

THE OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

**Notice of Final Rulemaking, 3 DCMR, Chapter 8,
Issued by the Board of Elections and Ethics
Published at 51 DCR 7401, on July 30, 2004**

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to D.C. Official Code § 2-559 (2006 Repl.), entitled “**Correction of errors in documents,**” hereby gives notice of the following correction to the text of the *District of Columbia Municipal Regulations* which was amended by a Notice of Final Rulemaking published in the *District of Columbia Register*, and issued by the Board of Elections and Ethics on July 30, 2004.

The Notice of Final Rulemaking amended Title 3 of the DCMR Chapter 8, “Tabulation and Certification of Election Results.” See Notice of Final Rulemaking published at 51 DCR 7401 (July 30, 2004).

The current Title 3, entitled “**Elections and Ethics,**” which was updated in March 2007, does not accurately contain the text of Chapter 8 as that chapter was amended. Therefore, this notice is being published to provide the *District of Columbia Register* citation of the correct text of Chapter 8 as 51 DCR 7401 (July 30, 2004). The *Cumulative List of Amendments* will be updated to provide the citation as it appears in this notice.

Inquiries regarding this notice shall be addressed by mail to Gregory Fields, Staff Attorney, Office of Documents and Administrative Issuances, 441 4th Street, N.W., Suite 520 South, Washington, D.C. 20001 or via telephone at (202) 727-5090.

DEPARTMENT OF HEALTH**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth under Section 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C Official Code § 3-1203.02(14)(2006 Supp.)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the intent to take final rulemaking action to adopt the following amendments to Chapter 48 of Title 17 of the District of Columbia Municipal Regulations (DCMR). No comments were received as a result of the publication of the rules and no changes have been made to the text of the proposed rules, as published with the Notice of Proposed Rulemaking in the D.C. Register on August 22, 2008, at 55 DCR 009105. These final rules will be effective upon publication of this notice in the D.C. Register.

Chapter 48 (Chiropractic) of Title 17 (Business, Occupations & Professions) (May 1990) is amended as follows:

Section 4809.10 is repealed.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Acting Director of the Department Health, pursuant to the authority set forth under section 302 (14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D. C. Law 6-99; D.C. Official Code § 3-1203.02 (14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the adoption of the following amendment to Chapter 73 of Title 17 of the District of Columbia Municipal Regulations. The purposes of the amendments are to prevent the practice of psychotherapy by persons registered solely as addiction counselors; to establish a standard for any documents submitted as proof of post-secondary education for the purposes of obtaining an addiction counselor registration; to list the organizations qualified to certify addiction counselors; and to add a definition of psychotherapy. Notice of Proposed Rulemaking was published in the D.C. Register on August 22, 2008 at 55 DCR 009106. No comments were received and no changes have been made to the text of the rules as they were proposed. These rules shall become effective on publication in the D.C. Register.

Chapter 73 (Addiction Counselor) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended to read as follows:

A new section 7301.3 is added to read as follows:

7301.3 A person who is registered solely as an addiction counselor in the District of Columbia and is either not licensed to practice medicine, psychology, or professional counseling pursuant to D.C. Official Code § 3-1205.01, or not licensed as an advanced practice registered nurse pursuant to D.C. Official Code § 3-1206.01, or not licensed as an independent clinical social worker pursuant D.C. Official Code § 3-1208.04, shall not perform psychotherapy.

Section 7303.1 is amended to read as follows:

7303.1 An applicant shall furnish proof satisfactory to the Director that the applicant has successfully completed an educational program by obtaining a high school diploma, its equivalent, or greater. Any documents submitted as proof of completion of post-secondary education shall be from an institution which was accredited, at the time the coursework was taken or degree conferred, by an accrediting body recognized by the Secretary of the United States Department of Education or by the Council of Postsecondary Accreditation or its successor.

Section 7303.2 is amended to read as follows:

7303.2 In addition to the requirements in § 7303.1, the Director shall register an applicant who furnishes proof satisfactory to the Director of having completed a minimum of two hundred (200) hours of training or education obtained from a program recognized either by the National Association of Alcoholism and Drug Abuse Counselors (“NAADAC”) or its successor, or by the National Commission for Certifying Agencies, and having the equivalent of two (2) years full-time experience, that is, at least three thousand (3,000) hours, providing direct, supervised addiction counseling services to persons with the primary problem of chemical dependency. The two hundred (200) hours of training or education shall be comprised of the following:

- (a) Twelve (12) hours in Pharmacology;
- (b) Twelve (12) hours in Signs and Symptoms;
- (c) Six (6) hours in Rules and Regulations;
- (d) Twelve (12) hours in Models of Counseling Service and Treatment;
- (e) Eighty (80) hours in Counseling Theory and Dynamics which shall include a Family Dynamics component;
- (f) Twelve (12) hours in Assessment and Treatment Planning;
- (g) Twenty-four (24) hours in Human Development;
- (h) Twelve (12) hours in Ethics;
- (i) Six (6) hours in HIV/AIDS;
- (j) Six (6) hours in DSM-IV(R) Mental Health/Dual Diagnosis which shall include a Relapse Prevention component;
- (k) Six (6) hours of Case Management; and
- (l) Twelve (12) hours of electives.

Section 7303.5 is amended to read as follows:

7303.5 The Director shall register an applicant who furnishes proof satisfactory to the Director that the applicant holds a current and valid

certificate as an addition counselor from a regulatory board in another jurisdiction of the United States or from NAADAC or its successor.

Section 7399.1 is amended by adding the following new definition to read as follows:

Psychotherapy – the treatment of mental and emotional disorders through the use of psychological techniques (*e.g.*, insight, persuasion, suggestion, reassurance, and instruction) designed to encourage communication of conflicts and insight into problems, with the goal of relieving symptoms and changing behavior, and thus leading to improved social and vocational functioning.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of the adoption of an amendment to section 929 of Chapter 9 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled "Supported Employment Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for Supported Employment Services, a habilitative service provided to participants with mental retardation and developmental disabilities in the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver), which was approved the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, with an effective date of November 20, 2007.

A notice of emergency and proposed rulemaking was published on April 4, 2008 (55 DCR 003502). Comments were received and considered. This rulemaking amends the April 4th rules by reducing the work experience requirements from three years to one year for an employment specialist with a four year college degree.

A notice of emergency and proposed rulemaking was published in the *DC Register* on July 25, 2008 (55 DCR 008154). No comments were received. No substantive changes have been made. These rules shall become effective on the date of publication of this notice in the *DC Register*.

Section 929 (Supported Employment Services) of Chapter 9 of Title 29 DCMR is deleted in its entirety and amended to read as follows:

929 SUPPORTED EMPLOYMENT SERVICES

- 929.1 Supported employment services shall be reimbursed by the District of Columbia Medicaid Program for each participant in the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver) subject to the requirements set forth in this section.
- 929.2 Supported employment is intended for individuals for whom competitive employment has not traditionally occurred or has been interrupted. The aim of supported employment services is to emphasize the assets, preferences and skills of the person and to match the person to a job that maximizes those assets and minimizes deficits.

- 929.3 Supported employment shall consist of paid competitive work that offers ongoing support services in an integrated work setting where wages are paid at or above minimum, consistent with the Fair Labor Standards Act. The level of employment participation may be full-time or part-time based on the interests and abilities of the individual.
- 929.4 Supported employment services eligible for reimbursement shall be as follows:
- (a) Intake and assessment;
 - (b) Job placement;
 - (c) Job training and support; and
 - (d) Follow-along services.
- 929.5 Supported employment services are ineligible for reimbursement if the services are available to the person through programs funded under Title I of the Rehabilitation Act of 1973 (Pub. L. 93-112; 29 U.S.C. § 720 *et seq.*) or the Individuals with Disabilities Education Act (Pub. L. 91-230; 20 U.S.C. § 1400 *et seq.*) (hereinafter the “Acts”). Each person receiving supported employment services shall submit documentation that demonstrates that services are not otherwise available pursuant to the Acts referenced above, for inclusion in his or her record and individual habilitation plan (IHP) or individual support plan (ISP) and Plan of Care. Court-ordered vocational assessment shall be provided by authorizing intake and assessment services under this section if services provided through programs funded under Title I of the Rehabilitation Act of 1973 cannot provide assessment services in the timeframe set forth in the Court’s Order.
- 929.6 Professionals authorized to provide supported employment activities without supervision are as follows:
- (a) Vocational Rehabilitation Counselor;
 - (b) A person with a Master’s degree and a minimum of one (1) year of experience working with persons with intellectual and developmental disabilities;
 - (c) A person with a bachelors degree and two years of experience working in supported employment; or
 - (d) A Rehabilitation Specialist.
- 929.7 Paraprofessionals authorized to perform supported employment activities under the supervision of a professional listed in section 929.6 are as follows:
- (a) Job Coaches; or
 - (b) Employment Specialists.

Supervision is not intended to mean that the paraprofessional performs supported employment activities in view of the professional authorized in section 929.6, but rather that the paraprofessional has a supervisor who meets those qualifications.

929.8 Intake and assessment activities include, but are not limited to, the following:

- (a) Conducting an individualized vocational and situational assessment;
- (b) Developing an individualized employment plan that includes the person's job preferences and desires;
- (c) Assessing person-centered employment information, including the employee's interest in doing the job, transportation to and from work, family support, and financial issues;
- (d) Counseling an interested person on the tasks necessary to start a business; and
- (e) Providing individual and/or group employment counseling.

929.9 As a result of intake and assessment activities, the provider shall complete and deliver a comprehensive vocational assessment report to the Department on Disability Services (DDS) Service Coordinator that includes the following:

- (a) Employment-related strengths and weaknesses (*e.g.*, task focus);
- (b) Available family and community supports;
- (c) Personal concerns;
- (d) Accommodations and supports that may be required on the job; and
- (e) If a specific job or entrepreneurial effort has been targeted the assessment may also include:
 - (1) Individualized training needed to acquire and maintain acceptable production skills;
 - (2) Anticipated level of interventions that will be required by the job coach;
 - (3) Type of integrated work environment in which the person can potentially succeed; and
 - (4) If the individual is not immediately employable, activities and supports that are need to improve potential for employment.

929.10 Intake and assessment activities shall be billed at the unit rate. This service shall not exceed three hundred twenty (320) units annually. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill one (1) unit of service. The reimbursement rate is forty-three dollars (\$43.00) per hour if performed by a professional listed in section 929.6. The reimbursement rate is twenty-five dollars and thirty cents (\$25.30) per hour if performed by a paraprofessional under the supervision of a professional listed in section 929.7. If extended intake and assessment services are required, the provider shall submit a written justification to the DDS Service Coordinator and the DDA Waiver

Office a minimum of ten (10) business days before the prior authorized services have been expended. DDS shall review the submission and approve or disapprove the request for extension within ten (10) business days of receipt. Services shall continue if DDS does not respond to the written request within ten (10) business days of receipt. Disapproval will be accompanied by notice of Fair Hearing Rights through the Department of Health's Medical Assistance Administration (MAA). The disposition also shall be documented in the person's IHP or ISP and Plan of Care. Intake and assessment shall be prior authorized by DDS as a discrete service and no other supported employment services will be approved without the development and delivery of the completed vocational assessment to the DDS Service Coordinator.

929.11 Job placement activities eligible for reimbursement include, but are not limited to, the following:

- (a) Conducting workshops or other activities designed to assist the person in completing employment applications or preparing for interviews;
- (b) Conducting workshops or other activities to instruct persons on proper work attire, behaviors and expectations;
- (c) Completing job applications with or on behalf of the person;
- (d) Assisting the person with job exploration and placement, including assessing opportunities for advancement;
- (e) Visiting employment sites and attending employment networking events;
- (f) Making telephone calls to prospective employers, utilizing the internet, magazines, newspapers and other publications as leads;
- (g) Collecting descriptive data regarding various types of employment opportunities, for purposes of preparing a standardized set of requirements for prospective employees;
- (h) Negotiating employment terms with or on behalf of the person;
- (i) Working with the person to develop and implement a plan to start a business, including developing a business plan, developing investors or start up capital, and other tasks necessary to starting a small business; and
- (j) Working with interested persons and employers to develop group placements.

929.12 Job placement activities shall be billed at the unit rate. This service shall not exceed four hundred (400) units annually. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill for one (1) unit of service. The reimbursement rate is forty-three dollars (\$43.00) per hour when performed by a professional listed in section 929.6. The reimbursement rate is twenty-five dollars and thirty cents (\$25.30) per hour if performed by a paraprofessional under the supervision of a professional listed in section 929.7. If extended job placement services are required, the provider shall submit a written

justification in support of the extended services to the DDS Service Coordinator and the DDA Waiver Office a minimum of ten (10) business days before the prior authorized services have been expended. DDS shall review the submission and approve or disapprove the request for extension within ten (10) business days of receipt. Services shall continue if DDS does not respond to the written request within ten (10) business days of receipt. Disapproval will be accompanied by notice of Fair Hearing Rights through MAA. The disposition shall be documented in the person's IHP or ISP and Plan of Care.

929.13 Job training and support activities are those activities designed to assist and support the person after employment has been obtained. The expectation is that the job training and support activities are faded as the individual gains job skills, and support from the existing work structure is increasingly sufficient to maintain employment. Job training and support activities eligible for reimbursement include, but are not limited to, the following:

- (a) On-the-job training in work and work-related skills required to perform on the job;
- (b) Work site support that is intervention-oriented and designed to enhance work performance, modify inappropriate behaviors, re-training as jobs change, ongoing counseling, and assistance to ensure job retention;
- (c) Supervision and monitoring of the person in the workplace;
- (d) Training in related skills essential to obtaining and maintaining employment, such as the effective use of community resources, break or lunch rooms, transportation systems, mobility training and changing jobs.
- (e) Monitoring and providing information and assistance regarding wage and hour requirements, appropriateness of placement, integration, number of hours worked, need for adaptations and offsite supports such as transportation services;
- (f) Consulting with other professionals and the person's family, as necessary; and
- (g) Consulting with the person's employer, co-workers or supervisors, as necessary.

929.14 Job training and support activities shall not exceed one thousand, two hundred and eighty (1280) units per Plan of Care year. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill one (1) unit of service. The reimbursement rate is forty-three dollars (\$43.00) per hour when performed by a professional listed in section 929.6. The reimbursement rate is twenty-five dollars and thirty cents (\$25.30) per hour if performed by a paraprofessional under the supervision of a professional listed in section 929.7. If extended job training and support activities are required the provider shall submit a written justification in support of the extended services to the

DDS Service Coordinator for review. DDS shall review the submission and approve or disapprove the request for extension within ten (10) business days of receipt. Services shall continue if DDS does not respond to the written request within ten (10) business days of receipt. Disapproval will be accompanied by notice of Fair Hearing Rights through MAA. The disposition also shall be documented in the person's IHP or ISP and Plan of Care.

929.15 Long-term follow-along activities eligible for reimbursement include, but are not limited to, the following:

- (a) Periodic monitoring of job stability;
- (b) Interventions to address issues that threaten job stability;
- (c) Providing retraining or cross training when job duties change;
- (d) Facilitating integration and natural supports at the job site; and
- (e) Facilitating job advancement and job mobility.

929.16 Follow-along activities shall be reimbursed at the same rates as set forth in section 929.14 and shall not exceed seven hundred and sixty-eight (768) units per Plan of Care year. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of service to bill one (1) unit of service. If extended follow-along services are required, the provider shall submit a written justification to the DDS Service Coordinator and the DDA Waiver Office a minimum of ten (10) business days before the prior authorized services have been expended. DDS shall review the submission and approve or disapprove the request for extension within ten (10) business days of receipt. Services shall continue if DDS does not respond to the written request with ten (10) business days of receipt. Disapproval will be accompanied by notice of Fair Hearing Rights through MAA. The disposition also shall be documented in the person's IHP or ISP and Plan of Care.

929.17 The three models of supported employment eligible for reimbursement shall be as follows:

- (a) Individual job support;
- (b) Group supported employment; and
- (c) Entrepreneurial.

929.18 Group supported employment services are delivered when there is more than one (1) person at the job site who is receiving supported employment services from the supported employment services provider. The job coach shall provide training and other services as described in 929.13 to each Waiver participant as needed. The rate for this service is sixteen dollars and forty cents per hour (\$16.40) billable in fifteen (15) minute units of four dollars and ten cents (\$4.10). The provider shall provide at least eight (8) continuous minutes of service to bill one (1) unit of service. This rate assumes a

maximum of four (4) persons are receiving support in the same job location, and are receiving job coaching services from one (1) supported employment services staff person. Each Waiver participant may be billed for the time the job coach is supporting any of the four (4) participants.

- 929.19 Each provider shall provide the ongoing supports at the work site needed for the person to obtain job stability after employment has been obtained. Once the person is stable on the job, the provider shall make a minimum of two (2) job site contacts per month for the purpose of monitoring job stability.
- 929.20 Reimbursement for supported employment services provided at the work site in which persons without disabilities are employed shall only be made for adaptations, supervision and training required by the person who receives Waiver services pursuant to these rules. No payment shall be made for supervisory activities, which are rendered as a normal part of the business setting.
- 929.21 When applicable, each provider shall be certified by the U.S. Department of Labor.
- 929.22 When applicable, each provider shall coordinate with DDS/DDA and the employer for the provision of appropriate services for each person requiring physical assistance to accomplish basic activities of daily living on the work site.
- 929.23 When applicable, each provider shall coordinate with the employer to ensure that each person has access to appropriate first aid on the work site.
- 929.24 Supported employment services shall be pre-authorized and provided in accordance with each person's IHP or ISP and Plan of Care.
- 929.25 Each provider shall develop a plan that addresses how the provider will meet the needs and communicate with non-English speaking persons.
- 929.26 Each provider of supported employment services shall be a social services agency as described in Chapter 19 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), Section 1903.1. In addition, the provider agrees to:
- (a) Be a member of the person's interdisciplinary team;
 - (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for Supported Employment Services under the Waiver; and
 - (c) Maintain a copy of the most recent IHP or ISP and Plan of Care that has been approved by DDS for each person.

- 929.27 Each person providing supported employment services for a provider under section 929.26 shall meet the requirements in Chapter 19 to Title 29 of the District of Columbia Municipal Regulations (DCMR), section 1911.
- 929.28 Supported employment services may be provided either exclusively as the vocational service or in combination with prevocational or day habilitation services. Supported employment services shall not be provided concurrently with day treatment, day habilitation or prevocational services.
- 929.29 Supported employment services shall be provided for a maximum of eight (8) hours in a day and five (5) days in a week. The provider shall submit a written justification in support of the extended services to the DDS Service Coordinator for review. DDS shall review the submission and approve or disapprove the request for extension within ten (10) business days of receipt. Any disapproval shall be accompanied by notice of Fair Hearing Rights through MAA. The disposition shall be documented in the person's IHP or ISP and Plan of Care.
- 929.30 Supported employment services providers shall not bill for incentive payments, subsidies or unrelated vocational training expenses such as the following:
- (a) Incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment services program;
 - (b) Payments that are passed through to users of supported employment services programs; or
 - (c) Payments for vocational training that is not directly related to the person's supported employment services program.
- 929.31 Each supported employment services provider shall maintain service records that accurately and adequately link the services billed to the IHP or ISP and Plan of Care for each participant receiving services, including:
- (a) Person's name;
 - (b) Staff person's name;
 - (c) Date(s) of activities;
 - (d) Start and end times of activities;
 - (e) Purpose of activities; and
 - (f) Location of activities.
- 929.32 Each supported employment services provider shall record and report:
- (a) Occurrences or behaviors by a participant that impede the progress of the group or the individual participant;
 - (b) Any unusual circumstances or events that impact the stability of the group or the individual participant;

- (c) Any individual unusual incidents; and
- (d) Actions taken to address behaviors or unusual circumstances.

929.33 Supported employment services providers shall submit to the DDS Service Coordinator a completed quarterly update of the IHP or ISP. The report shall include:

- (a) Name of the each person;
- (b) Confirmation that wages exceed minimum wage;
- (c) Average hours a week worked by each person;
- (d) Hours of activities for each person if not engaged in employment; and
- (e) Aggregate calculation of wages earned, hours worked and hours of activities for persons not engaged in employment.

929.34 Each supported employment services provider shall maintain a copy of each person's record at least six (6) years after the date of discharge.

929.35 Time spent in transportation to and from the program shall not be included in the total amount of services provided per day. However, time spent in transportation to and from the program for the purpose of training the participant on the use of transportation services may be included in the number of hours of services provided per day for a period of time specified in the person's IHP or ISP and Plan of Care.

929.99 DEFINITIONS

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

Employment Specialist – A person with a four-year college degree and a minimum of one (1) year of experience in a supported employment program; a person with a college degree and certification from the Commission on Rehabilitation Counselor Certification or a similar national organization; or a person with a high school degree and three (3) years of experience in a supported employment program.

Entrepreneurial – Development and on-going support for micro-enterprises owned and operated by the participant. This assistance consists of: (a) assisting the participant to identify potential business opportunities; (b) assisting the participant in the development of a business and launching a business; (c) identification of the supports that are necessary in order for the participant to operate the business; and (d) ongoing assistance, counseling and guidance once the business has been launched.

Group – An employment situation in competitive employment in which a group of four or fewer participants with disabilities are working at a particular work setting. The participants may be disbursed throughout the company and among workers without disabilities or congregated as a group in one part of the business.

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

Individual Supported Employment – A supported employment strategy in which a job coach places a participant into competitive employment through a job discovery process, provides training and support, and then gradually reduces time and assistance at the work site.

Individual Support Plan (ISP) – The successor to the individual habilitation plan (IHP) as defined in the 2001 Plan for Compliance and Conclusion of *Evans v. Williams*.

Intake – A process designed to obtain information about the person and their needs as it relates to community integration and employment.

Integrated Work Setting – A work setting that provides daily contact with other employees and/or the general public.

Job Coach – A person with a four-year college degree and a minimum of one (1) year of experience in a supported employment program; a person with a college degree in a social services discipline and certification from the Commission on Rehabilitation Counselor Certification or a similar national organization; or a person with a high school degree and three (3) years of experience in a supported employment program.

Long-term follow along activities – Ongoing support services necessary to assure job retention.

Person or Participant – An individual with intellectual and developmental disabilities who has been determined eligible to receive services under the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver).

Plan of Care – A written service plan that meets the requirements set forth in section 1904.4 of Title 29 DCMR, is signed by the person receiving services, and is used to prior authorize Waiver services.

Provider – Any non-profit, home health agency, social service agency or other business entity that provides services pursuant to these rules.

Waiver – The Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities as approved by the Council of the District of Columbia (Council) and the U.S. Department of Health and Human

Services, Centers for Medicare and Medicaid Services (CMS), as may be further amended and approved by the Council and CMS.

Rehabilitation Specialist – A persons with a Master’s degree in Rehabilitation Counseling or a similar degree from an accredited university; a person with a Master’s degree in a social services discipline and a minimum of one (1) year of experience in a supported employment program; or a person with a Master’s degree in a social services discipline and certification from the Commission on Rehabilitation Counselor Certification or a similar national organization.

Situational Assessment – A type of assessment that provides the person an opportunity to explore job tasks in real work environments in the community. This assessment is useful in identifying the type of employment that may be beneficial to the person and the support required by each person to succeed in the work environment. Provides competitive or real work sites in the community for the systemic assessment and observation of the person; identifies work site characteristics and person adaptations, training procedures, support needs related to the person’s success in supported employment; and recommends specific plans for further services, including the appropriateness of continuing supported employment.

Vocational Assessment – An assessment designed to assist persons, their family and service providers with specific employment related data that will generate positive employment outcomes. The assessment outlines the life, relationships, challenges, and perceptions of the person as they relate to potential sources of community support and mentorship.

Vocational Rehabilitation Counselor – A persons with a Master’s degree in Vocational Counsel Counseling, Vocational Rehabilitation Counseling or a similar degree from an accredited university; a person with a Master’s degree in a social services discipline and a minimum of one (1) year of experience in a supported employment program; or, a person with a Master’s degree in a social services discipline and certification from the Commission on Rehabilitation Counselor Certification or a similar national organization.

DEPARTMENT OF HEALTH**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive Federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of the adoption of an amendment to section 993 of Chapter 9 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled "Independent Habilitation Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for independent habilitation services, which is renamed Supported Living Services, and is provided by qualified professionals to participants with mental retardation and developmental disabilities in the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver), which was approved the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, with an effective date of November 20, 2007.

A notice of emergency and proposed rulemaking was published in the *DC Register* on April 4, 2008 (55 DCR 003528). Comments were received and considered. This rulemaking amends the April 4th rules by requiring each supported living provider to be certified by the Department on Disability Services and establishing requirements for the notice that is issued when services are terminated by a provider.

A notice of emergency and proposed rulemaking was published in the *DC Register* on July 25, 2008 (55 DCR 008165). No comments were received. No substantive changes have been made. These rules shall become effective upon publication of this notice in the *DC Register*.

Section 993 (Independent Habilitation Services) of Chapter 9 of Title 29 DCMR is deleted in its entirety and amended to read as follows:

993 SUPPORTED LIVING SERVICES

- 993.1 Supported living services shall be reimbursed by the District of Columbia Medicaid Program for each participant in the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver) subject to the requirements set forth in this section.
- 993.2 In order to qualify for reimbursement under this section, supported living services shall be delivered in a Supported Living Residence (SLR) that can serve one (1) to three (3) persons and the number of persons in the home shall not exceed the number of bedrooms in that home. The SLR must be owned, leased or otherwise operated by the Supported Living Provider. The SLR shall meet the certification standards developed by the Department on Disability Services (DDS) as set forth in the Human Care Agreement between DDS and

the SLR or be licensed or similarly certified in other states.

993.3 Each home located out-of-state shall be licensed and/or certified in accordance with the host state's laws and regulations and/or consistent with the terms and conditions set forth in an agreement between the District of Columbia and the host state. Each out-of-state provider shall comply with the following additional requirements:

- (a) Remain in good standing in the jurisdiction where the program is located;
- (b) Submit a copy of the annual certification or survey performed by the host state and provider's corrective action, if applicable, to DDS;
- (c) Allow authorized agents of the District of Columbia government, federal government, and governmental officials of the host state full access to all sites and records for audits and other reviews; and
- (d) Be certified by DDS as a qualified provider of supported living services.

993.4 Supported living services shall be available only to a person with a demonstrated need for training, assistance and supervision, and shall be authorized and provided in accordance with the person's current Individual Habilitation Plan (IHP) or Individual Support Plan (ISP) and Plan of Care.

993.5 Each provider of supported living services shall assist participants in the acquisition, retention, and improvement of skills related to activities of daily living, such as personal grooming, household chores, eating and food preparation, and other social and adaptive skills necessary to enable the person to reside in the community. To accomplish these goals, the provider shall:

- (a) Use observation, conversation, and other interactions as necessary to develop a functional analysis of the person's capabilities within the person's first month of service;
- (b) Prepare a support plan with measurable outcomes using the functional analysis, the IHP or ISP and Plan of Care, and other information available to develop and maintain as appropriate the skills necessary to enable the person to reside in the community while maintaining the person's health and safety; and
- (c) Prepare a data-based quarterly report for distribution to the person, family, guardian, and DDS Case Manager on the activities and support provided to help the person to achieve his/her identified outcomes and his/her progress to date.

993.6 Each provider of supported living services shall ensure that participants receive hands-on support, habilitation, and other supports, when appropriate, which shall include, but not be limited to, the following areas:

- (a) Eating and drinking;
- (b) Toileting;
- (c) Personal hygiene;
- (d) Dressing;
- (e) Grooming;
- (f) Monitoring health and physical condition and assistance with medication or other medical needs;
- (g) Communication;
- (h) Interpersonal and social skills;
- (i) Home management;
- (j) Mobility;
- (k) Time management;
- (l) Financial management;
- (m) Academic and pre-academic skills, other than those prescribed by the Individuals with Disabilities in Education Act;
- (n) Motor and perceptual skills;
- (o) Problem-solving and decision-making;
- (p) Human sexuality;
- (q) Aesthetic appreciation; and
- (r) Opportunity for social, recreational, and religious activities utilizing community resources.

993.7

Each provider of supported living services shall ensure that each participant receives the professional/medical services required to meet his or her goals as identified in the person's IHP or ISP and Plan of Care, through the support of the SLR provider to coordinate and ensure receipt of the professional/medical services. Professional/medical services may include, but are not limited to, the following disciplines or services:

- (a) Medicine;
- (b) Dentistry;
- (c) Education;
- (d) Nutrition;
- (e) Nursing;
- (f) Occupational therapy;
- (g) Physical therapy;
- (h) Psychology;
- (i) Social work;
- (j) Speech, hearing and language therapy; and
- (k) Recreation.

993.8

Each provider of supported living services shall provide or ensure the provision of transportation services to enable the persons to gain access to Waiver and other community services and activities. If transportation services are provided by the SLR, the provider shall meet the requirements governing transportation services set forth in section 1903 of Title 29 DCMR.

993.9 Each provider of supported living services shall be a social services agency as described in Chapter 9 of Title 29 of the District of Columbia Municipal Regulations (DCMR), Section 1903.1. In addition, the provider shall:

- (a) Be a member of the person's interdisciplinary team;
- (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for Supported Living Services under the Waiver;
- (c) Maintain a copy of the most recent IHP or ISP and Plan of Care that has been approved by DDS for each person;
- (d) Have a current Human Care Agreement with DDS for the provision of residential services;
- (e) Ensure that all supported living services staff are qualified and properly supervised pursuant to all applicable rules;
- (f) Ensure that all providers have a plan to provide staff interpreters for non-English speaking persons;
- (g) Ensure that the service provided is consistent with the person's IHP or ISP and Plan of Care;
- (h) Offer the Hepatitis B vaccination to each person providing services pursuant to these rules;
- (i) Provide staff training in infection control procedures consistent with the standards established by the Federal Centers for Disease Control and Prevention;
- (j) Ensure compliance with DDS policies governing reporting of unusual incidents, human rights, behavior management, and protection of person's funds;
- (k) Ensure that each SLR, to the extent necessary, is accessible to public transportation and emergency vehicles;
- (l) Ensure that each SLR, to the extent necessary, is handicapped accessible and barrier-free;
- (m) Provide a written staffing schedule for each location where services are provided;
- (n) Comply with the requirements of the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238), as amended by the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, effective April 13, 2002 (D.C. Law 14-98; D.C. Official Code § 44-551 *et seq.*).
- (o) Provide DDS and the Department of Health's Medical Assistance Administration with at least ninety (90) days advance written notice of intent to terminate supported living services; and
- (p) Provide persons receiving supported living services with at least thirty (30) days advance written notice prior to the effective date of the termination of services in the form prescribed by DDS and be responsible for notifying DDS of those persons who are undergoing treatment of an acute condition. The written notice shall be provided to

- (1) The name of the person for whom supported living services are being terminated;
- (2) The address of the person for whom supported living services are being terminated;
- (3) The proposed last date of service to be provided;
- (4) Contact information for the provider employee from whom additional information can be obtained with respect to the person's transition to new residential services;
- (5) Information regarding the transition process; and
- (6) Information regarding the person's rights as it relates to the discontinuation of services.

993.10 Each person providing supported living services for a person shall meet all of the requirements in Chapter 19 to Title 29 DCMR, section 1911 in addition to the requirements set forth below:

- (a) Complete competency based training in emergency procedures; and
- (b) Be certified annually in cardiopulmonary resuscitation and First Aid.

993.11 Each provider shall cooperate with the DDS service coordination in providing access and information as requested for case management visits and reviews.

993.12 Each provider of supported living services shall review the person's IHP or ISP and Plan of Care goals, objectives, and activities at least quarterly and more often, as necessary. The provider shall propose modifications to the IHP or ISP and Plan of Care, as appropriate. The results of these reviews shall be submitted to the case manager within thirty (30) days of the end of each quarter. Each provider shall participate in IHP or ISP and Plan of Care development so that community integration goals are clearly defined. Each provider shall also assist in the coordination of all services that a person may receive.

993.13 Each provider of supported living services shall maintain progress notes on a weekly basis, or more frequently if indicated, on the IHP or ISP and Plan of Care, participant attendance rosters on a daily basis, and maintain current financial records of expenditures of public and private funds for each person. The progress notes shall include at a minimum documentation that demonstrates:

- (a) Progress in meeting each goal in the ISP assigned to the supported living services provider;
 - (b) A list of all community activities the person participates in and the person's response to each activity;
 - (c) Any unusual health events, side effects to medication, change in health status, behavioral event, use of a restrictive procedure or unusual incident; and
 - (d) Each visitor the person receives, special events, and any situation or event requiring follow-up.
- 993.14 Each provider of supported living services shall maintain all records and reports for at least six (6) years after the person's date of discharge.
- 993.15 Supported living services shall not be reimbursed when provided by a member of the person's family.
- 993.16 Reimbursement for supported living services under the Waiver shall not include:
- (a) Cost of room and board;
 - (b) Cost of facility maintenance, upkeep and improvement, modifications or adaptations to a home to meet the requirements of the applicable life safety code; or
 - (c) Activities for which payment is made by a source other than Medicaid.
- 993.17 The reimbursement rate for supported living services shall include:
- (a) All direct support staff and supervision of support staff;
 - (b) All nursing provided in the residence for medication administration, physician ordered protocols and procedures, charting, other supports as per physician's orders, and maintenance of Health Management Care Plan;
 - (c) Programmatic supplies and indirect expenses; and,
 - (d) General and administrative fees for waiver services.
- The billable unit of service for supported living services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to be able to bill a unit of service.
- 993.18 The reimbursement rate for supported living services shall be as follows:
- (a) The Basic Support Level 1 staff asleep overnight daily rate for a SLR with three (3) residents the rate shall be one hundred and ninety-five dollars (\$195.00) for a direct care staff support ratio of 1:3 during all hours when residents are in the home billable in quarter hour units of two dollars and three cents (\$2.03) per unit;

- (b) The Basic Support Level 2 staff awake overnight daily rate for a SLR with three (3) residents shall be two hundred forty dollars (\$240.00) for a direct care staff support ratio of 1:3 for staff awake overnight and 1:3 during all awake hours when residents are in the home billable in quarter hour units of two dollars and fifty cents (\$2.50) per unit;
- (c) The Moderate Support Level 1 staff asleep overnight daily rate for a SLR with three (3) residents shall be two hundred eighty-six dollars (\$286.00) for a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during the remaining awake hours, and 1:3 staff asleep overnight coverage when residents are in the home billable in quarter hour units of two dollars and ninety-eight cents (\$2.98) per unit;
- (d) The Moderate Support Level 2 staff awake overnight daily rate for a SLR with three (3) residents shall be three hundred thirty dollars (\$330.00) for a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during remaining awake hours, and 1:3 staff awake coverage when residents are in the home billable in quarter hour units of three dollars and forty-four cents (\$3.44) per unit;
- (e) The Intensive Support Level 1 daily rate for a SLR with three (3) residents shall be three hundred fifty-nine dollars (\$359.00) for a direct care staff support ratio of 1:3 for staff awake overnight and 2:3 during all awake hours when residents are in the home and adjusted for increased absenteeism billable in quarter hour units of three dollars and seventy-four cents (\$3.74) per unit;
- (f) The Intensive Support Level 2 daily rate for a SLR with three (3) residents shall be four hundred fifty dollars (\$450.00) for a direct care staff support ratio of 2:3 for staff awake overnight and 2:3 during all awake hours when residents are in the home and adjusted for increased absenteeism billable in quarter hour units of four dollars and sixty-nine cents (\$4.69) per unit;
- (g) The Basic Support Level 1 staff asleep overnight daily rate for a SLR with two (2) residents shall be two hundred sixty-two dollars (\$262.00) for a direct care staff support ratio of 1:2 staff asleep overnight coverage and 1:2 staff awake coverage during all hours when residents are in the home billable in quarter hour units of two dollars and seventy-three cents (\$2.73) per unit;
- (h) The Basic Support Level 2 staff awake overnight daily rate for a SLR with two (2) residents shall be three hundred twenty-two dollars (\$322.00) for a direct care staff support ratio of 1:2 for staff awake overnight and 1:2 during all awake hours when residents are in the home billable in quarter hour units of three dollars and thirty five cents (\$3.35) per unit;
- (i) The Moderate Support Level 1 staff awake overnight daily rate for a SLR with two (2) residents shall be three hundred eighty-three dollars (\$383.00) for a direct care staff support ratio of 2:2 for four (4) hours a day, 1:2 during remaining awake hours and 1:2 staff awake coverage

- when residents are in the home billable in quarter hour units of three dollars and ninety-nine cents (\$3.99) per unit;
- (j) The Moderate Support Level 2 daily rate in a SLR with two (2) residents shall be four hundred forty-four dollars (\$444.00) for a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for eight (8) hours a day, 1:2 during remaining awake hours when residents are in the home and adjusted for increased absenteeism billable in quarter hour units of four dollars and sixty-three cents (\$4.63) per unit;
 - (k) The Intensive Support Level 3 daily rate in a SLR with two (2) residents shall be four hundred eighty-two dollars (\$482.00) for a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for all awake hours when residents are in the home and adjusted for increased absenteeism billable in quarter hour units of five dollars and two cents (\$5.02) per unit;
 - (l) The hourly rate for periodic supported living services shall be twenty-two dollars (\$22.00) per hour billable in quarter hour units of five dollars and fifty cents (\$5.50) per unit; and
 - (m) There shall be a specialized service rate determined through a negotiated request for proposals process when determined necessary by DDS to serve individuals with extraordinary medical and/or behavioral health needs.

993.19

Individualized twenty-four (24) hour one-to-one supervision shall only be permitted with prior annual approval of the DDS Human Rights Committee or a medical treatment plan signed by the person's physician. To be eligible for reimbursement for one-to-one supported living services, the person shall be required to have a behavior support plan and meet at least one of the characteristics set out in section 979.12 for paraprofessional one-to-one services or at least one of the characteristics set out in section 979.13 for professional one-to-one services. For purpose of this section 993.19, in addition to the requirements for paraprofessional one-to-one services and professional one-to-one services as set out in section 979.99, supported living one-to-one services means services provided to one person exclusively by a supported living services provider who has been trained in all general requirements and possesses all training required to implement the person's specific behavioral and/or clinical protocols and support plans for a pre-authorized length of time. One-to-one supported living services shall be reimbursed at the daily rate of four hundred and ninety-five dollars (\$495.00) for one-to-one services with awake overnight staff, billable in quarter hour units of five dollars and sixteen cents (\$5.16) per unit. One-to-one supported living services with asleep overnight staff or for any additional people in the same house with another person receiving one-to-one services shall be reimbursed at the daily rate of four hundred three dollars (\$403.00), billable in quarter hour units of four dollars and twenty cents (\$4.20) per unit. The rate

adjustment for multiple people in the same house receiving one-to-one services avoids duplication of administrative and management fees.

- 993.20 Acuity shall be determined by a review of each person's IHP or ISP or Plan of Care. Participants shall be designated with a support level that is consistent with their current staffing level if other acuity indicators are not yet in place. Any request(s) to increase or decrease staffing ratios shall be reviewed and adjudicated by a committee appointed by the Director of DDS that shall review current staffing levels, available health and behavioral records, and any available standardized acuity instrument results to determine if a person has a health or behavioral acuity that requires modified supports.
- 993.21 Long-term twenty-four (24) hour paid support single-person placements in a SLR are only permitted for a person having a history of challenging behaviors that may put others at risk and requires intensive supports as determined by a psychological assessment or pursuant to a court order. The psychological assessment shall be updated on an annual basis to determine the continued necessity for this single, twenty-four (24) hour placement.
- 993.22 Each provider of supported living services shall coordinate the delivery of necessary behavioral support services, and skilled nursing services from approved Waiver providers of those services based on the requirements of the IHP or ISP and Plan of Care.
- 993.23 Supported living services shall not be billed concurrently with the following Waiver services:
- (a) Residential Habilitation;
 - (b) Respite;
 - (c) Host Home;
 - (d) Live-in Caregiver; and
 - (e) In-Home Supports.
- 993.24 Supported living services shall not be billed when the person is hospitalized, on vacation, or for any other period in which the person is not residing at the SLR. The reimbursement rates assume a ninety-three (93) percent annual occupancy, and unanticipated absence from day/vocational services or employment due to illness, and planned absence for holidays. Daily activities such as day treatment, day habilitation services, prevocational services, supported employment services, or employment are typically scheduled for five (5) hours per day five (5) days per week, and scheduling day activities in excess of five (5) hours per day five (5) days per week shall result in an hour-for-hour decrease in the supported living services reimbursement. Reimbursement shall be calculated based on the time the person is scheduled to be in their place of residence, except the provider may include the time that

the individual is being transported by the provider to day programs, employment, professional appointments, community outings and events.

- 993.25 Direct care staff shall be dressed, alert and maintain support logs during the entire shift of awake hours. The provider shall maintain a log of scheduled activities that specifies when the person is scheduled to be in their home on a daily basis.

993.99 DEFINITIONS

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

Awake – For purposes of staffing and determining the reimbursement rates for supported living services, awake hours of the day with absence from day program, weekend, or holiday shall be approximately 6:00 a.m. to 10:00 p.m., and for purposes of awake hours for all other days shall be approximately 6:00 am to 10:00 a.m. and 2:00 p.m. to 10:00 p.m.

Community Integration – Participation in events outside of the person’s place of residence that may include shopping, dining, attending movies, plays, and other social events. The plan from section 993.12 should identify community and social events appropriate for the person.

Direct Care Staff – Individuals employed to work in a SLR who render the day-to-day, personal assistance that person requires in order to meet the goals of his or her IHP or ISP and Plan of Care.

Family – Any person who is related to the person receiving services by blood, marriage or adoption.

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

Individual Support Plan (ISP) – The successor to the individual habilitation plan (IHP) as defined in the 2001 Plan for Compliance and Conclusion of *Evans v. Williams*.

Interdisciplinary Team – A group of persons with special training and experience in the diagnosis and habilitation of mentally retarded persons who have the responsibility of performing a comprehensive person evaluation while participating in the development, implementation, and monitoring of the person’s IHP or ISP and Plan of Care.

Overnight – For purposes of staffing and the reimbursement rates for supported living services, the overnight period shall be approximately from 10:00 p.m. to 6:00 a.m.

Person or Participant – An individual with intellectual and developmental disabilities who has been determined eligible to receive services under the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver).

Plan of Care – A written service plan that meets the requirements set forth in section 1904.4 of Title 29 DCMR, is signed by the person receiving services, and is used to prior authorize Waiver services.

Progress Notes – Notes that observe (1) progress in meeting each goal in the IHP or ISP and Plan of Care, which is the responsibility of the residence; (2) the list of community activities for the week and the participant's response to each activity; (3) any unusual health events; (4) any visitors the participant received; and (5) anything requiring follow-up or action.

Provider – Any non-profit, home health agency, social service agency or other business entity that provides services pursuant to these rules.

Supported Living Residence (SLR) - A community residence or home, other than an intermediate care facility for persons with mental retardation, which provides a homelike environment for not more than three (3) related or unrelated persons who require specialized living arrangements and maintains necessary staff, programs, support services, and equipment for their care and habilitation.

Waiver – Shall mean the Home and Community-based Services Waiver for Persons with Mental Retardation and Developmental Disabilities as approved by the Council of the District of Columbia (Council) and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), as may be further amended and approved by the Council and CMS.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FINAL RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in section 3(b)(11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(11)) (2008 Supp.), hereby gives notice of the adoption of the following rules to amend Chapter 20 of Title 5 of the District of Columbia Municipal Regulations (DCMR). The rules repeal Section 2003 entitled “Immunization Requirements,” and Section 917 of Title 5 of the DCMR, entitled “Registration-Immunization Requirements,” and add a new Chapter 53, within Title 5 of the DCMR, entitled “Public School Immunization Procedures and Requirements” applicable to District of Columbia Public Schools and District of Columbia Public Charter Schools. This action is part of the District’s ongoing revision of Title 5 of the DCMR.

The State Superintendent of Education took action to adopt these rules as emergency and proposed rules on August 7, 2008, and the new Chapter 53, of Title 5, became effective immediately. A notice of emergency and proposed rulemaking was published in the D.C. Register on August 15, 2008 (55 DCR 8915). No comments were received. No substantive changes have been made to the rules. The rules clarify requirements and procedures for parents, guardians, and school officials with regard to school enrollment and immunization certification. The rules conform immunization requirements to recent District of Columbia Department of Health mandates and definitions to establish a uniform process for parents, guardians and school officials in the District’s Public Schools. Recently, the District of Columbia Department of Health, in conformance with the Immunization of School Students Act of 1979, effective September 28, 1979 (D.C. Law 3-20; D.C. Official Code § 38-501 *et seq.*), adopted revisions to Title 22, Chapter 1, Sections 22-129 through Section 22-199 published at 55 DCR 5253 (May 2, 2008). The rule

Title 5 (EDUCATION) (December 2002) of the District of Columbia Municipal Regulations are amended as follows:

Amend the description for section 917 in the table of contents for Chapter 9, Title 5 to read as follows:

917 **Repealed**

Amend the description for section 2003 in the table of contents for Chapter 20 to read as follows:

2003 **Repealed**

Add at the end of the table of contents the following:

CHAPTER 53 PUBLIC SCHOOL IMMUNIZATION PROCEDURES AND REQUIREMENTS**Section**

5300 Public School Immunization Procedures and Requirements

Amend section 917 to read as follows:

917 Repealed

Amend section 2003 to read as follows:

2003 Repealed

Add a new Chapter 53 to read as follows:

CHAPTER 53 PUBLIC SCHOOL IMMUNIZATION PROCEDURES AND REQUIREMENTS**5300 PUBLICSCHOOL IMMUNIZATION PROCEDURES AND REQUIREMENTS**

- 5300.1. The Office of the State Superintendent of Education in cooperation with District of Columbia Public Schools, District of Columbia Public Charter Schools and the District of Columbia Department of Health, shall enforce immunization requirements for Public School admission, as set forth in this chapter.
- 5300.2. Each student attending a Public School shall be required to present valid written immunization certification documenting that the student has been successfully immunized in accordance with current Department of Health immunization requirements.
- 5300.3. All immunization requirements shall be established by the Department of Health, and distributed by the Public Schools, including as appropriate, advice published by public health officials and the Advisory Committee on Immunization Practices also often referred to as the ACIP.
- 5300.4. School officials shall maintain documentary proof of each student's immunization certification, recorded in the student's permanent school record. Compliance with the immunization requirements shall be verified by the appropriate school officials at the following times:
- (a) All students upon entry into Kindergarten;
 - (b) All students entering first grade;
 - (c) All students upon entry into sixth Grade;

- (d) All students upon entry into Ninth Grade;
- (e) All students upon initial enrollment into any school; and
- (f) Any student upon reenrollment into any school, after more than one year's absence from that school.

5300.5. A student who has been admitted to a Public School and is subsequently discovered not to have all requisite immunizations, or a student who has not been immunized in accordance with the Department of Health requirements, must be notified in writing immediately, that within ten (10) school days from the date of the written notification specified in Section 5300.6(a), the student shall obtain and present certification that the required immunization has been completed; or is proceeding in accordance with the Department of Health immunization requirements, taking into account as appropriate recommendations of public health officials and the Advisory Committee on Immunization Practices.

5300.6. When school officials determine that a student is not currently immunized, the school shall immediately:

- (a) Notify the parent, guardian, or adult student in writing, including notice of the immunization requirements with copies of the appropriate forms;
- (b) Notify the Department of Health or other designated authority of the name and address of the student and of the immunization(s) that the student lacks; and
- (c) Provide information to the student's parent, guardian, or adult student with the cooperation of the Department of Health, for obtaining the required immunization(s), including times and locations.

5300.7. The Public Schools shall prohibit from further attendance any student who fails to obtain or maintain the required conditions and immunization in accordance with Section 5300.5.

5300.8. If the required immunization necessitates continuing treatment or a series of treatments, the student shall be allowed to attend school while the treatment is being received under the following conditions:

- (a) The student presents written notification from the attending physician or from public health authorities that attendance is appropriate and treatment is in progress;

(b) Written certification of immunization shall be submitted upon completion of treatment; and

(c) The immunization record of each student admitted conditionally shall be reviewed periodically to confirm and update documentation of subsequent immunizations required to ensure the student is fully immunized within the time periods designated by the Department of Health and this Chapter.

- 5300.9. Immunization records forwarded from a student's previous school that contain all of the immunization information required may be accepted by the principal or other appropriate school official in lieu of new certification of immunization data.
- 5300.10. When a school has a reasonable basis to believe that a student who is not fully immunized against a specific communicable disease, as defined by the Department of Health, in Title 22 of the District of Columbia Municipal Regulations, may have been exposed to that disease, the school shall immediately report the information to the Department of Health; discuss with the appropriate official at the Department of Health whether the student is at risk of developing the disease and whether the student should be excluded from attending school until completion of the incubation period or during the period that the disease is considered communicable.
- 5300.11. The immunization requirements subject to this Chapter, shall not apply to any student whose parent or guardian objects in writing to the immunization on grounds that the medical treatment or medical test is forbidden by their religion or religious beliefs and practices.
- 5300.12. Any immunization or medical tests subject to this Chapter, shall be waived for a student upon submission of written certification by a physician, his/her representative, by a public health authority, or by public immunization records from a previous school.
- 5300.13. School authorities may exclude from regular instruction a student who is not immunized and provide for special instruction for the student.
- 5300.99. Definitions:

Immunization or Immunization requirements –the initial immunization and any additional re immunization required to maintain immunization.

Public School--the District of Columbia Public Schools or a District of Columbia Public Charter School or program sponsored by these schools.

OSSE-- the Office of the State Superintendent of Education.

Certificate or certification of immunization—means certification by a physician, his/her representative, by a public health authority, or by public immunization records from a previous school.

Religion or religious belief --any system of beliefs, practices or ethical values.