorum may be satisfied by the attendance of

the President of the Board, or the Vice President or President *pro tempore* in the absence of the President.

110.3 A committee may sit and conduct business in the absence of a quorum; however, no recommendations to the Board may be acted upon in the absence of a quorum.

110.4 Any member of the Board of Education may attend a meeting of a committee of the Board and participate in committee discussion; however, only members of the committee or other Board member sitting *ex officio* shall be entitled to vote.

110.5 Committee meetings shall be held when called by the chairperson of the committee or at a regular time designated by the committee.

110.6 Notice of all committee meetings shall be given to all members of the Board by the Executive Secretary.

110.7 Committee meetings shall be held in open session unless closed to the public for executive session. Committees may hold executive sessions to discuss any matter, but shall take no action in executive sessions unless such action is specifically authorized by and taken in accordance with the provisions of the Board rules.

110.8 All committees of the Board are fact-finding and deliberative bodies.

111 CONDUCT OF PUBLIC HEARINGS BY COMMITTEES

111.1 A committee may conduct a public hearing on any matter within the jurisdiction of the committee by informing the Executive Secretary not less than fifteen (15) days prior to the hearing in order to provide notice to members of the Board and the public.

111.2 A written notice of a public hearing by a committee of the Board shall be prepared by the Executive Secretary and provided to the press, media, persons and organizations on the mailing list of the Board, and the secretary assigned to each Board member.

111.3 Public hearings conducted by a committee shall be conducted in the manner of a community meeting or as otherwise provided by the committee.

111.4 Hearings shall be chaired by the chairperson of the committee or by a member of the committee designated by the chairperson.

111.5 The presence of a quorum of the committee is not required to conduct a hearing.

111.6 The chairperson of the committee, or a member of the committee designated by the chairperson, shall report on the hearing at the next regular meeting of the Board, or at a special meeting held prior to the regular meeting when the report is an item properly on

the agenda of the special meeting.

112 **POLICY WORKSHOPS**

112.1 The Board will perform its oversight and policy responsibilities through the use of workshops that allow for and promote transparency of the Board policy development process.

113 **CODE OF ETHICS**

113.1 The Board of Education Members will uphold the constitution, laws and rules of the United States and the District of Columbia.

113.2 The Board of Education Members will put loyalty to the welfare of the children and to the School District above loyalty to individuals, voting districts, particular schools or other special interest groups.

113.3 The Board of Education Members will, unless excused for good cause, attend all meetings of the Board or committees to which he or she has been assigned.

113.4 The Board of Education Members will give full measure of effort and service to the position of trust for which stewardship has been granted, giving earnest effort and best thought to the performance of duties.

113.5 The Board of Education Members will seek to find and use the most equitable, efficient, effective, and economical means for getting tasks accomplished.

113.6 The Board of Education Members will recommend and support policies and programs that support and protect the human rights of all members of the school community.

113.7 The Board of Education Members will ensure the integrity of the actions of the School Board by avoiding granting special favors or unfair privilege to anyone and any entity.

113.8 The Board of Education Members will engage in no business with the District of Columbia government, or the school system, either directly or indirectly, which is inconsistent with the conscientious performance of duties except as may be consistent with conflict of interest statutes in the DC Code.

113.9 The Board of Education Members will never use information gained confidentially in the performance of Board duties as a means of making private profit or gaining personal advantage of any kind.

113.10 The Board of Education Members shall report through appropriate means and channels, corruption, misconduct, or neglect of duty whenever discovered.

113.11 The Board of Education Members shall adhere to the principle that the public's business should be conducted in the public view by observing and following the letter and spirit of the District of Columbia public posting requirements using closed meetings only to take preliminary action on sensitive personnel, student, legal or contractual issues as provided in the DC Code.

113.12 The Board of Education Members shall ensure that when responding to the media, or in communication with others, a clear distinction is made between personal opinion or belief and a decision made by the Board.

113.13 The Board of Education Members shall review orally and in public session at the annual organizational meeting each of these principles and abide by them as a Board member.

113.14 The Board of Education Members will put student achievement at the center of all Board work.

113.15 The Board of Education Members will function as part of a policy-making and oversight Board rather than as an administrative Board.

113.16 The Board of Education Members will accept responsibility for leadership by encouraging the community and staff members to maintain and improve the public school system in all appropriate ways consistent with District of Columbia laws, including efficiency in the use of materials and personnel resources.

113.17 The Board of Education Members will recognize that his or her responsibility is not to run the schools, but to see that they are well run.

113.18 The Board of Education Members will respect and support the decisions of the Superintendent consistent with Board policy. Regardless of any individual member's dissent from a decision of the Board, he or she acknowledges that the Superintendent is bound by direction given by the Board as a whole.

113.19 The Board of Education Members will refer concerns about the school system operation and their effects to the Superintendent and/or only his/her designated staff member

113.20 The Board of Education Members agree not to render judgment of the Superintendent's performance except in the context of the Board's semi-annual evaluation process.

113.21 The Board of Education Members will respect and support the professionalism of District of Columbia Public Schools employees.

113.22 The Board of Education Members will not publicly criticize employees.

113.23 The Board of Education Members have no authority over staff and do not insert

themselves into staff operations, place themselves between staff members in any disputes or negotiations, or engage in solving staff problems.

113.24 The Board of Education Members will visit schools often, but do not negotiate or engage in any way in the operations of any school.

113.25 The Board of Education Members will work with each other, staff, students and members of the public in a conscientious, courteous, open and trustworthy manner befitting the public trust placed the position of a School Board Member. Board members focus Board action on policymaking, goal setting, planning, and evaluation.

113.26 The Board of Education Members will encourage an open and lively exchange of ideas and opinions. Each Board member is obligated to express his/her opinions to his/her colleagues on issues before the Board.

113.27 The Board of Education Members will recognize that decisions are made by the Board as a whole and make no personal promises on behalf of the Board or take private action on that may compromise the Board.

113.28 The Board of Education Members will recognize that individual Board members have no authority to speak on behalf of the Board or to call official meetings or hearings unless specifically authorized by the Board.

113.29 The Board of Education may censure Members by the adoption of a resolution for violations of this ethics policy and publicize such censure.

[114] RESERVED

115 SEAL OF THE BOARD OF EDUCATION

115.1 The Board of Education is authorized by the Code of Laws of the District of Columbia to adopt, alter, and use a seal which shall be judicially noticed.

115.2 The seal adopted by the Board of Education under this section shall be the official seal of the Board of Education, and all schools, programs, and administrative components under the jurisdiction of the Board of Education.

115.3 The seal may be imprinted or embossed; provided, that in the reproduction or other use of the seal, no alteration may be made in the design adopted by the Board of Education.

115.4 The symbolism contained in the design of the seal shall reflect appropriately the mission and historical development of the Board of Education and the Public Schools of the District of Columbia.

115.5 The seal shall be used to authenticate or attest the following:

- (a) Documents, diplomas, records, legal instruments, and publications issued or

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maintained by the Board of Education; and

(b) Schools, programs, and administrative components under the jurisdiction of the Board of Education.

115.6 The seal may be used for decorative or other purposes not listed in § 115.5, upon approval of the usage by the officer in charge of the school, program, or administrative component.

115.7 The seal may not be used for any purpose by organizations, groups, or individuals operating outside of the jurisdiction of the Board of Education unless written permission is secured from the Superintendent of Schools, or his or her designee, prior to that use.

115.8 Other seals and logos adopted by high schools and other schools or administrative components may be used for decorative purposes on documents or publications approved by the officer in charge of the school or administrative component; provided, that whenever those documents or publications require authentication, the official seal shall be affixed in accordance with § 115.5.

115.9 The Superintendent of Schools shall be the custodian of the seal of the Board of Education and the Public Schools of the District of Columbia. The Superintendent is authorized to issue guidelines for use of the seal.

116 STUDENT MEMBER OF THE BOARD

116.1 There shall be elected on an annual basis pursuant to §§ 116.2 and 116.3, for a term of office to commence as of the conclusion of the Stated Board Meeting in June, a Student Member of the Board of Education.

116.2 In order to serve as Student Member of the Board, a student shall meet the following requirements:

- (a) Be enrolled in the D.C. Public Schools in either his or her junior or senior year;
- (b) Be in attendance at a comprehensive or vocational or career high school;
- (c) Be a *bona fide* resident of the District of Columbia;
- (d) Have been continuously enrolled as a student in the D.C. Public Schools since ninth (9th) grade; and
- (e) Maintain a two point (2.0) cumulative grade point average.

116.3 The Student Member shall be elected by a method determined by the citywide

Student Advisory Council, in accordance with § 116.4.

116.4 The Student Advisory Council shall accord sufficient opportunity for discussion prior to a vote being taken as to changing the method to be utilized.

116.5 Potential candidates in any given year shall be provided adequate advance notice of the procedures to be utilized in selecting the Student Member.

116.6 No student shall be elected if he or she has previously been elected to a full term as Student Member pursuant to § 116.3.

116.7 Upon receipt of a tally by the Student Advisory Council of the votes cast for those students nominated for the position of Student Member, the Superintendent of Schools shall certify in writing to the Board no later than June 7th that the selection process was in conformity with the provisions of this section and shall certify the official tally of the votes cast, apprising the Board of the successful candidate.

116.8 The Board, by public vote at its stated June meeting, shall vote whether to accept the certified results of the election process. Upon acceptance by the Board, the Student Member so elected shall be permitted to assume his or her responsibilities effective at the conclusion of the Stated Board Meeting in June.

116.9 At regular, special, emergency and community meetings of the Board of Education, the student members shall be accorded the same opportunity as the members of the Board to introduce resolutions and speak to the business before the body; provided, that the students shall not have a vote at such meetings except as provided in § 116.12.

116.10 In order to fully participate at Board meetings, the Student Member shall be provided with all information, reports, submissions, publications, agendas, and committee reports provided to Members of the Board of Education.

116.11 The President shall be empowered to appoint the Student Member, pursuant to § 104.2 of this title, to any standing or ad hoc committee established by the Board. The Student Member shall always be a designated member of the Committee on Student Services and Community Involvement or its successor committee.

116.12 As a member of any committee other than the Committee of the Whole, the student members shall have the right to vote, to make a quorum, and to participate as fully as any other member of the committee. The student members shall have a right to vote at the Committee of the Whole and the stated Board meetings, only for the purpose of establishing a voting record. The student members' votes shall not be counted to establish a quorum or impact decision-making at the Committee of the Whole or the stated Board Meeting.

116.13 The Student Member may attend a meeting of any other committee of the Board of which he or she is not a member and participate in committee discussion

without vote.

116.14 For each hearing and each regular, special, emergency, community and committee meeting of the Board, attended by the Student Member in the course of acquitting his or her official duties, the Student Member shall be compensated fifty dollars (\$50) in addition to local travel expenses, not to exceed four thousand dollars (\$4,000) per year.

116.15 The Board of Education, by vote of a majority of the full membership of the Board taken in public session, after providing notice and an opportunity for a hearing, may remove a Student Member from office, prior to the expiration of his or her term for any of the following reasons:

- (a) Failure to maintain eligibility in accordance with § 116.2;
- (b) Misconduct in office; or
- (c) Willful neglect of duty.

116.16 If the office of Student Member is declared vacant by the Board due to ineligibility, removal for cause, resignation or death, the Student Advisory Council shall select a successor or provide a process to select a successor to serve until expiration of the original term.

Copies of this rulemaking are available for the Board of Education by calling (202) 442-4289.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code, §1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of the adoption of an amendment to section 933 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Skilled Nursing Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for skilled nursing services provided by a practical nurse or registered nurse to participants in the Home and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver).

The Nurse Staffing Agency Act of 2003, effective March 10, 2004 (D.C. Law 15-74; D.C. Official Code § 44-1051.01 *et seq.*) recently enacted by the Council of the District of Columbia (Council) authorizes nursing personnel provided by nurse staffing agencies to render temporary nursing services. Skilled nursing services under the current Waiver are only provided by home health agencies. This amendment will expand skilled nursing services to include nurses provided by nurse staffing agencies. The Council and the Centers for Medicare and Medicaid Services have approved the modification to the Waiver authoring nurse staffing agencies to provide skilled nursing services.

A notice of emergency and proposed rules was published in the *D.C. Register* on October 14, 2005 (52 DCR 9180). No comments on the proposed rules were received. No substantive changes have been made. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

Section 933 of Title 29 DCMR is amended to read as follows:

SECTION 933 SKILLED NURSING SERVICES

- 933.1 Skilled nursing services shall be reimbursed by the Medicaid Program for each participant in the Home and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities subject to the requirements set forth in this section.
- 933.2 To be eligible for reimbursement, skilled nursing services shall be:
- (a) Ordered by a physician;
 - (b) Provided by a registered nurse, or by a practical nurse under the supervision of

a registered nurse; and

(c) Reasonable and necessary to the treatment of the consumer's illness or injury.

933.3 Skilled nursing services shall be authorized and provided in accordance with each consumer's individual habilitation plan (IHP) or individual service plan (ISP).

933.4 Each person providing skilled nursing services shall:

- (a) Be employed by a home health agency or a nurse staffing agency that has a current District of Columbia Medicaid Provider Agreement that authorizes the service provider to bill for skilled nursing services;
- (b) Be at least eighteen (18) years of age;
- (c) Be acceptable to the consumer;
- (d) Be a citizen of the United States or an alien who is lawfully authorized to work in the United States;
- (e) Be certified in cardiopulmonary resuscitation (CPR) and thereafter maintain current CPR certification;
- (f) Demonstrate annually that he or she is free from communicable disease as confirmed by an annual purified protein derivative of tuberculin (PPD) skin test or documentation from a physician stating that the person is free from communicable disease;
- (g) Have the ability to read and write the English language;
- (h) Have the ability to communicate with the consumer;
- (i) Be able to recognize an emergency and be knowledgeable about emergency procedures;
- (j) Complete pre-service and in-service training approved by Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA);

933.5 Each home health agency or nurse staffing agency shall be certified or licensed by the District of Columbia prior to providing services and meet all standards set forth in the applicable licensure statute and implementing rules.

- 933.6 The duties of each practical or registered nurse shall include, at a minimum, the following:
- (a) Preparing an initial assessment and evaluation;
 - (b) Coordinating the consumer's care and referrals;
 - (c) Ensuring that the consumer's needs are met in accordance with the IHP or ISP;
 - (d) Implementing preventive and rehabilitative nursing procedures and treatment regimens;
 - (e) Supervising nursing services delivered by personal care aides and other household support staff, as appropriate;
 - (f) Recording progress notes on each visit and summary notes at least quarterly;
 - (g) Reporting in a timely manner any changes in the consumer's condition to the consumer's physician;
 - (h) Providing consultation and instruction to the consumer, family, or other caregivers;
 - (i) Discharge planning; and
 - (j) Wound care, tube feeding, diabetic care and other treatment regimens prescribed by the physician.
- 933.7 The registered nurse shall monitor and supervise the provision of services provided by the practical nurse including a site visit at least once every sixty-two (62) days or as specified in the consumer's ISP.
- 933.8 The registered nurse shall be responsible for providing clear written documentation in the consumer's clinical record of the consumer's progress or lack of progress, medical condition, functional losses, and treatment goals to demonstrate that the services are and continue to be reasonable and necessary.
- 933.9 The home health agency or nurse staffing agency shall maintain a copy of the IHP or ISP approved by the MRDDA for at least six (6) years after the date of discharge of the consumer.

- 933.10 The home health agency or nurse staffing agency shall ensure that the practical nurse is properly supervised by the registered nurse and that the service is provided consistent with the consumer's IHP or ISP.
- 933.11 The home health agency or nurse staffing agency shall review and evaluate the skilled nursing services provided to each consumer at least quarterly.
- 933.12 Services shall not exceed the authorized frequency and duration as authorized for skilled nursing services in the IHP or ISP.
- 933.13 The reimbursement rate for skilled nursing services shall be \$65.00 per visit. Each visit shall be four (4) hours or less in duration. Providers shall obtain prior authorization for skilled nursing services in excess of four hours per visit. The reimbursement rate for the extended services shall be \$28.00 per hour for services provided by a registered nurse and \$20.00 per hour for services provided by a practical nurse.
- 933.14 If the services provided by the skilled nurse is to provide respite on a short-term basis because of the absence or need for relief of the primary caregiver who is responsible for providing some skilled aspect of care, the reimbursement rate for the skilled nursing services shall be \$28.00 per hour for services provided by a registered nurse and \$20.00 per hour for services provided by a practical nurse consistent with the requirements set forth in section 994 of Title 29 DCMR. Respite services shall be limited to seven hundred and twenty (720) hours or thirty (30) days per year.

933.99 **DEFINITIONS**

When used in this section, the following terms and phrases shall have the meanings ascribed:

Consumer – an individual who has been determined eligible to receive services under the Home and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities.

Clinical Record - a comprehensive compilation of medical and other data that identifies the consumer, justifies and describes the diagnosis and treatment of the consumer.

Home Health Agency – shall have the same meaning as “home care agency” as set forth in the Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501 et seq.) and implementing rules.

Individual Habilitation Plan - the same meaning as set forth in section 403 of the Mentally Retarded Citizens Constitutional Rights and dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1304.03).

Individual Service Plan - the successor to the individual habilitation plan (IHP) as defined in the court-approved *Joy Evans* Exit Plan.

Nurse Staffing Agency – the same meaning as set forth in the Nurse Staffing Agency Act of 2003, effective November 25, 2003 (D.C. Law 15-74; D.C. Official Code § 44-1051.01 et seq.) and implementing rules.

Physician – a person who is authorized to practice medicine pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986, (D.C. Law 6-99, D.C. Official Code § 3-1201, *et seq.*) or licensed as a physician in the jurisdiction where services are provided.

Practical Nurse - a person licensed or authorized to practice practical nursing pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986, (D.C. Law 6-99, D.C. Official Code § 3-1201, *et seq.*) or licensed as a practical nurse in the jurisdiction where services are provided.

Progress Note - a dated, written notation by a member of the health care team that summarizes facts about a consumer's care and the response to treatment during a given period of time.

Registered Nurse - a person who is licensed or authorized to practice registered nursing pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986, (D.C. Law 6-99, D.C. Official Code § 3-1201, *et seq.*) or licensed as a registered nurse in the jurisdiction where services are provided.

Skilled Nursing Services – health care services that are delivered by a registered nurse or practical nurse acting within the scope of their practice as defined in the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986, (D.C. Law 6-99, D.C. Official Code § 3-1201, *et seq.*) and implementing rules.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in An Act To enable the District of Columbia to receive Federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code, § 1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of the adoption of an amendment to Chapter 19 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Home and Community-Based Waiver Services for Persons with Mental Retardation and Developmental Disabilities". These rules establish standards governing the reimbursement of personal care services provided to participants in the Home and Community-Based Waiver Services for Persons with Mental Retardation and Developmental Disabilities (Waiver). The amendment establishes standards for personal care services consistent with the Waiver approved by the Centers for Medicare and Medicaid Services.

Personal care services include assistance with eating, bathing, dressing, personal hygiene and activities of daily living. Emergency action is necessary for the immediate preservation of the health, safety and welfare of Waiver participants in need of personal care services.

A notice of emergency and proposed rulemaking was published on November 11, 2005 (52 DCR 10109). No comments on the proposed rules were received. No substantive changes have been made. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

CHAPTER 19 of Title 29 DCMR (Home and Community-Based Waiver Services for Persons with Mental Retardation and Developmental Disabilities) is amended as follows:

A. Section 1901.1(n) (Covered Services) is amended to read as follows:

(n) Personal care services as set forth in section 1910 of Title 29 DCMR.

B. Section 1910 (Personal Care Services) is amended to read as follows:

SECTION 1910 PERSONAL CARE SERVICES

1910.1 Personal care services shall be reimbursed by the Medicaid Program for each participant in the Home and Community Based Waiver Services for Persons with Mental Retardation and Developmental Disabilities (Waiver) subject to the requirements set forth in this section.

1910.2 Personal care services shall consist of assistance with bathing, eating, dressing,

personal hygiene and assistance with activities of daily living. These services may include assistance with meal preparation, but shall not include the cost of the meals themselves. When specified in the plan of care as set forth in § 1904.4, these services may also include such housekeeping chores as bedmaking, dusting, and vacuuming, which are incidental to the care furnished, or which are essential to the health and welfare of the consumer rather than the consumer's family.

1910.3 Personal care services shall not include services that require the skills of a licensed professional or person certified to perform such functions, such as catheter insertion, administration of medications, or procedures requiring the use of sterile techniques or invasive methods.

1910.4 Personal care services shall only be provided to the consumer. Personal care services eligible for reimbursement shall include, but shall not be limited to the following services:

- (a) Basic personal care including assistance with bathing and personal hygiene, dressing, grooming, lifting and transferring, feeding, and bowel and bladder care;
- (b) Household services including assistance with meal preparation in accordance with dietary guidelines, shopping, cleaning and laundry;
- (c) Cognitive services including assistance with money management, use of medications, and providing instructions with adaptive skills;
- (d) Mobility services including escorting and transporting the consumer to medical appointments, place of employment, socialization activities, approved recreational activities, and errands;
- (e) Changing urinary drainage bags;
- (f) Assisting consumers with range of motion exercises;
- (g) Reading and recording temperature, pulse, respiration, and blood pressure; and
- (h) Observing and documenting the consumer's status and reporting all services provided.

1910.5 Personal care services shall not be provided in a hospital, nursing facility, intermediate care facility for persons with mental retardation, or institution for mental disease.

- 1910.6 Personal care services eligible for reimbursement shall be provided in the following settings:
- (a) The consumer's home;
 - (b) A foster home;
 - (c) A supervised living arrangement; or
 - (d) A non-institutional place of residence other than as described in (a) through (c) of this section as permitted by District law.
- 1910.7 Personal care services shall be authorized and provided in accordance with each consumer's individual habilitation plan (IHP) or individual support plan (ISP).
- 1910.8 Each provider of personal care services shall:
- (a) Be a home health agency, social service agency, or other business entity;
 - (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for personal care services under the Waiver;
 - (c) Maintain a copy of the consumer's most recent IHP or ISP approved by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA);
 - (d) Ensure that each person administering personal care services is qualified and properly supervised;
 - (e) Have staff available to provide service twenty-four (24) hours a day, seven (7) days a week;
 - (f) Offer the Hepatitis B vaccination to each person administering services pursuant to this section;
 - (g) Provide training in infection control procedures consistent with the requirements of the Occupational Safety and Health Administration, U.S. Department of Labor regulations at 29 CFR 1910.1030; and
 - (h) Maintain at least one million dollars (\$1,000,000.00) in liability insurance.
- 1910.9 Each person administering services shall be supervised by one of the following as set forth in the IHP/ISP:

- (a) A registered nurse;
- (b) A practical nurse under the supervision of a registered nurse; or
- (c) The consumer's case manager.

1910.10 The frequency and intensity of supervision shall be set specified in the consumer's written plan of care.

1910.11 Each person providing services for a provider under section 1910.8 shall meet all of the following requirements:

- (a) Be at least eighteen (18) years of age;
- (b) Be acceptable to the consumer;
- (c) Be a citizen of the United States or an alien who is lawfully authorized to work in the United States;
- (d) Be certified in cardiopulmonary resuscitation (CPR) and thereafter maintain current CPR certification;
- (e) Demonstrate annually that he or she is free from communicable disease as confirmed by an annual PPD skin test or documentation from a physician stating that the person is free from communicable disease;
- (f) Have the ability to read and write the English language;
- (g) Have the ability to communicate with the consumer;
- (h) Have a high school diploma or general equivalency development certificate;
- (i) Be able to recognize an emergency and be knowledgeable about emergency procedures;
- (j) Agree and be able to carry out responsibilities to provide personal care services consistent with the consumer's IHP or ISP;
- (k) Complete pre-service and in-service training approved by MRDDA;
- (l) Complete a minimum of twelve (12) hours of in-service training annually

after the first year of employment;

- (m) Complete a personal care aide or home health aide training program that includes at least seventy-five (75) hours of classroom training with at least sixteen (16) hours devoted to supervised practical training, and pass a competency evaluation by the training institution for those services that the personal care aide is required to perform consistent with the requirements set forth in 42 CFR 484.36 prior to employment;
- (n) Comply with the requirements of the Health Care Facility Unlicensed Personnel Criminal Background check Act of 1998, effective April 20, 1999 (D.C. Law 12-238), as amended by the Health Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, effective April 13, 2002 (D.C. Law 14-98; D.C. Official Code § 44-551 *et seq.*).

- 1910.12 Personal care services shall not be administered by a spouse, parent or guardian of a minor child, or any other legally responsible individual who would ordinarily perform or be responsible for performing services on behalf of the consumer. A family member who is not legally responsible for performing services for the consumer shall be eligible to administer personal care services. Each family member administering personal care services pursuant to this section shall be employed by a provider under § 1910.8 and meet all of the requirements set forth in § 1910.11.
- 1910.13 If the consumer seeks to change providers, the case manager shall assist the consumer in selecting a new provider. The current provider shall not abandon the consumer and shall continue to provide services until the transfer has been completed.
- 1910.14 Each provider shall develop contingency staffing plans to provide coverage to each consumer in the event that the assigned personal care aide cannot provide the services or is terminated by the provider.
- 1910.15 If services are provided in a group setting, the specific number of hours rendered to each consumer shall be documented and maintained in the provider's records.
- 1910.16 The billable unit of service for personal care services shall be one hour.
- 1910.17 Each provider shall be reimbursed \$13.50 per hour for personal care services.
- 1910.18 Reimbursement for personal care services shall not exceed sixteen (16) hours per day per consumer regardless of the Medicaid funding source.

C. SECTION 1999 (Definitions) is amended to add the following definitions:

Activities of daily living – The ability to get in and out of bed, bathe, dress, eat, take medications prescribed for self-administration and to engage in toileting.

Case manager – A professional who assists consumers in gaining access to needed Waiver services and other State Plan services, as well as needed medical, social, educational, and other services regardless of the funding source for the service to which access is gained.

Consumer- An individual with mental retardation and developmental disabilities who has been determined eligible to receive services under the Home and Community-Based Services Waiver for Persons with Mental Retardation and Developmental Disabilities.

Consumer's home – The natural home. The natural home does not include an institutional or residential facility or foster home.

Communicable disease – The meaning as set forth in section 201 of Chapter 2 of Title 22, District of Columbia Municipal Regulations.

Family – Any person related to the consumer by blood, marriage or adoption.

Group setting – a setting in which two or more consumers who are receiving Waiver services reside.

Plan of care – A written document facilitated by the case manager which describes medical and other services to be furnished to the consumer, the frequency of the services and the type of provider to furnish the services. The Plan of Care shall be consistent with the IHP and ISP.

Practical nurse- A person who is licensed to or authorized to practice practical nursing pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1985 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), or licensed as a practical nurse in the jurisdiction where services are rendered.

Supervised living arrangement – A living arrangement for one to three consumers with mental retardation and developmental disabilities that provides drop-in to twenty-four hour supervision and is funded by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration.

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 05-1, IN THE MATTER OF THE APPLICATION OF
VERIZON-WASHINGTON, D.C., INC., FOR AUTHORITY TO AMEND THE
LOCAL EXCHANGE 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. 13843 (December 20, 2005), to approve the tariff application of Verizon Washington, D.C. Inc. ("Verizon DC")¹ to amend the following tariff pages:

LOCAL EXCHANGE SERVICES TARIFF, P.S.C.-D.C. NO. 203

Section 31, Original Page 5

Original Page 6

Original Page 7

Original Page 8

2. Through this tariff filing, Verizon DC sought authority to provide residential customers the option of additional bundled offerings for one flat monthly rate through its Regional Package Value and Regional Package Essential plans.² Among the offerings included in both packages were local exchange line with unlimited usage; unlimited direct distance dialed intraLATA toll; and waiver of the non-recurring service charge.³ The Essential package also offered three other features not available in the Value Package: Call Waiting/Cancel Call Waiting; Caller ID; and Standard Home Voice Mailbox.⁴ Verizon DC stated that the Application complied with Price Cap Plan 2004.⁵

¹ *Telephone Tariff 05-1, In the Matter of the Application of Verizon Washington, DC, Inc. for Authority to Amend the Local Exchange Services Tariff, P.S.C.-D.C.-No. 203*, Letter from J. Henry Ambrose, Vice President for Regulatory Matters of Verizon DC to Freda James, Acting Commission Secretary, filed August 26, 2005 ("Application").

² See Application at 2-5.

³ *Id.*

⁴ *Id.*

⁵ See *id.* 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").

3. The Commission issued a Notice of Proposed Rulemaking, published in the *D.C. Register* on September 23, 2005, inviting the public to submit comments on the proposed tariff revision.⁶ No comments were filed. Subsequently, the Commission, in Order No. 13843, approved Verizon DC's Application, finding that that the proposed tariff amendment complied with Price Cap Plan 2004. This tariff amendment becomes effective upon the publication date of this Notice of Final Rulemaking in the *D.C. Register*.

⁶ 52 *D.C. Reg.* 8641 (2005).

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 05-2, IN THE MATTER OF THE APPLICATION OF
VERIZON-WASHINGTON, D.C., INC., FOR AUTHORITY TO AMEND THE
LOCAL EXCHANGE 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. 13845 (December 21, 2005), to approve the tariff application of Verizon Washington, D.C. Inc. ("Verizon DC")¹ to amend the following tariff page:

**LOCAL EXCHANGE SERVICES TARIFF, P.S.C.-D.C. NO. 203
Section 31, 4th Revised Page 4**

2. Through this tariff filing, Verizon DC sought to exclude the Verizon Online 768 kbps maximum speed service from eligibility for the Verizon Bundled Discount. Specifically, the \$5.00 Verizon Bundle Discount would not be available to subscribers of Verizon Online Internet access services billed on the Verizon DC bill, if the service also features Verizon Online's 768 kbps maximum speed service.²

3. The Commission issued a Notice of Proposed Rulemaking, published in the *D.C. Register* on September 23, 2005, inviting the public to submit comments on the proposed tariff revision.³ No comments were filed. Subsequently, the Commission, in Order No. 13845, approved Verizon DC's Application, finding that Verizon DC's request to exempt its Online 768 kbps maximum service from its Verizon Bundled Discount service was an unregulated service under Price Cap Plan 2004. This tariff modification becomes effective upon the publication date of this Notice of Final Rulemaking in the *D.C. Register*.

¹ *Telephone Tariff 05-2, In the Matter of the Application of Verizon Washington, DC, Inc. for Authority to Amend the Local Exchange Services Tariff, P.S.C.-D.C.-No. 203*, Letter from J. Henry Ambrose, Vice President for Regulatory Matters of Verizon DC to Freda James, Acting Commission Secretary, filed August 26, 2005 ("Application").

² See Application at 2.. 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").

³ 52 *D.C. Reg.* 8642 (2005).

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission ("Commission"), by its Panel on Rates and Rules, pursuant to the authority set forth under sections 8(b)(1)(G) and 9(b) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1)(G), and 50-308(b)), hereby gives notice of its final rulemaking action taken December 14, 2005, to amend § 609.1 of Chapter 6 of Title 31 of the District of Columbia Municipal Regulations ("DCMR"). The notice of proposed rulemaking was published in the *DC Register* on October 21, 2005, at 52 DCR 9441. The final rulemaking will change the age requirement for licensed taxicabs from not more than eight (8) model years old to not more than ten (10) model years old. A public hearing was held on November 9, 2005, and comments were received by the Commission and taken into consideration. This rule will become effective on the date this notice is published in the DC Register.

Title 31 DCMR, Section 609, AGE OF TAXICABS, is amended to read as follows:

609 AGE OF TAXICAB

609.1 Except as provided in § 609.2, all taxicabs licensed to operate in the District of Columbia, whether owned, rented, or leased, shall be not more than ten (10) model years old.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission ("Commission"), by its Panel on Rates and Rules, pursuant to the authority set forth under sections 8(b)(1)(E) and 9(b) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1)(E), and 50-308(b)), hereby gives notice of its final rulemaking action taken December 14, 2005, to amend § 822.8 of Chapter 8 of Title 31 of the District of Columbia Municipal Regulations ("DCMR"). The notice of proposed rulemaking was published in the *DC Register* on October 7, 2005, at 52 DCR 8962. The final rulemaking will increase the penalty for a taxicab operator's failure to notify the Office of Taxicabs of a change of address, telephone number, and association, company, organization or vehicle owner. A public hearing was held on November 9, 2005, and comments were received by the Commission and taken into consideration. This rule will become effective on the date this notice is published in the DC Register.

Title 31 DCMR, Section 822, OPERATION OF TAXICABS, is amended to read as follows:

822 OPERATION OF TAXICABS

822.8 Every person holding an identification card shall maintain at the Office of Taxicabs their correct name, residence address and telephone number, and if affiliated with a company or association, the association, company, organization or owner for which they drive. In the event of any change in this information, the licensee shall inform the Office of the change within five (5) business days. The licensee may elect to provide this information by certified mail with return receipt requested or by hand delivery to the Office. If the licensee delivers the information by hand delivery, the Office will provide proof of filing to the licensee. Failure to do so will result in a fine of one hundred dollars (\$100.00) per offense. Any fine imposed pursuant to this section shall be collected at the time of the licensee's renewal period.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission ("Commission"), by its Panel on Rates and Rules, pursuant to the authority set forth under sections 8(b)(1)(I) and 9(b) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1)(I), and 50-308(b)), hereby gives notice of its final rulemaking action taken December 14, 2005, to amend § 825.1 of Chapter 8 of Title 31 of the District of Columbia Municipal Regulations ("DCMR"). The notice of proposed rulemaking was published in the *DC Register* on October 7, 2005, at 52 DCR 8963. The final rulemaking will increase the civil fine amount for a taxicab operator's failure to notify the Office of Taxicabs of a change of address, telephone number, and association, company, organization or vehicle owner. A public hearing was held on November 9, 2005, and comments were received by the Commission and taken into consideration. This rule will become effective on the date this notice is published in the DC Register.

Title 31 DCMR, Section 825, CIVIL FINES FOR TAXICAB INFRACTIONS, is amended to read as follows:

825 CIVIL FINES FOR TAXICAB INFRACTIONS

825.1 The civil infractions and their respective fine amounts set forth in this section do not include those major moving violations for which jurisdiction remains in the Superior Court.

INFRACTION

FINE

Failure to Notify

The Office of a change
in information

100.00

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission ("Commission"), by its Panel on Rates and Rules, pursuant to the authority set forth under sections 8(b)(1)(A) and 9(b) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1)(A), and 50-308(b)), hereby gives notice of its final rulemaking action taken December 14, 2005, to terminate the fuel surcharge of one dollar and fifty cents (\$1.50) per taxicab trip which amended Appendix 8-2 in Chapter 8 of Title 31 of the District of Columbia Municipal Regulations ("DCMR"). The notice of emergency/proposed rulemaking was published in the *DC Register* on October 7, 2005, at 52 DCR 8978-8979. The final rulemaking will terminate the fuel surcharge as of midnight Sunday, January 8, 2006. A public hearing was held on November 9, 2005, and comments were received by the Commission and taken into consideration. This rule will become effective on January 8, 2006.