

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKINGET 03-3, In the Matter of the Application of Potomac Electric Power Company for Authority to Revise Schedule "S"—Standby Service

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice of its final rulemaking action taken on January 7, 2004, in Order No. 13030, denying the application of the Potomac Electric Power Company ("PEPCO") to revise Schedule "S"—Standby Service.¹

2. In particular, PEPCO requested, and the Commission denied in Order No. 13030, authority to revise and implement the following tariff pages:

**ELECTRIC TARIFF, P.S.C.-D.C., No.1
STANDBY SERVICE SCHEDULE "S"
Original Pages R-16, R-16.1, and R-16.2**

3. PEPCO sought to make several substantive changes to the tariff. Primarily, PEPCO sought authority to replace the Standby Facilities Charge with the Distribution Services Charge applied to the total electric usage and load of all Standby Service customers. PEPCO proposed the change essentially because the calculation procedure for the current Standby Facilities Charge was costly and labor intensive, which resulted in long delays in the customer's receipt of data necessary to determine whether a given project is cost effective. The calculation method of the proposed Distribution Services Charge would obviate the need of the former method's lengthy and complicated procedure.

4. The Commission denied PEPCO's request to revise the tariff because the proposed revision would result in a rate increase. Such an increase is expressly prohibited by PEPCO's Divestiture Sharing Settlement Agreement in Formal Case No. 945, and the PEPCO/Conectiv Merger Settlement Agreement in Formal Case No. 1002. In addition, although the tariff revision would lead to enhanced revenue recovery for the Company, the filing itself included no evidence to demonstrate that the tariff would also result in rates that are just and reasonable for PEPCO's customers. The Commission found PEPCO's argument of potential revenue attrition under the current Standby Service tariff to be unpersuasive because the Company submitted no calculations on the amount of the revenue impact once new rates were implemented. Furthermore, the filing did not take into account the savings or other benefits that PEPCO may realize if it were not to serve a customer on a full distribution requirements basis. Moreover, the Commission was concerned that the proposed higher Standby Services charge would result in the unintended consequence of discouraging growth in distributed generation. The Commission concluded that PEPCO may revive and address issues regarding rates in filings

¹ *Electric Tariff 03-3, In the Matter of the Application of the Potomac Electric Power Company for Revised Schedule "S"—Standby Services, Order No. 13030 (January 7, 2004).*

due in July of 2004, per the requirements outlined in Section 2(a) of the PEPCO/Conective Settlement Agreement.²

5. A Notice of Proposed Rulemaking ("NOPR") was published on October 10, 2003.³ The General Services Administration filed comments in response to the NOPR.⁴ The Commission, in Order No. 13030, denied PEPCO's Application, official upon publication of this Notice of Final Rulemaking in the *D.C. Register*.

² See *F.C. 1002, In the Matter of the Joint Application of PEPCO and New RC, Inc. for Authorization and Approval of Merger Transaction, Unanimous Agreement of Stipulation and Full Settlement* (February 27, 2002) ("Settlement Agreement") at 2; See also, *F.C. 1002, Order No. 12395* (May 1, 2002) (Order approving Settlement Agreement) at 16.

³ 50 *D.C. Reg.* 8615-8616 (October 10, 2003).

⁴ *Electric Tariff 03-3, In The Matter of the Application of the Potomac Electric Power Company for Authority to Revise Schedule "S"—Standby Service*, Letter From Robert C. Smith, GSA Assistant General Counsel, Real Property Division, to Sanford M. Speight, Acting Commission Secretary, "Re: Electric Tariff 03-3, Objections of the General Services Administration to PEPCO's Application to Increase the Rate for Standby Service." (November 10, 2003).

Office of Tax and Revenue

NOTICE OF FINAL RULEMAKING

DISTRICT OF COLUMBIA SAVINGS PROGRAM

The Office of Tax and Revenue (OTR), pursuant to the authority set forth in the D.C. Official Code § 1-204.24c, as amended by Section 155 of the District of Columbia Appropriations Act of 2001, approved November 22, 2000 (114 Stat 2476; Pub. L. 106-522) and the Office of the Chief Financial Officer, Financial Management and Control Order No. 00-5, effective June 7, 2000, pursuant to the authority granted by § 4506 of the District of Columbia College Savings Act, D.C. Law 13-212, approved March 31, 2001, and as amended by the College Savings Program Temporary Act of 2002, approved June 21, 2002, and as amended by the District of Columbia College Savings Program Act of 2002, DC Law 14-307, approved on June 5, 2003, hereby gives notice of the adoption of the following rules, which establish policies and procedures for the administration of the College Savings Act. The College Savings Act establishes a Program that promotes and enhances the affordability and accessibility of higher education for residents of the District of Columbia and non-residents, and enables Participants and Designated Beneficiaries of the Program to avail themselves of tax benefits provided under Section 529 of the Internal Revenue Code. These final rules will add new Section 155 to Chapter 1 of Title 9 of the D.C. Municipal Regulations (DCMR).

The proposed version of this rulemaking was published in the November 1, 2002, edition of the D.C. Register, at 49 DCR 44. No comments were received concerning the published proposed rulemaking. This final rulemaking is not substantially different from the initial text of the proposed rulemaking. The final rulemaking, as set forth below, shall become effective upon publication of the D.C. Register.

The following new Section 155, **DISTRICT OF COLUMBIA COLLEGE SAVINGS PROGRAM**, is added to Chapter 1 of Title 9 DCMR.

155 DISTRICT OF COLUMBIA COLLEGE SAVINGS PROGRAM

155.1 Program Administration and Management: The Program shall be administered by the Chief Financial Officer in compliance with Section 529 of the Internal Revenue Code (including the regulations and administrative guidance thereunder), the D.C. Official Code, and this Regulation. The Program (and any trust established in connection therewith) shall be an instrumentality of the District of Columbia.

- (a) Procedures and forms for use in the administration and management of the Program shall be subject to the approval of the Chief Financial Officer. Pursuant to its authority in §§ 47-4505(c) and 47-4506 of the D.C. Official Code, the Chief Financial Officer shall designate one or more program managers to assist or act on behalf of the Chief Financial Officer with respect to the administration and management of the Program. The Chief Financial Officer may create a trust Program, and shall serve, or, by a lawful written delegation order, appoint the Deputy Chief Financial Officer, the Treasurer of the District of Columbia, to serve, as trustee of any such trust. Any such trust shall be an instrumentality of the District of Columbia.
- (b) The Chief Financial Officer may retain the services of consultants, administrators, and other personnel, as necessary, to administer the Program.
- (c) The Chief Financial Officer may execute contracts and other necessary instruments, solicit and accept gifts, grants, loans or other aid from any source, impose and collect reasonable administrative fees for transactions involving the Program, procure insurance against a loss of Program assets, endorse insurance coverage written exclusively for the purpose of protecting an Account or its owner or Designated Beneficiary, designate terms under which money may be withdrawn from the Program, establish the methods by which the funds held in Accounts may be disbursed, establish additional procedural and substantive requirements for participation in, and the administration and promotion of, the Program, seek rulings and other guidance from the Internal Revenue Service and other federal agencies relating to the Program, and make changes to the Program required for the Participants in the Program to obtain the federal income tax benefits provided by § 529 of the Internal Revenue Code.
- (d) The Chief Financial Officer shall solicit proposals from financial organizations to act as program managers or account depositories. In selecting one or more financial organizations to serve as program managers account depositories. In selecting one or more financial

organizations to serve as program manager or depository for the trust, the Chief Financial Officer shall consider the financial stability of the organization, the safety and suitability of the investment alternatives offered through the organization, the ability of the organization to satisfy applicable record-keeping and reporting requirements, the organization's plan for promoting the Program, the fees that the organization proposes to charge to Account Owners for opening new Accounts; the minimum initial deposit and minimum Contributions that the financial organization will require, the ability of the organization to accept electronic withdrawals, including payroll deduction plans, and other benefits to the District of Columbia or its residents.

- (e) Any Program or investment management contract shall include terms requiring the financial organization to act at all times in a manner consistent with maintaining the Program as a Qualified Tuition Program, to keep adequate records of each Account and to provide the Chief Financial Officer with the information necessary to prepare any required financial statements or reports; to compile information sufficient to provide periodic statements to Account Owners, to provide the Chief Financial Officer or his or her designee with access to its books and records to the extent needed to determine compliance with the contract; to hold all Accounts for the benefit of the Account Owner, to submit to an independent audit at least annually, to provide the Chief Financial Officer with copies of all regulatory filings and reports made by the financial organization during the term of the contract or while it is holding any Accounts, to ensure that any description of the Program is consistent with the marketing plan developed in conjunction with the Chief Financial Officer. The Program Manager shall provide an accounting to the Chief Financial Officer on a periodic basis, but no less frequently than annually.
- (f) The Chief Financial Officer may provide that an audit may be conducted by a certified public accounting firm of the operations of the program managers or depository at any time that the Chief Financial Officer deems necessary or appropriate, but no less frequently than annually.
- (g) At least annually, the Chief Financial Officer shall review the performance of each program manager or depository that has been appointed, taking into account, among other considerations, the factors described in Section 155.1(d), above, and shall consider whether it would be in the best interest of the Program and its Participants and Designated Beneficiaries to solicit alternative proposals from other financial organizations.
- (h) If the Chief Financial Officer terminates, or determines not to renew, the contract of any financial organization appointed as a program manager

or depository, the financial organization shall not accept any new Accounts; however, additional Contributions may be made to existing Accounts until the Chief Financial Officer arranges for the transfer of such Accounts to another financial organization that is selected as a program manager or depository.

155.2 The District of Columbia College Savings Program Advisory Board is established to advise the Chief Financial Officer on the administration of the Program. The Advisory Board shall meet on a periodic basis as appropriate and at and upon the request of the Chief Financial Officer, but no less than once annually.

- (a) The Advisory Board shall consist of three public members appointed by the Mayor (one of whom shall serve as Chairperson), three public members appointed by the Council, and three ex officio members. The public members shall be domiciled in the District of Columbia and shall have significant experience in finance, accounting, investment management, higher education, or other areas that enhance their ability to serve on the Advisory Board.
- (b) The public members shall serve three-year terms, except that for the first three individuals appointed by the Mayor and the Council, respectively, one shall serve a one-year term, one shall serve a two-year term, and one shall serve a 3-year term. The three ex officio members shall be the chairman of the Council's committee on Finance and Revenue, the State Education Officer, and the president of the University of the District of Columbia, or their respective designees.
- (c) The members of the Advisory Board shall receive no compensation for serving as such, but shall be entitled to reimbursement for reasonable travel-related expenses.

155.3 The Application Process and Eligibility Criteria for the Program shall be as follows:

- (a) A Designated Beneficiary may be any individual designated as such in a Participation Agreement.
- (b) An Account Owner may be any Person (1) who submits to the Program Manager a completed Participation Agreement, a Social Security or taxpayer identification number and an address for each of the Account Owner and the Designated Beneficiary in the United States, and (2) who otherwise meets the qualifications set forth in federal law, District of Columbia law and regulations governing the Program. An Account Owner may not be an individual who has not reached the age of majority (18).

- (c) A Scholarship Sponsor that establishes a Scholarship Account shall provide the valid Social Security numbers or taxpayer identification numbers and addresses in the United States of each Designated Beneficiary of the application Scholarship Account prior to or in connection with a request for a Distribution.
- (d) To participate in the Program, a prospective Account Owner must submit a completed Participation Agreement with either an initial Contribution of an amount that is at least \$100 per investment option if paid by check, \$25 per investment option if paid by electronic funds transfer, or \$15 per investment option if paid by payroll deduction to the Program Manager designated by the Chief Financial Officer pursuant to D.C. Official Code § 47-4506.
- (e) The Chief Financial Officer shall provide, or shall cause to be provided, information to each Account Owner regarding the terms and conditions for opening and maintaining an Account, restrictions on the substitution of Designated Beneficiaries, identification of the persons entitled to terminate the Account, the terms and conditions under which money may be wholly or partially withdrawn from the Program, including charges and fees that may be imposed for withdrawal, the probable tax consequences associated with Contribution to, and Distributions from, the Accounts, and other terms, conditions and provisions that the Chief Financial Officer considers appropriate.
- (f) The Participation Agreement will provide that the Account Owner (and any successor Account Owner) will retain ownership of payments made under the Program through the opening of an Account in the name of the Account Owner and for the benefit of the Designated Beneficiary designated by such Account Owner (or the successor Account Owner).
- (g) The Program Manager may charge an enrollment fee, not to exceed \$25, to an Account Owner who is not a resident of the District of Columbia to open an Account in the Program. The Program Manager shall be responsible for collecting such fee directly from the Account Owner.
- (h) Only one Account Owner is permitted per Account; however, anyone can make Contributions to an Account. One or more Account Owners may establish separate Accounts for a single Designated Beneficiary.
- (i) Only one Designated Beneficiary is permitted per Account, except that Scholarship Accounts may be established for the benefit of one or more present or future Designated Beneficiaries. Each Participation Agreement shall provide that the Participation Agreement may be canceled upon the terms and conditions set forth therein.

- (j) The D.C. Official Code and any amendment to the D.C. Official Code and/or regulations promulgated by the Chief Financial Officer will automatically amend the Participation Agreements and be incorporated by reference in the Participation Agreements. Any provision contained in a Participation Agreement which is inconsistent with the D.C. Official Code or this Regulation shall automatically be amended to bring such inconsistent provision into conformity with the D.C. Official Code and/or this Regulation.
- (k) An annual fee of \$15 may be imposed on an Account Owner who is a resident of the District of Columbia for the maintenance of the Account. An annual account maintenance fee of \$30 may be imposed on an Account Owner who is not a resident of the District of Columbia.
- (l) An Account Owner may transfer ownership of an Account to another Person eligible to be an Account Owner under the provisions of the D.C. Official Code and this Regulation, and upon receipt of a request for change of Account Owner that satisfies the criteria set forth in this Subsection, the transferee shall be considered the Account Owner for all purposes related to the Program, regardless of the source of subsequent Contributions.
 - (i) General Rule. Any such change of Account ownership shall be effective provided that the transfer (A) is irrevocable, (B) transfers all ownership, reversionary rights, and powers of appointments (i.e., power to change Designated Beneficiaries and to direct Distributions from the Account), and (C) is submitted to the Program Manager on a change of Account Owner form in such form as the Chief Financial Officer may specify from time to time and completed by the Account Owner (or, in the event of the death of the Account Owner, by the personal representative of his or her estate). Such forms shall be available from the Program website or from the Office of the Chief Financial Officer or the Program Manager.
 - (ii) An Account Owner may transfer all or a portion of the balance of an Account to another Account under the Program or into another Qualified Tuition Program for the benefit of the Designated Beneficiary or a Member of the Family of the Designated Beneficiary in accordance with procedures established by the Chief Financial Officer. Transfer requests shall be submitted to the Program Manager in such form as the Chief Financial Officer may specify from time to time and completed by the Account Owner. Such forms shall be available from the Program website or from the Office of the

Chief Financial Officer or the Program Manager. A transfer to another Qualified Tuition Program to the credit of the same Designated Beneficiary shall be treated as a Nonqualified Withdrawal described in Section 155.5(c) if the transfer occurs within 12 months from the date of a previous transfer.

- (m) Designation of Contingent Account Owners. Any Account Owner that is an individual person may designate a contingent Account Owner for the Account, to become the owner of the Account automatically upon the death of such Account Owner. Prior to the initial action taken by the contingent Account Owner following the death of the deceased Account Owner, the contingent Account Owner shall provide a certified copy of a death certificate sufficiently identifying said deceased Account Owner by name and Social Security number or taxpayer identification number, or such other proof of death as is recognized under applicable law.
- (n) An Account Owner may cancel a Participation Agreement at any time by submitting to the Program a notice to terminate the Participation Agreement in such form as the Chief Financial Officer may specify from time to time. Any Nonqualified Withdrawal distributed as a result of such cancellation shall be subject to an addition to the tax imposed under Section 529(c)(6) of the Internal Revenue Code for federal and District income tax purposes. In addition, a Nonqualified Withdrawal shall trigger the recapture of previous deduction(s) taken in the District of Columbia as described in Section 155.8(b).

155.4 All Contributions to Accounts shall be in Cash either by mail to the Program Manager, by electronic transfer, or by payroll deduction Contributions subsequent to the initial Contribution shall be made in an amount of at least \$25 per investment option if made by check or electronic transfer, or at least \$15 per investment option if made through an employer-offered payroll deduction program.

- (a) The maximum amount which may be contributed (including earnings on Contributions) by an Account Owner with respect to a Designated Beneficiary may be established by the Chief Financial Officer, from time to time, but in no event shall be more than the maximum amount permitted for the Program to qualify as a "qualify tuition program" pursuant to Section 529 of the Internal Revenue Code. The current Contribution limit (including earnings on Contributions) for all Accounts established on behalf of a single Designated Beneficiary is \$260,000.

- (b) Contributions for any Designated Beneficiary shall be rejected to the extent the Contribution would cause the total Contributions (including earnings on Contributions) to the Account, together with all Contributions to other Accounts established under the Program for the benefit of the same Designated Beneficiary, to exceed the maximum amount established by the Chief Financial Officer. A Contribution that exceeds the Contribution limit must be promptly withdrawn in a Nonqualified Withdrawal or transferred to another Account.
- (c) To the extent such change would not cause the balance in an Account for the new Designated Beneficiary to exceed the Account Balance Limited on Contribution (including earnings on Contributions), an Account Owner may change the Designated Beneficiary designated for an Account to any Member of the Family of the current Designated Beneficiary at any time, without penalty, by submitting a completed change of Designated Beneficiary form to the Program Manager in such form as the Chief Financial Officer may specify from time to time. Such forms may be obtained from the Program website or the Office of the Chief Financial Officer or the Program Manager. Any change of Designated Beneficiary by an Account Owner to a person who is not a Member of the Family of the current Designated Beneficiary shall be a Nonqualified Withdrawal subject to the additional tax described in Section 529(c)(6) of the Internal Revenue Code.
- (d) To the extent such change would not cause the balance in an Account for the new Designated Beneficiary to exceed the Account Balance Limit on Contribution (including earnings on Contributions), an Account Owner may transfer, in a Rollover Distribution, all or part of the Account Balance (1) to an Account or an account in another Qualified Tuition Program for another Designated Beneficiary who is a Member of the Family of the current Designated Beneficiary or (2) no more than once in any 12-month period, to an account in another Qualified Tuition Program for the same Designated Beneficiary, by submitting a completed request for transfer of Account funds in such form as Chief Financial Officer may specify from time to time. Such forms may be obtained from the Program website or the office of the Chief Financial Officer or the Program Manager.
- (e) Separate Accounting. The Program, through the Program Manager, shall provide separate accounting (as provided in Section 529 of the Internal Revenue Code) for each Designated Beneficiary and for each Account.

155.5 Payment of Benefits and Withdrawals shall occur as follows:

- (a) An Account Owner may request a Qualified Withdrawal from the Account upon thirty (30) days notice or such shorter period as may be authorized by the Chief Financial Officer by submitting a completed request for Qualified Withdrawal to the Program in such form as the Chief Financial Officer may specify from time to time.
- (b) An Account Owner may request a Withdrawal Due to the Death or Disability of, or Scholarship to, a Designated Beneficiary from the Account by submitting a completed request to the Program in such form as the Chief Financial Officer may specify from time to time. Such forms shall be available from the Program website or from the Office of the Chief Financial Officer or Program Manager.
- (c) An Account Owner may request a Nonqualified Withdrawal by submitting a completed request form to the Program Manager in such form as the Chief Financial Officer may specify from time to time. Such forms shall be available from the Program website or from the Office of the Chief Financial Officer or Program Manager. Any such Nonqualified Withdrawal shall be subject to the additional federal tax of 10% of Account earnings that is described in Section 529(c)(6) of the Internal Revenue Code.
- (d) No distributions may be made within thirty (30) days of receipt by the Program Manager of a completed change of Account Owner form or request to change the mailing address of the Account Owner, unless the current Account Owner's signature is signature guaranteed on the request. Signature guarantee shall be provided through notarization or other procedure approved by the Program Manager. No Contribution may be withdrawn for 10 days after receipt thereof by the Program.
- (e) An Account Owner or Designated Beneficiary may not pledge, transfer, or use any Account or other interest in the Program or any portion thereof as security for a loan, nor shall they be permitted to borrow any assets of an Account for any reason.
- (f) An Account Owner may change the Designated Beneficiary of an Account in accordance with procedures established by the Chief Financial Officer. Any change in the Designated Beneficiary of an Account shall not be treated as a withdrawal if the new Designated Beneficiary is a Member of the Family of the former Designated Beneficiary.

- (g) If there is a Distribution from an Account to an individual or for the benefit of an individual during a calendar year, the Distribution shall be reported to the Internal Revenue Service by the distributee to the extent required by Section 529(c)(3) of the Internal Revenue Code. The Program, through the Program Manager, shall provide the distributee with a 1099Q. The distributee of a Nonqualified Withdrawal will be required to include such nonqualified portion of the Distribution that is attributable to earnings on Contributions (plus Contributions previously deducted) in his or her gross income for purposes of the federal tax return and D.C. tax return, in the case such distributee is a D.C. resident, filed by the distributee.
- (h) Statements shall be provided to each Account Owner on a periodic basis, but at least once each year within 60 days after the end of the 12-month period to which they relate. The statement shall identify the Contributions made during a preceding 12-month period, the total Contributions made to the Account through the end of the period, the value of the Account at the end of the period, Distributions made during the period, and any other information that the Chief Financial Officer shall require to be reported to the Account Owner. Statements and information relating to Accounts shall be prepared and filed to the extent required by federal and state tax law.

155.6 Investments under the Program shall occur pursuant to the following rules:

- (a) The Chief Financial Officer (and any investment manager appointed by the Chief Financial Officer) shall invest the funds on deposit in the Program, together with any income thereon, in a manner that is reasonable and appropriate to achieve the objectives of the Program. In accordance with the investment policy statement and the D.C. Official Code, the Chief Financial Officer may invest funds received pursuant to the Program. Any such investment shall be made solely in the interest of the Account Owners and Designated Beneficiaries and for the exclusive purposes of providing benefits to Designated Beneficiaries for Qualified Higher Education Expenses and defraying reasonable expenses of administering and managing the Program.

- (b) The Chief Financial Officer may appoint one or more investment managers (who may also be a program manager) to act on behalf of the Chief Financial Officer in the investment or reinvestment of all or part of the funds, including holding, purchasing, selling, assigning, transferring or disposing of any or all of the securities and investments in which such funds shall have been invested. Such investment manager shall be registered as an investment advisor with the United States Securities and Exchange Commission, unless exempt from registration.
- (c) The Chief Financial Officer shall preserve, invest, and expend the assets of the Program solely for the purposes of the District of Columbia College Savings Act, as amended from time to time. The Chief Financial Officer shall not loan, transfer, or use the assets of the Program for any other purpose.
- (d) An Account Owner or Designated Beneficiary may not directly or indirectly direct the investment of any Contributions or Earnings of the Program. This restriction shall be interpreted in accordance with applicable guidance under §529 of the Internal Revenue Code, including IRS Notice 2001-55. In general, IRS Notice 2001-55 permits an Account Owner to change investment strategies for an Account once per calendar year or upon a change of Designated Beneficiary.
- (e) Nothing in this Regulation shall create, or be construed to create, an obligation or guarantee of the District of Columbia, its agencies or instrumentalities, including without limitation any trust established by the Chief Financial Officer pursuant to Section 155.1(a) above, the Chief Financial Officer or any of his or her authorized delegates, including, without limitation, the selection of the Program Manager, or the trustee of any trust established pursuant to Section 155.1(a), for the benefit of an Account Owner or Designated Beneficiary with respect to (1) Contributions; (2) the rate of interest or other return on an Account; or (3) the payment of interest or other return on an Account.

155.7 An Administrative Fund for the Program will be set up under the following rules:

- (a) Pursuant to the authority in the D.C. Official Code § 47-4503(c), § 47-4503(r), § 47-4505(b), § 47-4505(c)(5), and § 47-4506(b)(9), the Chief Financial Officer shall create an Administrative Fund to be used to pay the reasonable expenses of administering and managing the Program as permitted under applicable law, including expenses for legal, actuarial, accounting, advisory, consulting and other administrative and financial management services.
- (b) All monies received by the Program other than Contributions from Account Owners (and earnings thereon) shall be deposited in the Administrative Fund, which shall be assets of the Trust and shall be considered part of the Trust. The assets of the Administrative Fund shall be deposited in money market fund or similar fund, as the Chief Financial Officer shall deem appropriate. All earnings on deposits in the Administrative Fund shall be credited to the Administrative Fund.
- (c) The program manager, on behalf of the Program, may withdraw each month a fee of up to .025% (on an annualized basis) of the average daily net assets of the Program to pay for the administration and management of the Program, and shall deposit the amount of such fee in excess of those that it is authorized to retain pursuant to the agreement between the Program Manager and the Chief Financial Officer in the Administrative Fund.
- (d) The Program may apply for, accept and expend gifts, grants, or donations from public or private sources to enable the Program to carry out its objectives. These funds shall be deposited in the Administrative Fund, and shall be expended only for the purposes for which they were received.
- (e) No funds shall be withdrawn, and no expenses shall be paid from the Administrative Fund except to meet the purposes of the Program. All expenditures from the Administrative Fund shall require the written approval of the Chief Financial Officer or the Deputy Chief Financial Officer, the Treasurer of the District of Columbia. All withdrawals from the Administrative Fund shall require the written approval of (i) the Chief Financial Officer, the Deputy Chief Financial Officer, the Treasurer of the District of Columbia, or the Program Administrator, and (ii) an authorized official of the Program Manager.

- (f) The Administrative Fund shall be held, accounted for and disbursed separately from other Trust assets. The Chief Financial Officer or his or her designee, or the Program Manager, shall cause the Administrative Fund to be audited by a certified public accounting firm on a periodic basis, but no less frequently than annually, and shall provide an accounting to the Chief Financial Officer, the D.C. Council and the Advisory Board.

155.8 An Account Owner who files an income tax return in the District of Columbia may claim a deduction in an annual amount not to exceed \$3,000 for Contributions made to all Accounts under the Program (provided that such Contribution does not cause the Account to exceed the limitation in Section 155.4(a)). With respect to married couples filing jointly, each spouse may subtract up to \$3,000 annually for Contributions made to all Accounts under the Program for which that spouse is the Account Owner. A Rollover Distribution shall not be treated as a Contribution for purposes of this deduction.

- (a) If an amount greater than \$3,000 is contributed to one or more Accounts in any one tax year, the excess may be carried forward as a deduction, subject to the annual limit, in subsequent tax years within five years.
- (b) Any deduction taken hereunder shall be subject to recapture with respect to a withdrawal or rollover taken within 2 years of the establishment of the Account for any reason other than the payment of Qualified Higher Education Expenses or Withdrawals Due to Death or Disability of, or Scholarship to, a Designated Beneficiary (except that only the amount of the scholarship is exempt from recapture). To implement the recapture, the Account Owner shall be required to add to his or her income an amount equal to the previous deduction(s) taken for Contributions to the income reported for the year in which the withdrawal or rollover is made.
- (c) For District income tax return purposes, a part-year resident of the District of Columbia is allowed a deduction for contributions made to the District 529 Program only during the period of residency in the District of Columbia.

155.9 Distributions under the Program will be treated as follows for District tax Purposes:

- (a) Qualified Withdrawals shall be exempt from District of Columbia income taxation.

- (b) That portion of any Nonqualified Withdrawal that is attributable to Account Earnings shall be subject to District of Columbia income taxation in the year in which the withdrawal is made.

155.10 The provisions of Section 529 of the Internal Revenue Code, Treasury regulations (or final regulations), and administrative guidance promulgated thereunder, each as amended from time to time, are incorporated herein by reference with the same effect as if fully set forth herein. If any provision of this regulation, or the application of it to any person or circumstance, is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

155.11 -

155.98 [Reserved]

155.99 Definitions. For purposes of this section, the following terms and phrases shall have the meanings ascribed to them below.

"**Account**" means a college savings account established under § 47-4503.

"**Account Balance**" means the aggregate Program unit values of an Account on a particular date;

"**Account Owner**" means the individual who enters into a college savings agreement under this chapter establishing an Account. The Account Owner may also be the Designated Beneficiary of the Account.

"**Advisory Board**" means the District of Columbia College Savings Program Advisory Board established to advise the Chief Financial Officer on the administration of the Program, as provided in § 47-4504 of the D.C. Official Code;

"**Cash**" shall include but not limited to checks drawn on a banking institution located in the United States in U.S. dollars (other than cashier checks, travelers checks or third-party checks exceeding \$10,000), money orders, payroll deduction, and electronic funds transfer. Cash does not include property.

"**Contribution**" means a Cash contribution to an Account, but shall not include amounts added to an Account through a Rollover Distribution;

"**D.C. Official Code**" means the Official Code of the District of Columbia;

"Designated Beneficiary" means an individual who is:

- (1) the individual designated at the commencement of participation in the Program as the beneficiary of amounts paid (or to be paid) to the Program; or
- (2) in the case of a change in Designated Beneficiaries, the individual who is the new beneficiary.

"Disability" means, with respect to a Designated Beneficiary, any condition that causes such Designated Beneficiary to be "disabled" within the meaning of Section 530(d)(4)(B)(ii) of the Internal Revenue Code;

"Eligible Institution" has the same meaning as "eligible educational institution" in section 529(e)(5) of the Internal Revenue Code, and generally means an accredited post-secondary educational institution offering credit towards a bachelor's degree, and associate's degree, a graduate level or professional degree, or another recognized post-secondary credential. Certain proprietary institutions and post-secondary vocational institutions and certain institutions located in foreign countries are also eligible institutions. To be an eligible institution, the institution must be eligible to participate in the U.S. Department of Education student aid programs.

"Internal Revenue Code" means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.), as amended from time to time.

"Member of the Family" means, with respect to any Designated Beneficiary-

- (A) the spouse of such Designated Beneficiary;
- (B) a son or daughter of the Designated Beneficiary, or a descendent or either;
- (C) a stepson or stepdaughter of the Designated Beneficiary;
- (D) a brother, sister, stepbrother, stepsister of the Designated Beneficiary;
- (E) the father or mother of the Designated Beneficiary, or an ancestor of either;
- (F) a stepfather or stepmother of the Designated Beneficiary;
- (G) a son or daughter of a brother or sister of the Designated Beneficiary;
- (H) a brother or sister of the father or mother of the Designated Beneficiary;

- (I) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the Designated Beneficiary;
- (J) the spouse of any individual described in subparagraphs (B) through (I); and
- (K) any first cousin of such Designated Beneficiary.

"Nonqualified withdrawal" means a withdrawal from an Account:

- (A) Other than a qualified withdrawal;
- (B) Made as the result of the death or disability of the Designated Beneficiary of an Account; or
- (C) Made on account of a scholarship.

"501(c)(3) Organization" means an organization described in Section 501(c)(3) of the Internal Revenue Code and exempt from taxation under Section 501(a) of the Internal Revenue Code;

"Participation Agreement" means a college savings agreement as defined in the D.C. Official Code, which serves as an application for participation in the Program submitted by a prospective Account Owner to the Program Manager designated by the Chief Financial Officer.

"Participant" means as Account Owner.

"Person" means any individual, estate, association, unincorporated organization, trust, custodian or guardian, partnership, limited liability company corporation, the District of Columbia or any department thereof, or any political subdivision of the District of Columbia;

"Program" means the District of Columbia College Savings Program established under § 47-4502.

"Program Administrator" means the acting Program Director for the 529 D.C. College Savings Program.

"Program Manager" means the person selected by the Chief Financial Officer to administer the Program. The current Program Manager is Calvert Asset Management Co., Inc.

"Qualified Higher Education Expenses" means:

- (A) Tuition, fees, and the costs of books, supplies, and equipment required for enrollment or attendance of a qualified Designated Beneficiary at an eligible institution; or
- (B) The costs of room and board of a qualified Designated Beneficiary incurred while attending an eligible institution; provided that the amount of room and board shall not exceed the minimum room and board allowance determined in calculating costs of attendance for federal financial aid programs under § 472 of the Higher Education Act of 1965, approved October 17, 1986 (100 Stat. 1454; 20 U.S.C. § 1087 11), or any successor legislation and implementing regulations.

"Qualified Tuition Program" means a program established and maintained by a State or agency or instrumentality thereof or by one or more eligible education institutions under which a person may prepay tuition or make contributions to a savings account established for the purpose of meeting the Qualified Higher Education Expenses of the Designated Beneficiary of the Account and which meets the requirements of Section 529 of the Internal Revenue Code.

"Qualified Withdrawal" means a withdrawal from an Account to pay the qualified higher education expenses of the Designated Beneficiary of the Account.

"Rollover Distribution" means (A) a transfer of funds withdrawn from one Account and deposited to another Account within 60 days of the withdrawal, (B) a transfer of funds from another Qualified Tuition Program to an Account within 60 days of withdrawal of the funds, or (C) a transfer of funds to another Qualified Tuition Program from an Account within 60 days of withdrawal of the funds, in each case to the extent permitted as a rollover Distribution under Section 529(c)(3)(C) of the Internal Revenue Code. The transfer must either be made for the benefit of a new Designated Beneficiary who is a Member of the Family of the prior Designated Beneficiary, or, with respect to (B) and (C), for the benefit of the same Designated Beneficiary provided that no other such transfer for the benefit of such Designated Beneficiary has been made within the previous 12 months.

"Scholarship" means any scholarship and any allowance or payment described in Section 530(d)(4)(B)(iii) of the Internal Revenue Code;

"Scholarship Account" means an Account in the Program established by an Account Owner that is a Scholarship Sponsor and maintained for the benefit of one or more current and/or future Designated Beneficiaries;

"Scholarship Sponsor" means the District of Columbia, or an agency or instrumentality of the District of Columbia, or a Section 501(c)(3) Organization, in each case who establishes one or more Accounts as part of a scholarship Program:

"Trust" means the trust established by the Chief Financial Officer with one or more depositories to hold the assets of the Program, other than the Administrative Fund;

"Withdrawal Due to Death or Disability of, or Scholarship to, a Designated Beneficiary" means a Distribution from an Account established under the Program (A) made because of the death or Disability of the Designated Beneficiary, or (B) made because of the receipt of a Scholarship by the Designated Beneficiary to the extent that such Distribution does not exceed the amount of such Scholarship.

OFFICE OF TAX AND REVENUE

NOTICE OF FINAL RULEMAKING

The Office of Tax and Revenue (OTR) pursuant to the authority set forth in D.C. Official Code § 1-204.24c, as amended by Section 155 of the District of Columbia Appropriations Act of 2001, approved November 22, 2000, (114 Stat. 2476; Pub. L. 106-522) and the Office of the Chief Financial Officer, Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of regulations adopted on a final basis, to amend the Taxation and Assessment Regulations, District of Columbia Municipal Regulations (9 DCMR).

The new amendments to Chapter 3 of Title 9 DCMR "Real Property Tax Sales," clarify certain provisions in the new Chapter 13A, Revised Real Property Tax Sales, in the Tax Clarity Act of 2000 (D.C. Law 13-305), as amended, and provide citizens with rules regarding the administrative process for tax sale purchases; actions incidental to the initiation of a foreclosure action in the Superior Court of the District of Columbia; rules and prerequisites to begin the processing of a Redemption Refund and the collection of the reimbursable Pre-Complaint Legal Expenses and Redemption Refund prior to the initiation of a foreclosure action in the Superior Court of the District of Columbia; rules and prerequisites for payment of subsequent real property taxes made by the tax sale purchaser; rules and prerequisites to qualify the property for redemption after the initiation of an action in the Superior Court of the District of Columbia to foreclose the owner's right to redeem; rules and prerequisites to be followed to collect the Redemption Refund after the initiation of a foreclosure action in the Superior Court of the District of Columbia; rules and prerequisites to be followed by the tax sale purchaser for the issuance of a Tax Deed; rules and prerequisites for Cancellation of a Certificate of Sale; rules and prerequisites to be followed when a Certificate of Sale is void based on failures by the tax sale purchaser, and/or invalid from the date of sale based on administrative failures; rules and prerequisites to be followed for Assignment of the Certificate of Sale; and rules and prerequisites to be followed to release a Certificate of Sale filed with the Recorder of Deeds using a Certificate of Redemption or a Praeceptum of Dismissal.

Notice of the Emergency and Proposed Rulemaking was published in the June 6, 2003 edition of the D.C. Register, at 50 DCR 4456. This Final Rulemaking, as set forth below, becomes effective upon publication in the D. C. Register. Comments were received regarding these proposed rules. The text of these final rules is in substance identical to the text of the Notice of Emergency and Proposed Rulemaking. Specifically, the "applicability date" was changed to clarify the intent of the Emergency and Proposed Rulemaking; the definition of "reasonable attorney's fees" was omitted to avoid confusion; and the rules for the Assignment of a Certificate of Sale were clarified.

Chapter 3 ("Real Property Sales") of Title 9 of DCMR is amended to add new Section 316 to read as follows:

Section 316 Real Property Tax Sale Redemption and Tax Deed Issuance Rules.

316.1 This section shall apply to any tax sale conducted in July 2003, and supercedes the effective date of June 2, 2003 stated in the Emergency and Proposed Regulations published on June 6, 2003 and expired on September 29, 2003.

- (a) The previous Section 316 titled "Sale of Property for Delinquent Taxes," was repealed by publication in the *DC Register* on July 20, 2001, see 48 DCR 6449. These regulations replace those earlier regulations and apply as Real Property Tax Sale Redemption and Tax Deed Issuance Rules.
- (b) All section references herein designated with a "§" are references to the D.C. Official Code (DC Code, 2001). All section references herein designated with the use of the word "section" are references to sections of the regulations in 9 DCMR.
- (c) This section shall also apply, nunc pro tunc, from September 29, 2003, to each sale of real property conducted thereafter under D.C. Code § 47-1330, *et seq.*

316.2 These are actions incidental to the initiation of a foreclosure action in the Superior Court of District of Columbia.

- (a) To redeem a property prior to the initiation of a foreclosure action in the Superior Court of the District of Columbia, a real property owner shall meet the following conditions:
 - (1) Pay all taxes, assessments, fees, penalties, interest and other costs levied by a Taxing Agency against the real property.
 - (2) Pay the reimbursable Pre-Complaint Legal Expenses the tax sale purchaser has incurred prior to the initiation of a foreclosure action in the Superior Court of the District of Columbia;
 - (3) Pay all liens sold to a Third-Party Assignee; provided that, in the case of liens sold by the District TLC Trust, 1996, if the assignee did not commence an action in the Superior Court of the District of Columbia to foreclose upon such liens on or before September 30, 2002, then payment shall be made to the District.

- (4) The owner shall make all payments (except expenses owing to the purchaser) to the District in the manner provided in this section and the tax sale purchaser shall not accept any payment (except Post-Complaint Legal Expenses). Pre-Complaint Legal Expenses are collected by the District, and reimbursed to the tax sale purchaser. The tax sale purchaser shall not include Pre-Complaint Legal Expenses in Post-Complaint Legal Expenses.
- (5) Redemption does not occur until all taxes, assessments, penalties, interest, fees, and other costs have been made current, and the reimbursable Pre-Complaint Legal Expenses have been satisfied in full.
- (6) Any lien sold at tax sale and any subsequent payments made by the tax sale purchaser shall continue to accrue interest until all taxes, assessments, penalties, interest, fees and other costs assessed against the property by a Taxing Agency have been paid in full, and the Pre-Complaint Legal Expenses satisfied.
- (7) The owner of a property, subject to a tax lien assigned by the District TLC Trust, 1996 shall satisfy said tax lien by certified check, cashier's check or money order. The payor shall retain a copy of the paid receipt issued by the Third-Party Assignee and a copy of the certified check, cashier's check or money order (as applicable) as proof of satisfaction of the lien. However, if the lien is subject to Forfeiture, payments are made to OTR.
- (8) To stop further adverse actions to enforce collection of the lien sold at tax sale, the property owner shall provide OTR, with proof of payment of all outstanding taxes, assessments, fees, costs and expenses in the manner provided below:
 - (A) If the real property owner pays the real property tax and/or Business Improvement District (BID) tax by cash payment, the property owner shall provide OTR, with:
 - (1) A copy of the bill reflecting the outstanding taxes, assessments, fees and costs; and
 - (2) A copy of the paid receipt issued by the bank. The property owner shall indicate on the paid receipt that payment was made by cash.
 - (B) If the property owner pays the real property tax and/or Business Improvement District (BID) tax by cashier's check, certified check or money order, the property owner shall provide OTR, with:

- (1) A copy of the real property tax bill reflecting the outstanding taxes, assessments, fees and costs; and
 - (2) A copy of the cashier's check, certified check or money order remitted in payment of the Real Property Tax Bill.
- (C) If the property owner pays an assessment, fee and/or other cost assessed by a Taxing Agency by cash payment, the property owner shall provide OTR, with:
- (1) A copy of the bill(s) reflecting the outstanding assessments, fees and/or costs assessed by the Taxing Agency; and
 - (2) The owner shall indicate on the paid receipt issued by the D.C. Treasurer that the payment was made by cash.
- (D) If the property owner pays the assessment, fee and/or other cost assessed by a Taxing Agency by cashier's check, certified check or money order, the property owner shall provide OTR, with:
- (1) A copy of the bill(s) reflecting the outstanding assessments, fees, and/or other cost assessed by the Taxing Agency;
 - (2) A copy of the paid receipt issued by the D.C. Treasurer; and;
 - (3) A copy of the cashier's check, certified check or money order remitted in payment of the assessment, fee and/or other cost assessed by the Taxing Agency.
- (E) For payment of third-party liens filed pursuant to Foreclosure on or before September 30, 2002, by a real property owner who satisfies a lien that was sold to a Third-Party Assignee, the real property owner shall provide OTR, with:
- (1) A copy of the Payoff Statement reflecting the principal amount of the lien, accrued interest and other allowable costs;

- (2) A copy of the cashier's check, certified check or money order remitted to the Third-Party Assignee in payment of the lien; and
 - (3) A copy of the receipt issued by the Third-Party Assignee, or by OTR in the case of Forfeiture by the assignee.
- (9) The bills for taxes, penalties, interest, assessments, fees, costs and expenses (including liens sold to a Third-Party Assignee) may include, but are not limited to:
- (A) Real Property Tax Bill;
 - (B) Public Space Rental Bill;
 - (C) Business Improvement District (BID) Tax Bill;
 - (D) Special Assessments Bill;
 - (E) Nuisance Tax Bill (including Clean City fees);
 - (F) Water and Sewer Bill;
 - (G) Payoff amounts for liens sold to a third party assignee; and
 - (H) Any other bill or statement issued by taxing agency for the collection of taxes, assessments, fees or costs assessed against real property.
- (10) If real property taxes and/or Pre-Complaint Legal Expenses are due and owing against the real property, the property owner shall obtain a bill from the appropriate Taxing Agency.
- (11) If assessments, fees and/or other costs levied by a Taxing Agency are due and owing against the real property, the property owner shall obtain a bill from the appropriate Taxing Agency.
- (12) If the real property tax lien has been sold to a Third-Party Assignee, the property owner shall obtain a Payoff Statement from the Third-Party Assignee. If the tax lien was forfeited to the District, OTR shall issue a bill for the collection of the forfeited tax lien.
- (b) The purchaser shall provide notice of the filing of the action to Foreclose the Right of Redemption in the Superior Court of the District of Columbia, by filing of a notice of the pendency of the action (*lis pendens*), within 30 business days, in the Office of the Recorder of Deeds, pursuant to DC Code § 42- 1207 *et seq.*
- 316.3 These are rules and prerequisites to begin the processing of a Redemption Refund and the collection of the reimbursable Pre-Complaint Legal Expenses and Redemption Refund prior to the initiation of a Foreclosure action in the Superior Court of the District of Columbia.**

- (A) To begin the processing of a Redemption Refund, the property must have been Redeemed in accordance with the requirements set forth in the section 316.3 or the tax sale must have been cancelled in accordance with the requirements set forth in the section 316.
- (B) Upon notification from OTR or information obtained from the records of OTR, that all taxes, assessments, fees and charges have been paid to Redeem the property, the tax sale purchaser shall surrender the Certificate of Sale to OTR, at the address provided on the Certificate of Sale.
- (C) Upon receipt of the Certificate of Sale, OTR shall process the Redemption Refund.
- (D) The Redemption Refund shall be comprised of the amount paid at tax sale including any Surplus. Interest shall be paid at a rate of 1½ percent per month or part thereof on the amount paid at tax sale that represents the delinquent tax. Interest shall not be paid on the Surplus.
- (E) Interest shall begin to accrue the first month after the date of the tax sale and shall cease to accrue on the date of redemption or cancellation.
- (F) To collect the reimbursable Pre-Complaint Legal Expenses, the tax sale purchaser shall provide the following information upon notification that the property owner has Redeemed.
 - (1) A copy of the paid receipt issued for the rendering of the Pre-Complaint Legal Expenses; and
 - (2) An affidavit or a statement from legal counsel attesting to the fact that the Pre-Complaint Legal Expenses were rendered;
- (G) The documentation required in section 316.4(f) shall be provided to OTR at the address on the Certificate of Sale.
- (H) Upon receipt of the documentation required in section 316.4(f), OTR shall process the refund of the Pre-Complaint Legal Expenses. Interest shall not be paid on the Pre-Complaint Legal Expenses.

316.4 These are rules and prerequisites for payment of the subsequent real property taxes made by the tax sale purchaser.

- (a) The tax sale purchaser shall pay the Tax Sale Purchaser's Bill at the Cashier's Office of the DC Treasurer. Once payment has been remitted, the tax sale purchaser shall immediately provide OTR, with a copy of the paid receipt issued by the Cashier's Office of the DC Treasurer and retain a copy of the receipt for the tax sale purchaser's record.
- (b) Any payment made against the Real Property Tax Bill that is not a Tax Sale Purchaser's Bill shall be applied to the real property taxes due and owing against the property as if the payments were made by the property owner. The tax sale purchaser shall not receive credit for any payment of subsequent real property taxes unless payment is made on a Tax Sale Purchaser's Bill in the manner provided in sections 316.5(a) and (b).
- (c) Any payments made by a tax sale purchaser pursuant to a Tax Sale Purchaser's Bill shall be applied to the real property tax account at the time a Tax Deed is issued to the tax sale purchaser.
- (d) The tax sale purchaser shall be liable for the Statutory Interest and penalty due at the time of payment.

316.5 These are rules and prerequisites to qualify the property for redemption after the initiation of an action in the Superior Court of the District of Columbia to foreclose the owner's right to redeem.

- (a) To qualify the property for redemption, the real property owner shall pay in full the following:
 - (1) All taxes, assessments, fees, costs and expenses levied by a Taxing Agency;
 - (2) The reimbursable Pre-Complaint Legal Expenses;
 - (3) All liens that have been sold to a Third-Party Assignee; and
 - (4) All expenses incurred as a result of the initiation of an action in the Superior Court of the District of Columbia to foreclose the owner's right to redeem by the tax sale purchaser at the July 2003 tax sale or tax sale occurring thereafter, as authorized under D.C. Official Code § 47-1377(a)(2).

- (c) Upon notification that the property owner is attempting to Redeem, OTR, may request a Payoff Statement from the tax sale purchaser that indicates all expenses incurred as a result of the initiation of a foreclosure action in the Superior Court of the District of Columbia.
- (d) Within 10 business days of a request for a Payoff Statement made by OTR, the tax sale purchaser shall provide the property owner and OTR, with a Payoff Statement reflecting the amount necessary to satisfy the expenses incurred as a result of the initiation of a foreclosure action in the Superior Court of the District of Columbia. If the tax sale purchaser fails to respond to the request for a Payoff Statement, OTR will send a request by certified mail to the tax sale purchaser for a Payoff Statement.
- (e) Failure to provide OTR with a copy of the Payoff Statement within 10 business days from the date of the request sent by certified mail may result in the issuance of a Certificate of Redemption to the owner, upon request.
- (f) If there is a dispute regarding the amount to satisfy the expenses referenced in section 316.6(c), the party seeking to redeem the real property must apply to the Superior Court of the District of Columbia for an order fixing the amount of fees, costs and expenses as provided in D.C. Official Code § 47-1377(a)(2). The real property shall not be redeemed until the amount appearing on an order of the court is satisfied in full. The redeeming party shall provide OTR, with a copy of the court order and documentation showing that the amount in the court order has been fully satisfied.
- (g) The property owner shall pay in full the expenses incurred as a result of the initiation and prosecution of the foreclosure action in the Superior Court of the District of Columbia. Payment shall be made to the tax sale purchaser and shall be made in the form of a certified check, cashier's check or money order.
- (h) At the time the property owner pays the expenses as provided in this section, the tax sale purchaser shall provide to the property owner a receipt showing full satisfaction of said expenses.
- (i) If the tax sale purchaser has filed the Certificate of Sale at the Recorder of Deeds, upon redemption as provided in section 316.6(a), the tax sale purchaser shall file a Release of Lis Pendens of the foreclosure action with the Recorder of Deeds.

316.6 These are rules and prerequisites to be followed to collect the Redemption Refund after the initiation of a foreclosure action in the Superior Court of the District of Columbia.

- (a) The tax sale purchaser shall submit the following documentation to begin the processing of a Redemption Refund provided that all outstanding taxes, assessments, fees, costs and expenses due and owing have been paid or the tax sale was cancelled pursuant to § 47-1366 or void pursuant to § 47-1355:
- (1) Certificate of Sale; and
 - (2) Copy of praecipe that dismisses the foreclosure action and/or copy of the Certificate of Cancellation that cancels the Certificate of Sale; and
 - (3) Receipts showing payments of subsequent taxes pursuant to 316.5; and
 - (4) Proof of payment of Pre- Complaint Legal Expenses
- (b) Upon receipt of the documentation required in subsection (a) of this section, OTR shall process the refund.
- (c) The Redemption Refund shall be comprised of:
- (1) The amount paid for the property sold at tax sale, including Surplus and Statutory Interest. Statutory Interest shall be paid on the amount paid at tax sale that represents the amount of the delinquent tax due and owing against the property at the time of the sale. Statutory Interest shall not be paid on the Surplus.
 - (2) The Pre-Complaint Legal Expenses; and
 - (3) The amount paid pursuant to a Tax Sale Purchaser's Bill to satisfy the subsequent real property taxes inclusive of Statutory Interest.
- (d) The Statutory Interest is paid on the amount of the real property tax delinquency sold at tax sale and accrues at a rate of 1½ percent per month or a part thereof. The Statutory Interest begins to accrue on the date of payment of the subsequent real property taxes and shall cease on the date of cancellation of the tax sale or the date of redemption.

- (e) The Statutory Interest is paid on the amount paid by the tax sale purchaser for the subsequent real property tax and accrues at a rate of 1½ percent per month or a part thereof. The Statutory Interest begins to accrue on the date of payment of the subsequent real property taxes and shall cease on the date of cancellation of the tax sale or date of redemption.
- (f) The Statutory Interest on the amount paid to satisfy the subsequent real property tax shall be paid at a rate of 1½ percent per month or part thereof on the base delinquent tax exclusive of penalty. The interest shall begin to accrue on the date of payment for the tax sale certificate and shall cease on the date of redemption.

316.7 These are rules and prerequisites to be followed by the tax sale purchaser for the issuance of a Tax Deed.

- (a) To apply for a Tax Deed, the tax sale purchaser shall submit to OTR, (1) a certified copy of the final judgement issued by the Superior Court of the District of Columbia that forecloses the property owner's right of redemption and that orders that the tax sale purchaser shall have the sole right to be issued a Tax Deed.
- (b) Upon proper application to OTR for a Tax Deed, the tax sale purchaser shall be issued a Bill for Tax Deed.
- (c) The Bill for Tax Deed shall be satisfied no less than 30 days from the date of issuance and may include the following: (1) a Real Property Tax Bill, (2) the web-site print-out indicating all other assessments, fees, costs and (3) payoffs from subsequent and prior year tax sale purchasers.
- (d) Payment of the taxes, assessments, fees and other costs due and owing against the property must be made at the time of application for a Tax Deed. Payment may be made in the following ways:
 - (1) Any Surplus shall be applied to the outstanding taxes, assessments, fees and other costs due and owing against the real property tax. Any balance remaining of the surplus shall appear as a credit on the real property tax account and shall be refunded to the party who made the overpayment only upon receipt of a written request for refund that includes proof of payment; or
 - (2) If the Surplus is insufficient to pay the total taxes, assessments, fees and other costs due, or in the absence of any Surplus, whatever amount is necessary to pay the total taxes, assessment, fees and other costs shall be paid in the form of cash, certified check, cashier's check or money order.

(e) If the payment is made by certified check, cashier's check or money order, the tax sale purchaser shall provide OTR with:

- (1) a copy of the certified check, cashier's check or money order remitted in payment of the Bill for Tax Deed;
- (2) a copy of the receipt issued by the bank, the Cashier's Office of the D.C. Treasurer and/or Third-Party Assignee; and
- (3) a copy of the bill from each appropriate Taxing Agency, and/or a copy of the Payoff Statement from the Third-Party Assignee and/or prior year or subsequent tax sale purchaser.

(f) If payment is made by cash, the tax sale purchaser shall indicate on the receipt and provide OTR with:

- (1) A copy of the receipt issued by the bank, Cashier's Office of the D.C. Treasurer and/or Third-Party Assignee indicating payment by cash;
- (2) A copy of the bill from each appropriate Taxing Agency, and/or a copy of the Payoff Statement from the Third-Party Assignee and/or prior year or subsequent tax sale purchaser.

(g) The tax sale purchaser shall forfeit all monies paid for the property at tax sale and any payments made toward the subsequent real property taxes if the tax sale purchaser fails to satisfy the Bill for Tax Deed on or before the due date provided on the Bill for Tax Deed.

(h) The tax sale purchaser shall provide pay-off statements and receipts from prior years and subsequent years tax sale purchasers. Proof of payment includes copies of certified payments and receipts showing that all Taxing Agencies, prior years and subsequent years tax sale purchasers are paid and must include signed releases from the prior years and subsequent years buyer or buyer's representatives that all legal costs are were paid.

316.8 These are rules and prerequisites for Cancellation of a Certificate of Sale by OTR.

- (a) A Certificate of Sale shall be cancelled to prevent an injustice to the real property owner.
- (b) If a Certificate of Sale is cancelled for any reason, other than for the reason of fraud on the part of the tax sale purchaser, the tax sale purchaser shall be refunded the following:

- (1) The amount paid for the property sold at tax sale, including Surplus and Statutory Interest;
 - (2) The Pre-Complaint Legal Expenses actually paid and properly incurred;
 - (3) The amount paid to satisfy the subsequent real property taxes and Statutory Interest.
- (c) Statutory Interest is paid on the amount of the real property tax delinquency sold at tax sale and accrues at 1 ½ percent per month or a part thereof. The Statutory Interest shall begin to accrue on the date of the tax sale and shall cease to accrue on the date of cancellation.
- (d) Statutory Interest is paid on the amount paid by the tax sale purchaser for the subsequent real property tax and accrues at a rate of 1 ½ percent per month or a part thereof. The Statutory Interest shall begin to accrue on the date the subsequent payment was made and shall cease to accrue on the date of cancellation.
- (e) When cancelled, OTR shall provide to the tax sale purchaser a Notice of Cancellation of the tax sale.
- (f) If the tax sale is cancelled after the initiation of a foreclosure action in the Superior Court of the District of Columbia, the tax sale purchaser shall provide OTR with the following documents upon receiving notification of cancellation of the tax sale:
- (1) A Payoff Statement for the expenses incurred as a result of the initiation of the foreclosure action; and
 - (2) A copy of the paid receipt issued for the rendering of services for the initiation of a foreclosure action; or
 - (3) An affidavit attesting to the fact that services were rendered for the initiation of a foreclosure action.
- (g) The refund provisions of section 316.9(b) shall not apply to legal costs and expenses incurred by the tax sale purchaser when any of the following circumstances would have put the tax sale purchaser on notice to suspend further action to foreclose and to request authorization from OTR to proceed:

- (1) Where the tax sale purchaser knows, or should have known, of errors in ownership information and/or discrepancies contained in the title report and from other sources;
- (2) Where the tax sale purchaser discovers, or should have discovered, that the property is under the jurisdiction of the Bankruptcy Court;
- (3) Where the tax sale purchaser obtains a title report that discovers, or should have discovered, errors that affect the validity of the Certificate of Sale; or
- (4) Where the tax sale purchaser discovers information from any source that affects the validity of the Certificate of Sale.

316.9 These are rules and prerequisites to be followed when a Certificate of Sale is void based on failures by the tax sale purchaser, and/or invalid from the date of sale, based on administrative failures.

- (a) A Certificate of Sale shall be declared void and all payments forfeited to the District for the following reasons:
 - (1) Failure to file a complaint to foreclose the right of redemption within one (1) year of the date of the certificate;
 - (2) Failure to pay delinquent taxes due and owing the District;
 - (3) Failure to prosecute the complaint to foreclose the right of redemption;
 - (4) Failure to pay, by the date specified, the amount stated on the Bill for Tax Deed pursuant to the final order of the Superior Court of the District of Columbia;
 - (5) Failure to record the deed with the Recorder of Deeds within 30 days of its delivery; or
 - (6) Fraud by the purchaser.
- (b) The circumstances that may occur that may invalidate a Certificate of Sale from the date of sale, and cancelled according to the rules in section 316.9, including, shall include but is not limited to the following:
 - (1) Taxes paid prior to the tax sale;
 - (2) Real Estate taxes sold erroneously;

- (3) Payment applied to incorrect year;
- (4) Property in bankruptcy;
- (5) Payment applied to incorrect square/lot;
- (6) Property is exempt for the period of the delinquency for which it was sold at tax sale; or
- (7) Any other action taken by OTR that may have inadvertently caused a sale of the real property tax lien.

316.10 These are rules and prerequisites to be followed for assignment of the Certificate of Sale.

- (a) The assignee of the Certificate of Sale shall notify OTR in writing of the assignment within thirty 30 days from the assignment of the Certificate of Sale. The assigned Certificate of Sale must meet the following requirements: (1) A written agreement, executed and acknowledged in the same manner as an absolute deed, that contains the assignee's name, address, telephone number, taxpayer identification number, notification of an assignment of the interest in the payment of other taxes and liabilities (subsequent taxes) and the legal identification of the property: (2) the notice of assignment must be signed, sealed and acknowledged by the parties agreeing to the assignment and recorded among the land records in the Recorder of Deeds, to be effective as to any person not having actual notice. Recording of the Certificate of Assignment with the Recorder of Deeds shall not constitute notice to OTR. Actual notice must be sent to OTR.
- (b) At the time that OTR receives notice of the Assignment of the Certificate of Sale, an assignee of the Certificate of Sale shall not be delinquent in the payment of any taxes, assessments, fees and/or costs due to the District.
- (c) At the time that OTR receives notice of the Assignment of the Certificate of Sale, the assignee of the Certificate of Sale shall submit a completed "Clean Hands Certification for Potential Tax Sale Purchasers and Assignees."
- (d) If an assignee of the Certificate of Sale shall be found to be delinquent in the payment of real property taxes, the assignee shall forfeit all monies paid for the assignment of the Certificate of Sale and any monies paid toward the subsequent real property taxes.
- (e) Once the Certificate of Sale has been assigned, the assignee becomes the tax sale purchaser of the property associated with the certificate. The assignee shall be bound by all rules and regulations pertaining to a tax sale purchaser including all rules of Forfeiture.

316.11 These are rules and prerequisites to be followed to release a Certificate of Sale filed with the Recorder of Deeds using a Certificate of Redemption or a Praeceptum of Dismissal.

- (a) After redeeming the property pursuant to section 316.3, a property owner may request a Certificate of Redemption to be filed with the Recorder of Deeds to cause a release of the Certificate of Sale.
- (b) After redeeming the property pursuant to section 316.6, a property owner may request a Certificate of Redemption to be filed with the Recorder of Deeds to cause a release of the Certificate of Sale or a certified copy of the Praeceptum of Dismissal issued by the Superior Court of the District of Columbia.
- (c) OTR will process a Certificate of Redemption upon receipt of a written request and payment of a \$100 fee payable to the D.C. Treasurer.
- (d) Processing time for a Certificate of Redemption shall be no less than 10 business days from receipt of the written request and acceptable payment.
- (e) Upon issuance, a Certificate of Redemption releases the Certificate of Sale and all liens assessed against the property by a Taxing Agency prior to the date of the Certificate.
- (f) A Praeceptum of Dismissal is submitted to the Superior Court of the District of Columbia by the tax sale purchaser may end all legal action to foreclose the owner's right of redemption subsequent to the owner having made all payments required to redeem or the tax sale being cancelled under the statute and regulations.

316.12 These definitions are essential to clarify the tax sale process.

- (a) Assignment of a Certificate of Sale – The act of transferring all rights acquired in the Certificate of Sale.
- (b) Bill For Tax Deed – A special tax bill required to be obtained by the tax sale purchaser, after the Superior Court of the District of Columbia has issued a judgment of foreclosure, to pay all taxes, assessments, costs and expenses due and fees owing to the District of Columbia before a tax deed is issued.
- (c) Certificate of Cancellation – The document issued to cancel the Certificate of Sale.

- (d) Certificate of Redemption - A document that confirms that all outstanding taxes, assessments, fees, costs and expenses have been paid. This document statutorily releases all liens required to be satisfied to redeem the property. This document also releases any other liens required to be paid in order to redeem.
- (e) Certificate of Sale - A document issued to a tax sale purchaser that evidences that its holder is the purchaser of a tax lien.
- (f) Date of Cancellation – Date a Certificate of Sale is cancelled.
- (g) Date of Redemption – The earlier of the date payment of all taxes, assessments, penalties, interest, fees and costs has been posted to the applicable billing system, or the date owner provides OTR with copies of the certified check and paid bank, or applicable agency, receipts confirming payment in full of all taxes, assessments, fees and costs.
- (h) Foreclosure of (or Foreclosing) the Right of Redemption – An action filed in the Superior Court of the District of Columbia to terminate the interests of the owner in the real property.
- (i) Forfeiture – The loss of monies paid to the District by a tax sale purchaser; (i) who is delinquent in payment of taxes to the District (DC Code § 47-1346); (ii) who fails to pay the full amount of his bid (DC Code § 47-1347); (iii) who fails to file a foreclosure action within one year of the date of the tax sale certificate (DC Code § 47-1348); (iv) who has a void Certificate of Sale under (DC Code § 47-1355) or, (v) who fails to pay the Bill For Tax Deed within 30 days of the date on the bill; (vi) who fails to comply with the terms of any order of the Superior Court of the District of Columbia in the action foreclosing the right of redemption, or, (vii) who fails to record the deed within 30 days of its execution (DC Code § 47-1382).
- (j) OTR – Office of Tax and Revenue, Real Property Tax Administration of the District of Columbia.
- (k) Payoff Statement – A document requested by the tax sale purchaser that itemizes the costs and reasonable attorney's fees incurred as a result of filing and pursuing a foreclosure action in the Superior Court of the District of Columbia.
- (l) Pre-Complaint Legal Expenses (Reimbursable) – Expenses incurred before an action is filed to foreclose redemption (limit to \$300), plus the recordation fee charged by the District of Columbia to record the Certificate of Sale at the Recorder of Deeds, pursuant to DC Code § 47 – 1377(a)(1)(A) and (B).

- (m) Post-Complaint Legal Expenses (Reimbursable) – Expenses incurred for personal service of process, service of process by publication, for publication, and posting of all required notices, for postage and reasonable attorney's fees, pursuant to § 47 – 1377(a)(2).
- (n) Real Property Owner – An owner of record of real property, or a party with a reasonably ascertainable ownership interest in the real property.
- (o) Real Property Tax Bill – The tax bill mailed to a property owner semi-annually for the collection of real property taxes.
- (p) Redeem – The payment of all outstanding taxes, assessments, fees, costs and expenses (including pre-complaint and post-complaint legal expenses) due and owing on the real property.
- (q) Redemption Refund – Comprises the amount paid at tax sale, including statutory interest, surplus paid at tax sale and the reimbursable Pre-Complaint Legal Expenses. This fund shall not be issued unless the property has been Redeemed or the tax sale has been cancelled.
- (r) Statutory Interest – The monthly simple interest amount (1½ percent) paid on the delinquent tax amount paid for the purchase of properties at tax sale.
- (s) Surplus – The portion of the bid for the property that exceeds the taxes, penalties, interest and costs for which the property was sold (as defined in § 47 – 1330.Definitions).
- (t) Tax Deed – The document that transfers fee simple interest in real property, as described in the Certificate of Sale or the assigned Certificate of Sale, to the tax sale purchaser pursuant to DC Code § 47-1382 and subject to (a) a lien filed by a taxing agency under DC Code § 47-1430(c); (b) the tenancy of a residential tenant (other than a tenant described in DC Code § 47 – 1371(b)(1)(C) and (D)); and (c) easements of record and any other easement that can be observed by an inspection of the real property.
- (u) Tax Sale Purchaser's Bill - A special tax bill requested by the tax sale purchaser to facilitate the payment of current and prior tax liabilities that have not been sold or bid off at tax sale. Payment of these tax liabilities is credited to the Bill for Tax Deed. Interest is tolled for the tax sale purchaser at the date payment is made. Interest continues to accrue for the owner. If the owner redeems the property, payments are refunded to the tax sale purchaser with Statutory Interest.

- (v) Taxing Agency -- for purposes of sections 316.1 through 316.12, the term "taxing agency(ies)" shall mean any agency of the District of Columbia which may levy a tax, assessment or charge collectible under Chapter 13A of Title 47 of the D.C. Code. This definition includes the Business Improvement District (BID) tax.
- (w) Third-Party Assignee - For purposes of sections 316.1 through 316.12, the term "third-party assignee" shall mean a party who was assigned a tax lien for tax years 1990 through 1995 from the District TLC Trust, 1996.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia hereby gives notice of its adoption, at its regular meeting on November 18, 2003, of Chapter 9, Alumni Affairs of Title 8, DCMR, as follows. This new Chapter 9 of Title 8, DCMR sets forth the standards for the award and withdrawal of recognition of a petitioning alumni organization by the Board of Trustees as an officially sanctioned organization of the University of the District of Columbia and establishes a coordinating office of alumni affairs within the University. The proposed rulemaking was published on July 11, 2003, 50 DCR 5585. It will become effective upon publication in the D.C. Register.

CHAPTER 9 ALUMNI AFFAIRS

900 Standards for Recognition of a Petitioning Alumni Organization

- 900.1 No organization of alumni of the University of the District of Columbia (or its predecessor institutions) and/or other persons may use the name of the University of the District of Columbia in its name or in connection with its activities without first obtaining formal recognition of the Board of Trustees of the University and its express approval of such use of the name and logos or other insignia of the University.
- 900.2 Any organization of alumni of the University of the District of Columbia applying for such recognition and authorization shall incorporate itself pursuant to applicable District of Columbia laws for not for profit corporations, exclusively for charitable and educational purposes, and qualify for, attain and maintain 501(c)(3) status with the United States Internal Revenue Service.
- 900.3 Subject to the limitations of subsection 901.2, one express and explicit purpose of the organization shall be to undertake, promote, develop and conduct an educational program, including historical research exclusively of an educational character, about the University of the District of Columbia and its predecessor institutions.
- 900.4 It shall be an express purpose of the organization to perpetuate the history and memories of the University of the District of Columbia and its predecessor institutions, to encourage and assist the growth and development of the University.
- 900.5 It shall be an express and primary purpose of the organization to conduct fund-raising activities which shall inure to the benefit of the University of the District of Columbia, including developing a budget and funding its

operations conducted in the University's Office of Alumni Affairs, other than the salary of the director of alumni affairs and the utilities. The University shall bear the expense of the salary of the Director of Alumni Affairs, standard office equipment, and utilities for the operations of the recognized organization from the UDC campus.

- 900.6 As provided by D.C. Code § 29-301.05 (2001 ed.), the organization may empower itself to accept by gift, devise, bequest or otherwise real and personal property of every kind and description; to purchase, hold, invest, sell, lease or otherwise dispose of the principal and income of the funds and property of the organization; and to enter into, make, perform and fulfill contracts of every kind or nature for any of the purposes of the organization; and to have an office at the University of the District of Columbia afforded by the University and directed by the University's director of alumni affairs and to have such other offices outside the District of Columbia as it becomes feasible to organize under its control and at its sole expense, but which shall coordinate with the University's director of alumni affairs; and to exercise all or any of the powers and operations of a corporation. Unless it is an University-established and owned organization, the organization shall hold the University Board of Trustees harmless for any of its acts or activities and those of its chapters or other affiliates.
- 900.7 The organization may affiliate chapters of qualifying members throughout the United States and the world, provided those entities are educational and charitable organizations which have qualified for exemption under Section 501(c)(3) of the Internal Revenue Code and of corresponding provisions of other revenue acts as may from time to time be enacted or amended in conducting the operations of the organization and provided further that the organization and operation of such chapters are consistent with the requirements for organization and operation of the recognized organization.
- 900.8 The organization shall not engage in any activity that is not educational or charitable within the intention of Section 501(c)(3) of the Internal Revenue Code of 1954.
- 900.9 The records of the finances and activities of the organization, and any affiliate shall always be open to the University and its auditors.
- 900.10 The organization initially shall be governed by a Board of Directors of not less than eleven persons and shall include four Trustees of the University specified herein and the University's director of alumni affairs, all of whom shall join the organization. Alumni Trustees and the fourth Trustee of the University appointed by the Chairman of the Board of Trustees shall be voting members of the Board of Directors. The University's director of alumni affairs shall be an *ex officio* voting member of the Board of Directors.

- 900.11 The organization shall maintain adequate Directors and Officers' Liability Insurance for its Board members and officers. The treasurer shall be bonded in an amount adequate to protect the assets of the organization.
- 900.12 The principal office of the organization shall be at the University of the District of Columbia and its mailing address shall be c/o The University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, DC 20008. The office will be provided by and maintained by the University and shall be staffed by the University's director of alumni affairs.
- 900.13 Consistent with applicable D.C. not-for-profit corporation law, the organization shall be authorized to make, alter or repeal its By-Laws, but only by two-thirds of the votes cast by the membership at any regular or special meeting of the membership and only so long as the By-Laws are made and continued to be consistent with the requirements of this chapter. Bylaw changes must be submitted to the UDC Board of Trustees within thirty days of their adoption by the membership.
- 900.14 In the event of dissolution or termination of the organization, or withdrawal from it of the recognition conferred by the Board of Trustees of the University of the District of Columbia, which may be done at anytime but shall not be done without just cause, title to and possession of all property of the organization shall, after paying or making provisions for the payment of all liabilities and obligations of the organization and for the necessary expenses thereof, pass forthwith to the Board of Trustees of the University of the District of Columbia.
- 900.15 The organization shall adhere in all its operations and activities, wherever occurring, to the District of Columbia Human Rights Act in spirit and reality.

901 Recognition

- 901.1 Upon final adoption of these rules and the determination by the Committee on Development and Alumni Affairs that the Articles of Incorporation and Bylaws of the University of the District of Columbia National Alumni Society, Inc. ("UDCNAS") conform to applicable D.C. law and these rules, the Board of Trustees of the University shall officially recognize the UDCNAS exclusively as the official organ of the University's relationship with its alumni.
- 901.2 Should such official recognition ever be withdrawn from the UDCNAS, or should it for any reason cease to exist, the Board will publish a notice describing how persons interested in founding a successor organization can

obtain copies of these rules and specifying an address and deadline for the receipt of such applications.

- 901.3 All applications received by the deadline shall be presented to the Board of Trustees' Committee on Development and Alumni Affairs.
- 901.4 The Committee shall review the submitted materials and rank the candidates for the strength of the indicators for matching the articulated criteria. The Committee shall submit its recommendations to the Board of Trustees at a regular meeting.
- 901.5 The Committee's recommendation may be:
- (a) to select one organization,
 - (b) to select one organization provided it makes certain adjustments to comply with the Board's requirements,
 - (c) to recommend the joining of two or more applicant organizations or other pooling of their skills and resources to create a combined or new organization that would meet the Board's requirements,
 - (d) to deny all the applicants and announce the reopening of the search, or
 - (e) to deny all the applicants and move instead to establish a University - owned and operated alumni association.
- 901.6 The Board of Trustees vote must be sustained by two-thirds of those Trustees present and voting.
- 901.7 A vote for options a, d, or e shall be final. A vote for options b or c shall result in return of the recommendation to the Committee on Development and Alumni Affairs for negotiation with the concerned candidate organization(s) for modification of their Articles of Incorporation or By-Laws. The application(s) of such organization may be reconsidered when the Committee on Development and Alumni Affairs determines that such further conditions as were imposed either have been met or will not be met.
- 902 Procedure for Withdrawal of Recognition**
- 902.1 Should the President of the University or any other member of the Board of Trustees of the University believe that just cause exists to withdraw recognition from the organization, such concerns shall be presented in executive session to the Board of Trustees.
- 902.2 Upon the consensus of the Board of Trustees in executive session, that the concerns appear to be warranted, the Chairman of the Board of Trustees and the President of the University shall appoint a Special Committee to investigate the charges. The Chairman of the Board shall appoint to the

Committee three Trustees who are not serving on the Board of the alumni organization. The President of the University shall appoint two additional persons to the Special Committee.

- 902.3 The Special Committee shall review the evidence submitted and discovered in its investigation and determine whether such evidence indicates just cause by the organization, its officers, or its Board of Directors. If so, it will develop specific charges of misconduct and notify the Board of Directors of the organization of the charges.
- 902.4 If the Special Committee has credible evidence that the assets of the organization are in jeopardy, it shall cause counsel to seek whatever legal remedies may maintain the status quo during the Board's investigation and determination process.
- 902.5 The Special Committee shall afford the Board of Directors an opportunity to address the Special Committee concerning the charges and any evidence relevant to either support or refute the charges.
- 902.6 Proceedings before the Special Committee shall not be adversarial, but shall be investigative.
- 902.7 If the Special Committee concludes, by a simple majority, that recognition should be withdrawn from the organization, it shall propose a resolution to that effect to the Board of Trustees, with its reasons and evidence.
- 902.8 Consideration by the Board of Trustees of a recommendation from the Special Committee shall be conducted in public at a regular or special meeting of the Board.
- 902.9 A spokesperson for the Board of Directors of the organization shall be allowed to address the Board of Trustees on the charges.
- 902.10 A vote to withdraw recognition must carry by two-thirds of the Trustees present and voting.
- 902.11 If the Board of Trustees votes to withdraw recognition, it shall promptly move to enjoin the organization from any further use of the name and logos of the University, from any further activities on behalf of the University, and for an accounting of all its funds and assets.
- 903 Office of Alumni Affairs**
- 903.1 The President shall appoint a Director of Alumni Affairs whose primary purpose will be to establish an office of alumni affairs to effectively

conduct the University's continuing relationship with its recognized alumni organization, including housing its books and records and coordinating the activities of the organization with the University.

999 Definitions

- 999.1 Alumnus(includes "alum(s)," "alumnae," and "alumni")... one who holds an academic degree, diploma, or certificate heretofore and hereafter awarded by the University of the District of Columbia or its predecessors (including the David A. Clarke School of Law and its predecessors) and all persons who were enrolled in classes [for credit] and attended the University or its predecessors for at least one semester, including summer sessions, and left in good standing.
- 999.2 Association...for the purpose of this chapter, an organization of alumni sharing a common interest in supporting and improving the welfare of the University of the District of Columbia.
- 999.3 Recognition... the formal acknowledgment and approval of the corporate existence of an organization of alumni for the purpose of supporting and improving the welfare of the University of the District of Columbia. Without such recognition by the Board of Trustees, no organization of persons, alumni or not, is authorized by the Board of Trustees to use the name of the University of the District of Columbia or any of its predecessor institutions either in its name or in connection with its activities.
- 999.4 Director of Alumni Affairs...an employee of the University of the District of Columbia, by whatever title, as may be officially assigned by the President of the University, whose responsibilities include serving as an *ex officio* member of the Board of Directors of any formally recognized alumni organization and using the University's office to facilitate the activities of that organization for the benefit of the University.
- 999.5 Member...an individual qualifying for any class of membership in a recognized alumni organization.
- 999.6 Just Cause...includes, but is not necessarily limited to, failure to maintain the standards of organization and operation required in these rules, failure to maintain corporate status as a 501(c)(3) nonprofit corporation, if incorporated, violation of any law, exclusion of any alumni for any unlawful reason, failure to provide for active participation by any interested and capable alumni, or financial insolvency.
- 999.7 Trustee Director...an Alumni Trustee of the University of the District of Columbia or other Trustee appointed by the Board of Trustees to serve on the Board of Directors of any formally recognized alumni organization.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Directors of the District of Columbia Water and Sewer Authority ("the Board"), pursuant to the authority set forth in the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Code § 34-2201.01 et seq.), at its regular meeting held on January 6, 2004 took final action to adopt the following amendments to the Water and Sanitation Regulations (21 DCMR), Chapter 3, "Water Meters", Section 301, "Meter Setters and Connections". The rules revise section 301.2 to establish that the General Manager may recover all costs of installing meter setters or other approved fittings by agreements with "Consumers" and that the General Manager shall identify all costs of installation in advance of the installation.

The Authority's proposed rulemaking was originally published in the November 14, 2003 edition of the District of Columbia Register (50 DCR 9770). No comments were received on the proposed rules.

This final rulemaking will be effective when published in the D.C. Register.

Chapter 3 "WATER METERS", Section 301 "METER SETTERS AND CONNECTIONS", Subsection 301.2 is amended to read as follows:

301.2 The General Manager may install a meter setter or other approved fittings designed to receive a water meter and may recover all costs of such installation by agreements with consumers. In cases where special costs of installation are recovered through agreements with consumers, the General Manager shall identify all costs of installation in advance of installation.