

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice, pursuant to D.C. Code Section 6-203 (2007 Ed.), of its intent to adopt the following proposed amendments and restatements of selected provisions of Chapter 83 of Title 14 of the District of Columbia Municipal Regulations in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The proposed amendments contain the rules governing: Reasonable Rent Determination.

Amendment: amend and restate **14 DCMR Chapter 83**, Rent and Housing Assistance Payments, Section 8301.3, Reasonable Rent Determination, to read as follows:

- 8301.3 Reasonable Rent Determination: The reasonable rent determination shall be determined based on the methodology described below in this Section 8301.3. At any time a rent determination is undertaken in accordance with 8301.2 above, the following process is used for determining whether the gross rent proposed to be charged by the Owner is reasonable.
- (a) DCHA when determining reasonable rent always considers items (i) through (ix) and may consider items (x) and (xi) at its option as follows: sum feet, number of bedrooms, maintenance services provided under the lease, location, unit type, quality, date built, amenities included in the lease, utilities if provided by Owner, number of bathrooms, other services provided under the lease.
 - (b) DCHA maintains an automated database which includes data on rents of comparable unassisted units in the same sub-market or a contiguous sub-market for use by DCHA staff in making rent reasonableness determinations.
 - (c) DCHA staff shall determine the average rent within each sub-market, based on the data collected during rent reasonableness determinations.
 - (d) DCHA shall conduct an annual District-wide evaluation to determine the average contract rents for all unit sizes and/or types in each sub-market.
 - (e) The District-wide evaluation shall be done in accordance with the rent reasonableness factors set forth in 8301.3(a) to determine reasonable contract rents.
 - (f) The results of the District-wide evaluation shall be made available to all HCVP landlords and participants.

- (g) The results shall set forth the allowable contract rents for all unit sizes and/or types in each sub-market of the District of Columbia.
- (h) DCHA shall monitor the rental market in the District of Columbia and if the market changes by ten percent (10%) or more, DCHA shall conduct a mid-year evaluation for certain sub-markets.
- (i) DCHA shall make available such mid-year evaluations to all HCVP landlords and participants.
- (j) HCVP landlords shall be able to submit to the DCHA rents for comparable unassisted units for consideration by the DCHA.
- (k) Any units submitted by a HCVP landlord for consideration by the HCVP shall meet the criteria of the unit size and/or type within the sub-market or a contiguous sub-market; provided however, DCHA's determination of the sub-market rent shall be final.
- (l) DCHA does not establish minimum base rent amounts.
- (m) DCHA shall use at least two comparable market rents for unassisted units for each rent determination with all comparables based on the rent that the unit would command if leased in the current market within the last twelve (12) months.
- (n) The data for other unassisted units may be gathered from newspapers, realtors, professional associations, inquiries of owners, market surveys, and other available sources.
- (o) The market areas for rent reasonableness are indicated by sub-markets, within the District of Columbia and the determination of reasonable rent is made by comparable rents on similar units within the same or nearby sub-market.

All persons desiring to comment on the subject matter of this rulemaking should file comments in writing no later than thirty (30) days after the publication of this Notice in the D.C. Register. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599; copies of these rules may be obtained from DCHA at that same address. Alternatively, copies of the rules can be requested from and comments can be sent to Mashanda Y. Mosley, Assistant General Counsel, Office of the General Counsel, District of Columbia Housing Authority, at MMosley@dchousing.org.

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE OF PROPOSED RULEMAKING**

The Director, D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008; and Mayor's Order 2002-56, dated March 4, 2002, and in accordance with the provisions of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701 *et seq.*) (2001), as amended by the Health Care Benefits Expansion Amendment Act of 2006 (Act), effective April 4, 2006 (D.C. Law 16-82; D.C. Official Code § 32-706) (2007 Supp.), hereby gives notice of the intent to adopt the following rules upon their approval by the Council of the District of Columbia (Council), as required by D.C. Official Code § 32-709 (2001), and in not less than thirty (30) days from the publication of this notice in the *D.C. Register*. The Act amended D.C. Official Code § 32-706, which provides that persons first employed by the District government on or after October 1, 1987 who are eligible for health benefits coverage under the District of Columbia Employees Health Benefits Program (Program) may elect to enroll their domestic partners and the dependent children of the domestic partner in the Program. The amendment, applicable as of the later of January 1, 2007 or its inclusion in an approved budget and financial plan, provides that, instead of eligible employees assuming the total additional cost of the family health insurance coverage for the domestic partner or family members they shall pay twenty five percent (25%) of the cost of family health insurance coverage and the District government shall pay the remaining seventy five percent (75%). The main purpose of this Notice of Proposed Rulemaking is to implement the provisions of the Act (section 2129.6). Additionally, the following changes to section 2129 of the chapter are being proposed: the heading of section 2129 was changed from "*Optional Self-Financed Health Benefits Coverage for Domestic Partners*;" sections 2129.2 and 2129.3 were amended; section 2129.3 was deleted; section 2129.4 was renumbered as 2129.3 3 and amended; a new section 2129.4 was added; and sections 2129.5 through 2129.12 were added, including the amendment to 2129.7 to provide that any health insurance premiums pursuant to section 2129 shall be deducted on an "*after-tax*" basis; and sections 2129.8 through 2129.12 were amended. Because Council approval of these rules is required, a rulemaking approval resolution has been submitted to the Council for that purpose along with this Notice of Proposed Rulemaking. While a Notice of Proposed Rulemaking was published in the *D.C. Register* on October 31, 2008 (55 DCR 011329), there is a need to revise the language of section 2129.12 in that rulemaking notice. Because of this revision, a new rulemaking notice is being published to supersede the rulemaking notice published in the *D.C. Register* on October 31, 2008. Upon adoption, these rules would amend section 2129 of Chapter 21, Health Benefits, of **Title 6 of the DCMR**, published at 39 DCR 6172 (August 21, 1992) and amended at 50 DCR 3027 (April 18, 2003).

CHAPTER 21**HEALTH BENEFITS**

Section 2129 of Chapter 21 of the D.C. Personnel Regulations is amended as follows:

The heading of section 2129 is changed from “Optional Self-Financed Health Benefits Coverage for Domestic Partners:”

2129 OPTIONAL HEALTH BENEFITS COVERAGE FOR DOMESTIC PARTNERS

Sections 2129.1 and 2129.2 are amended to read as follows:

2129.1 The provisions of this section shall be applicable to persons first employed by the District government on or after October 1, 1987 who are eligible for health benefits coverage under the District of Columbia Employees Health Benefits (DCEHB) Program established pursuant to D.C. Official Code § 1-621.02 *et seq.* (2006 Repl.). Persons first employed before October 1, 1987 who are eligible for federal health benefits coverage pursuant to D.C. Official Code § 1-621.01 (2006 Repl.) are excluded from the provisions of this section.

2129.2 A person who is eligible for health benefits coverage as specified in section 2129.1 of this section and who meets the criteria specified in section 2129.3 of this section may enroll his or her domestic partner and dependent children of the domestic partner for health benefits coverage under the DCEHB Program. Enrollment may occur upon employment or once annually during the DCEHB Program open enrollment period, as applicable.

Section 2129.3 is deleted.

Section 2129.4 is renumbered as 2129.3 and amended to read as follows:

- 2129.3 In order to enroll a domestic partner and any dependent children of the domestic partner in the DCEHB Program, an eligible employee shall:
- (a) Have a valid certificate of domestic partnership issued by the D.C. Department of Health; and
 - (b) Present the certificate of domestic partnership to the personnel authority.

A new section 2129.4 is added to read as follows:

- 2129.4 (a) An employee newly registered in a domestic partnership is eligible to enroll his or her domestic partner and any eligible dependents in the DCEHB Program within thirty-one (31) days of the date the domestic partnership registration is issued by the D.C. Department of Health.
- (b) An eligible employee in a domestic partnership registered in a jurisdiction other than the District of Columbia shall register the domestic partnership with the D.C. Department of Health prior to

enrolling his or her domestic partner and any dependents for health benefits coverage pursuant to this section.

Sections 2129.5 through 2129.12 are amended to read as follows:

- 2129.5 As applicable, an eligible employee shall provide proof of the dependency of a child of a domestic partner by presenting to the personnel authority the birth certificate or other legal document demonstrating legal custodial care.
- 2129.6 The eligible employee shall assume twenty five percent (25%) of the cost of the health insurance premium for his or her domestic partner and any eligible dependent children, and the District government shall assume the remaining seventy five percent (75%).
- 2129.7 Any health insurance premiums pursuant to this section shall be deducted on a pre-tax basis directly from the employee's paycheck, unless the employee submits a statement to the personnel authority, in writing and signed by the employee, waiving the pre-tax deduction.
- 2129.8 Health benefits for a domestic partner and eligible dependents shall be terminated upon the death of the employee. A surviving domestic partner enrolled as a dependent may convert to an individual health insurance policy directly through the health insurance provider.
- 2129.9 Upon termination of District government service, the eligible employee may elect to continue health benefits coverage as specified in section 2130 of this chapter, and may include continued health benefits coverage for his or her domestic partner and eligible dependents of the domestic partner.
- 2129.10 An eligible employee shall inform his or her personnel authority, in writing, of any change in the circumstances attested to in the Affidavit of Domestic Partnership for Health Insurance Benefits referenced in section 2129.4 of this section.
- 2129.11 A domestic partnership may be terminated, with or without the consent of both partners, by filing a termination of domestic partnership statement with the D.C. Department of Health. The termination of the domestic partnership shall become effective six (6) months after the date it is filed with the D.C. Department of Health.
- 2129.12 An employee whose domestic partnership is terminated as specified in section 2129.11 of this section shall notify his or her personnel authority within thirty (30) days of the filing of the termination of domestic partnership statement. Health benefits enrollment of the domestic partner and his or her dependents shall continue, at the cost specified in section 2129.6 of this section, during the six (6) months that the termination of the domestic partnership is pending, provided District government employment is maintained.

Comments on these proposed regulations should be submitted, in writing, to Brender L. Gregory, Director, D.C. Department of Human Resources, 441 4th Street, N.W., Suite 300S, Washington, D.C. 20001, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these proposed regulations are available from the above address.

**D.C. DEPARTMENT OF HUMAN RESOURCES
METROPOLITAN POLICE DEPARTMENT**

NOTICE OF PROPOSED RULEMAKING

The Director, D.C. Department of Human Resources, and the Chief, Metropolitan Police Department, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with sections 801 (e), 859 (a), 906 (f), and 957 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-608.01 (e), 1-608.59 (a), 1-609.06 (f), and 1-609.57) (2006 Repl.), and D.C. Law 17-108, the Jobs for D.C. Residents Amendment Act of 2007 (Act), effective February 6, 2008 (D.C. Act 17-172; 54 DCR 10993, November 16, 2007), hereby give notice of the intent to adopt the following rules in not less than thirty (30) days from the publication of this notice in the *D.C. Register*. Pursuant to section 801 (e)(6) of the CMPA (D.C. Official Code §§ 1-608.01 (e)(6)) (2007 Supp.), proposed changes to this chapter are subject to approval by the Council of the District of Columbia (Council). Accordingly, a rulemaking approval resolution has been submitted to the Council for that purpose along with this Notice of Proposed Rulemaking. The main purpose of these rules is to amend sections 301, 302, 306, and 309 of Chapter 3, Residency, of Title 6 of the District of Columbia Municipal Regulations (DCMR), to implement the provisions of the Act. The main provisions of the Act are: (1) a bona fide District resident may be awarded a residency preference of ten (10) points at the time of application for competitive employment, unless the person declines the preference points; (2) a ranking system based on a scale of one hundred (100) points shall be used for all competitive employment decisions; (3) the ten (10) preference points shall be in addition to any points awarded on the one hundred-point (100-point) scale; (4) a person who is awarded the ten-point (10-point) residency preference and is selected for the position shall agree in writing at the time of appointment to maintain bona fide District residency for a period of seven (7) consecutive years from the effective date of appointment; and (5) a person who is awarded the ten-point (10-point) residency preference and is selected for the position shall submit no less than eight (8) proofs of bona fide District residency to the personnel authority. In addition to the changes necessitated to implement the Act, changes are being made to sections 304, 305, 307, and 399 of the chapter. The Act requires that rules be issued to implement its provisions. Because Council approval of these rules is required, a rulemaking approval resolution has been submitted to the Council for that purpose, along with these rules. While a Notice of Proposed Rulemaking was published in the *D.C. Register* on December 5, 2008 (55 DCR 012291), there is a need to revise the language of section 307.12 in that rulemaking notice. Because of this revision, a new rulemaking notice is being published to supersede the rulemaking notice published in the *D.C. Register* on December 5, 2008. Upon approval of the rules by the Council and adoption, these rules will amend Chapter 3, Residency, of **Title 6 of the DCMR**, published at 37 DCR 851 (January 26, 1990) and amended at 37 DCR 4117 (June 22, 1990), 40 DCR 2485 (April 16, 1993), 47 DCR 2416 (April 7, 2000), 50 DCR 6993 (August 22, 2003), 51 DCR 9309 (October 1, 2004), 52 DCR 2069 (March 4, 2005), and 55 DCR 6159 (May 30, 2008).

CHAPTER 3

RESIDENCY

Chapter 3 of the D.C. Personnel Regulations is amended as follows:

The heading of section 301 is changed from “Residency Preference;” and the section is amended to read as follows:

301 RESIDENCY PREFERENCE FOR EMPLOYMENT IN THE CAREER, EDUCATIONAL, LEGAL, AND MANAGEMENT SUPERVISORY SERVICES

- 301.1 Pursuant to D.C. Law 17-108, the Jobs for D.C. Residents Amendment Act of 2007, effective February 6, 2008 (D.C. Act 17-172; 54 DCR 10993, November 16, 2007), a person who applies for competitive employment in the Career Service, Educational Service, Legal Service other than the Senior Executive Attorney Service, or Management Supervisory Service and who is a bona fide resident of the District of Columbia may be awarded a residency preference of ten (10) points at the time of application, unless the person declines the preference points.
- 301.2 An employee who applies for a competitive promotion in the services listed in section 301.1 of this section who is a bona fide resident of the District of Columbia may be awarded a residency preference of ten (10) points at the time of application, unless the employee declines the preference points.
- 301.3 When residency preference is awarded pursuant to sections 301.1 or 301.2 of this section, proof of bona fide residency shall be submitted upon selection for the position.
- 301.4 Except as provided in section 301.13 of this section, an applicant for a position in the services listed in section 301.1 of this section who is awarded the ten-point (10-point) residency preference and is selected for the position shall agree in writing at the time of appointment to maintain bona fide District residency for a period of seven (7) consecutive years from the effective date of appointment.
- 301.5 Except as provided in section 301.13 of this section, an employee who is awarded the ten-point (10-point) residency preference in applying for a competitive promotion and is selected for the position shall agree in writing no later than the day before the effective date of appointment to maintain bona fide District residency for a period of seven (7) consecutive years from the effective date of appointment.
- 301.6 The requirement to maintain bona fide District residency as provided in sections 301.4 and 301.5 of this section shall be applicable to any applicant or employee who claims a residency preference and is selected for the position on or after February 6, 2008.
- 301.7 Failure to maintain bona fide District residency as provided in sections 301.4, 301.5, or 301.6 of this section shall result in forfeiture of employment.
- 301.8 The personnel authority shall use a ranking system based on a scale of one

hundred (100) points (scale) for all competitive employment decisions; and the ten (10) preference points shall be in addition to any points awarded on the scale.

- 301.9 To fill a position in any of the services listed in section 301.1 of this section where two (2) or more applicants are equally qualified, the applicant awarded the ten-point (10-point) preference shall be listed and selected ahead of the non-preference candidate, with the determination as to equal qualifications made as follows:
- (a) For an unassembled examining procedure, all applicants with the same categorical ranking; and
 - (b) For an assembled examining procedure, all applicants with the same numerical rating.
- 301.10 Each applicant for a position in any of the services listed in section 301.1 of this section shall be informed in writing by the personnel authority of the provisions of sections 301.1 through 301.9 of this section.
- 301.11 Each person who is awarded a ten-point (10-point) residency preference and who is competitively selected for a position in any of the services listed in section 301.1 of this section shall be informed, in writing, by the personnel authority, no later than the effective date of the appointment, of the requirement to maintain bona fide District residency for a period of seven (7) consecutive years from the effective date of appointment and that failure to do so shall result in forfeiture of employment.
- 301.12 For the purpose of this section, in order to be a bona fide resident of the District of Columbia, a person must maintain a place of abode in the District of Columbia as his or her actual, regular, and principal place of residence and must have the intent to remain in the District for a minimum of seven (7) consecutive years from the date of appointment.
- 301.13 Notwithstanding any other provision of this chapter, any person who meets either of the following criteria shall be granted a residency preference upon application for a competitive promotion in any of the services listed in section 301.1 of this section:
- (a) Any person who was employed by the District of Columbia government on December 31, 1979, and who is still employed by the District of Columbia government without having had a break in service of one (1) workday or more since that date; or
 - (b) Pursuant to the provisions of section 7 of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (Pub. L. No. 98-621; 98 Stat. 3376; 24 U.S.C. § 225e (b)) (Pub. L. No. 98-621), any former employee of the U.S. Department of Health and Human Services at St. Elizabeths Hospital who accepted employment with the District government without a break in service effective October 1, 1987, and who has not had a break in service since that date.

301.14 Each applicant for appointment or promotion shall be required to indicate at the time of application his or her claim or entitlement to residency preference in a manner prescribed by the Mayor.

302 RESIDENCY PREFERENCE IN EMPLOYMENT FOR ATTORNEYS IN THE EXCEPTED SERVICE

302.1 Pursuant to D.C. Law 17-108, the Jobs for D.C. Residents Amendment Act of 2007, effective February 6, 2008 (D.C. Act 17-172; 54 DCR 10993, November 16, 2007), a person who applies for competitive employment, including promotion, as an attorney in the Excepted Service and who is a bona fide resident of the District of Columbia may be awarded a residency preference of ten (10) points at the time of application, unless the person declines the preference points.

302.2 Each applicant for appointment as an attorney in the Excepted Service shall be required to indicate at the time of application his or her claim to residency preference.

302.3 When residency preference is awarded pursuant to section 302.2 of this section, proof of bona fide District residency shall be submitted upon selection for the position.

302.4 Except as provided in section 302.8 of this section, an applicant as described in section 302.1 of this section who is awarded a residency preference and is selected for the position shall agree in writing to maintain bona fide District residency for a period of seven (7) consecutive years from the effective date of appointment.

302.5 Any person who is appointed as an attorney in the Excepted Service after being awarded the residency preference and who thereafter fails to maintain bona fide District residency shall forfeit his or her position.

302.6 When two (2) or more applicants for one (1) attorney position in the Excepted Service are equally qualified, the personnel authority shall list the applicant awarded the residency preference ahead of the non-preference candidate.

302.7 Each applicant for an Excepted Service attorney position shall be informed of the residency preference system as described in this section.

302.8 Notwithstanding any other provision of this chapter, any person who was employed by the District of Columbia government on December 31, 1979 and who is still employed by the District of Columbia government without having had a break in service of one (1) workday or more since that date shall be granted a residency preference upon application for an attorney position in the Excepted Service.

302.9 The transition provisions of section 301.6 of this chapter shall apply to applicants to and employees in attorney positions in the Excepted Service selected for a position after being awarded the ten-point (10-point) preference.

Section 304.6 is amended to read as follows:

304.6 Upon request, the Director of the D.C. Department of Human Resources (DCHR) may waive the residency requirement set forth in this section for a new hire appointed to a hard to fill position in the Senior Executive Attorney Service SEAS), as follows:

- (a) The Attorney General for the District of Columbia and any independent personnel authority subject to D.C. Official Code §§ 1-608.51 *et seq.* (2007 Supp.), may request a waiver of the residency requirement to the Director, DCHR, for a new hire appointed to a hard to fill position in the SEAS.
- (b) For the purposes of this section, the term “hard to fill position” shall have the meaning ascribed in section 399 of this chapter, except that a SEAS position shall be designated as hard to fill only by the Director, DCHR.
- (c) Any request for a waiver shall be in writing, made and granted before the effective date of appointment of the candidate for the waiver.
- (d) Any request for a waiver shall include appropriate documentation and information to demonstrate that the position is hard to fill and justify consideration of the request. Appropriate documentation and information demonstrating that the position is hard to fill shall include but not be limited to:
 - (1) A statement containing the qualification requirements for the position, and explaining the uniqueness of the duties and responsibilities of the position and the unusual combination of highly specialized qualification requirements which make it hard to fill;
 - (2) A copy of the position description or statement of duties for the position;
 - (3) A copy of the recruitment plan for the position or a statement explaining the recruitment plan;
 - (4) Copies of any vacancy announcements or other types of advertisement issued and published for the position;
 - (5) A statement detailing any special outreach and recruitment efforts undertaken in trying to fill the position and the date on which recruitment efforts to fill the position began;
 - (6) The employment application or résumé of the person for which the waiver is being requested; and
 - (7) A statement explaining the reasons why the waiver should be granted.

Section 304.7 is amended to read as follows:

304.7 Upon receipt of a request for a waiver pursuant to this section, the Director, DCHR, shall promptly determine whether to grant the waiver and notify the requestor of the decision, in writing.

Section 305.9 is amended to read as follows:

305.9 As specified in this subsection, the personnel authority may grant a waiver of the domicile requirement to a person appointed to a position in the Excepted Service on or after October 1, 2002 under the authority of section 903 (a)(1) and (2) of the CMPA (D.C. Official Code § 1-609.03 (a)(1) and (2)) (2007 Supp.), who is appointed to a hard-to-fill position or presents exceptional circumstances. The Mayor (or designee) may grant a waiver of the domicile requirement to a person appointed to a position in the Executive Service on or after October 1, 2002 under the authority of Title X-A of the CMPA (D.C. Official Code § 1-610.51 *et seq.*) (2006 Repl. And 2007 Supp.), who is appointed to a hard-to-fill position or presents exceptional circumstances. The provisions for the granting of waivers of the domicile requirement under this subsection are as follows:

- (a) In the case of a hard-to-fill position in the Excepted Service, an agency head may request a waiver of the domicile requirement for the appointee to the position by submitting written justification to the personnel authority that the position is hard-to-fill. The request shall include appropriate documentation and information to demonstrate that the position is hard-to-fill and justify consideration of the request for the waiver. Appropriate documentation and information shall include, but not be limited to:
 - (1) A statement containing the qualification requirements for the position and explaining the uniqueness of the duties and responsibilities of the position and the unusual combination of highly specialized qualification requirements which make it hard-to-fill;
 - (2) A copy of the position description or statement of duties for the position;
 - (3) A copy of the recruitment plan for the position or a statement explaining the recruitment plan;
 - (4) Copies of any vacancy announcements or other types of advertisement issued and published for the position;
 - (5) A statement detailing any special outreach and recruitment efforts undertaken in trying to fill the position and the date on which recruitment efforts to fill the position began;
 - (6) The employment application or résumé of the person for which the waiver is being requested; and
 - (7) A statement setting forth the reasons that the waiver should be granted.

- (b) Financial hardship associated with becoming a domiciliary of the District of Columbia shall not be considered as a basis for designating a position as hard-to-fill for the purpose of granting a waiver of the domicile requirement pursuant to this subsection.
- (c) Upon receiving a request for a waiver of the domicile requirement for an appointee to a position in the Excepted Service deemed as hard-to-fill by the agency making the request, the personnel authority shall promptly consider the factors enumerated in subsections 305.9 (a)(1) through (7) and 305.9 (b) above, and any other applicable factors; determine if the position shall be designated as hard-to-fill and the waiver granted to the person appointed to the position; and notify the agency of the decision.
- (d) In designating an Executive Service position as hard-to-fill and granting a waiver of the domicile requirement to the appointee to the position in question, the Mayor (or his or her designee) shall consider the factors enumerated in subsection 305.9 (a)(1) through (7) above, as applicable, subsection 305.9 (b) of this section, and any other factors he or she deems applicable.
- (e) Any waiver of the domicile requirement granted based on the designation of a position as hard-to-fill for that purpose shall remain in effect only for as long as the employee occupies the position for which the waiver was granted.
- (f) A determination to grant a waiver of the domicile requirement due to exceptional circumstances shall be based on personal circumstances of the appointee to the position, or a member of his or her immediate family, of such a nature that would cause extreme hardship to the person if he or she were required to become a domiciliary of the District of Columbia. Financial hardship associated with becoming a domiciliary of the District of Columbia shall not be considered as a personal circumstance for which a waiver should be granted. The determining factor for consideration by the personnel authority authorized to grant a waiver due to exceptional circumstances should be that the particular circumstances of the appointee, combined with his or her qualifications for the position and the benefit to the District government, outweigh the need to require that the person become a domiciliary of the District of Columbia.
- (g) When considering the appointment of a non-District domiciliary who is deemed as presenting exceptional circumstances to a position in the Excepted Service, the agency head (or designee) shall submit a request for a waiver of the domicile requirement for the appointee to the personnel authority, in writing, before the effective date of the appointment. The request shall include appropriate documentation and information to substantiate the claim that the appointee to the position presents exceptional circumstances that may warrant the granting of a waiver of the domicile requirement.

- (h) Upon receiving a request for a waiver of the domicile requirement for an appointee to a position in the Excepted Service due to exceptional circumstances, the personnel authority shall promptly consider the documentation and information submitted by the agency; determine if the waiver should be granted; and notify the agency of the decision.
- (i) A waiver of the domicile requirement due to exceptional circumstances granted by the Mayor (or his or her designee) to an appointee to an Executive Service position shall be based on the criteria specified in subsection 305.9 (f) of this section.
- (j) Any waiver of the domicile requirement granted due to exceptional circumstances shall remain in effect only for as long as the employee occupies the position for which the waiver was granted.

Section 306 is amended to read as follows:

306 PROOFS, CERTIFICATION, AND DOCUMENTATION OF DISTRICT RESIDENCY

- 306.1 The provisions of this section apply to any person required to submit proof of bona fide District residency or, in the case of persons appointed to the Excepted and Executive Services on or after October 1, 2002, proof of District of Columbia domicile.
- 306.2 Documentation, certification, and affidavits required by this section shall be in a form prescribed by the personnel authority.
- 306.3 No single document is conclusive in order to determine bona fide residency; however, the following may be considered:
- (a) Voter registration, if any;
 - (b) Motor vehicle registration, if any;
 - (c) Motor vehicle driver permit, if any;
 - (d) Withholding and payment of individual income taxes including:
 - (1) Copies of District of Columbia tax returns certified by the D.C. Office of Tax and Revenue; and
 - (2) Copies of certified federal tax returns filed with the U.S. Internal Revenue Service;
 - (e) Certified deed or lease or rental agreement for real property;
 - (f) Cancelled checks or receipts for mortgage or rental payments;
 - (g) Utility bills and payment receipts;

- (h) A copy of a bank account statement in the District of Columbia in the name of the employee;
 - (i) Copies of credit card or brokerage account statements mailed to the employee's principal place of residence in the District of Columbia; and
 - (j) Copies of automobile insurance statements for the employee based upon the employee's principal place of residence in the District of Columbia.
- 306.4 When a person is required to submit documents to support a claim of bona fide District residency, no less than eight (8) of the documents set forth in section 306.3 of this section shall be submitted to the personnel authority.
- 306.5 For each Excepted or Executive Service appointee subject to the domicile requirement pursuant to section 305 of this chapter, proof of District domicile or of the intent of the appointee to change his or her domicile to the District of Columbia and acquire a principal place of residence in the District of Columbia shall include the following documents in addition to a minimum of four (4) of the documents set forth in section 306.3 of this section:
- (a) A copy of a change of address form filed with the United States Postal Service containing the address of the employee's principal place of residence in the District of Columbia;
 - (b) A copy of an executed contract of sale for the real property that was the employee's principal place of residence at the time of accepting the employment, if the employee owns a principal place of residence outside of the District of Columbia; or a copy of a change in the public records of the state where the employee was domiciled to show that the residence outside of the District of Columbia is no longer the employee's principal place of residence;
 - (c) Copies of utility bills, including electric, gas, telephone, cable, water or other residency bills associated with occupying real property in the District of Columbia, where the billing and mailing address are the same as the principal place of residence;
 - (d) A copy of a bank account statement in the District of Columbia in the name of the employee;
 - (e) A copy of District of Columbia and federal income tax returns that use the District of Columbia address which is the employee's principal place of residence;
 - (f) Copies of professional dues statements mailed to the employee's principal place of residence in the District of Columbia;
 - (g) A sworn affidavit from the employee that the administration of the employee's estate is subject to District of Columbia probate and estate taxes;

- (h) Copies of credit card or brokerage account statements mailed to the employee's principal place of residence in the District of Columbia;
 - (i) Copies of automobile, health, and life insurance contracts for the employee based upon the employee's principal place of residence in the District of Columbia;
 - (j) Copies of mortgage statements for the employee's principal place of residence in the District of Columbia, or an executed lease for the employee's principal place of residence in the District of Columbia; and
 - (k) A sworn affidavit from the employee that the employee's income, from any source, is subject to District of Columbia withholding tax and taxation.
- 306.6 An Excepted or Executive Service employee subject to the domicile requirement shall fulfill the requirements of section 306.5 of this section by filing a sworn affidavit with the personnel authority that affirms that the employee has undertaken affirmative acts to comply with each requirement, and when the requirement is not applicable, the reasons why the requirement does not apply.
- 306.7 A person who claims a residency preference as provided in sections 301.1 or 301.2 of this chapter and who is selected for the position shall, on or before the effective date of appointment or promotion, sign a statement that certifies the following:
- (a) That the person has received written notification of the residency preference requirement;
 - (b) That the person has read the notice, has been given an opportunity to ask questions about the residency preference requirement, and understands the residency preference requirement;
 - (c) That the person understands that failure to maintain bona fide residency in the District of Columbia for a period of seven (7) consecutive years from the effective date of appointment will result in forfeiture of the position; and
 - (d) That the place of residence stated in the certification is the person's actual, regular, and principal place of residence.
- 306.8 A person who is appointed to a position in the Excepted or Executive Services on or after October 1, 2002 and who claims that he or she is a District domiciliary shall sign a statement on or before the effective date of appointment to the position, whether it is an initial appointment or other appointment, which certifies the following:
- (a) That the person has received written notification of the domicile requirement;
 - (b) That the person has read the notice, has been given an opportunity to ask questions about the domicile requirement, and understands the domicile requirement;

- (c) That the person understands that failure to remain a District domiciliary for the duration of employment shall result in forfeiture of the position; and
- (d) That the place of residence stated in the certification is the person's domicile.

306.9 Unless exempted pursuant to section 305.8 and 305.9 of this chapter, each Excepted or Executive Service appointee or employee who is not a domiciliary of the District of Columbia on the date of appointment to a position, whether it is an initial appointment or other appointment, shall sign a statement when appointed, which certifies the following:

- (a) That the person has received written notification of the domicile requirement;
- (b) That the person has read the notice, has been given an opportunity to ask questions about the domicile requirement, and understands the domicile requirement;
- (c) That the person intends to become a domiciliary of the District of Columbia within one hundred eighty (180) days of the date of appointment;
- (d) That the person understands that failure to become a domiciliary of the District of Columbia within one hundred eighty (180) days from the date of appointment shall result in forfeiture of the position; and
- (e) That the person understands that failure to remain a District domiciliary for the duration of employment shall result in forfeiture of the position.

306.10 Each Excepted or Executive Service appointee subject to the requirements of section 305.1 of this chapter who is not a domiciliary of the District of Columbia on the date of appointment shall provide to the personnel authority, within one hundred eighty (180) days of the date of appointment, sufficient documentation, as provided in sections 306.3, 306.5 and 306.6 of this section, which demonstrates that he or she has become a domiciliary of the District of Columbia.

306.11 Each agency head or independent personnel authority shall designate an agency representative to fulfill the requirements specified in sections 306.12, 306.13, 307, and 309 of this chapter.

306.12 Between November 1 and November 30 of each year after the first year of employment, up to the end of the required period of bona fide District residency or District domicile, each employee required to be a bona fide resident or District domiciliary shall submit to the agency representative an affidavit which certifies at least the following:

- (a) That he or she is currently, and has been continuously for the preceding twelve-month (12-month) period, in compliance with the provisions of the residency or domicile requirements, as applicable;
- (b) The home address(es) for the preceding twelve-month (12-month) period;

- (c) The address used on the individual income tax return filed with the District of Columbia during the preceding twelve-month (12-month) period; and
- (d) The address used on the individual income tax return filed with the United States Internal Revenue Service during the preceding twelve-month (12-month) period.

306.13 The agency representative, at a time he or she shall determine, but within one (1) year following the date on which the employee became subject to the residency or domicile requirements, shall request, and the employee shall provide, sufficient documentation to demonstrate that the employee is in compliance.

Section 307.2 is amended to read as follows:

307.2 The notice to show cause why employment should not be forfeited shall be issued only during the period of time that the employee is required to maintain bona fide District residency or be a District domiciliary.

Section 307.3 is deleted.

Section 307.5 is renumbered as 307.3 and amended to read as follows:

307.3 The personnel authority shall designate a hearing officer or officers to conduct residency determination hearings.

Section 307.11 is renumbered as 307.4 and amended to read as follows:

307.4 The standard of proof in a residency or domicile determination case shall be by a preponderance of the evidence.

Section 307.7 is renumbered as 307.5 and amended to read as follows:

307.5 The agency representative bears the burden of proof and persuasion concerning the employee's alleged non-compliance with the residency or domicile requirement.

Section 307.9 is renumbered as 307.6:

307.6 If the hearing officer determines that the agency representative has established reasonable cause to believe that the employee is not in compliance with the residency or domicile requirements, then the burden of persuasion shall shift to and be borne by the respondent employee.

Section 307.8 is renumbered as 307.7 and amended to read as follows:

307.7 The respondent employee shall have an opportunity to rebut the evidence presented by the agency representative, cross-examining any witness called by the agency, and by presenting evidence that demonstrates compliance with the residency or domicile requirements.

Section 307.6 is renumbered as 307.8 and amended to read as follows:

307.8 The respondent employee may be represented at the pre-hearing conference and evidentiary hearing by counsel if he or she so chooses.

Section 307.10 is renumbered as 307.9 and amended to read as follows:

307.9 The agency representative shall have an opportunity to cross-examine any witness called by the respondent employee, and any witness who testifies on behalf of the respondent employee, including the respondent employee.

Section 307.4 is renumbered as 307.10 and amended to read as follows:

307.10 If a full evidentiary hearing is ordered, it shall be held within a reasonable period of time following the pre-hearing conference.

Section 307.12 is renumbered as 307.11 and amended to read as follows:

307.11 After the pre-hearing conference, the hearing officer shall issue a proposed written determination on the residency status of the respondent employee within a reasonable period of time and shall serve a copy of the proposed determination on the agency representative and on the respondent employee.

Section 307.13 is deleted.

Section 307.14 is renumbered as 307.12 and amended to read as follows:

307.12 The employee shall have a period of ten (10) days from the receipt of the proposed determination to file written exceptions with the hearing officer and serve a true copy to the agency in response to a proposed determination of noncompliance with the residency or domicile requirements.

Section 307.15 is renumbered as 307.13 and amended to read as follows:

307.13 Upon review of the record, including any timely filed pleadings, the hearing officer shall order an evidentiary hearing or issue a proposed final decision on compliance with the residency or domicile requirements.

Section 307.16 is renumbered as 307.14 and amended to read as follows:

307.14 The personnel authority shall issue a written final decision on the issue of compliance with the residency or domicile requirement to the employee, the agency representative, and the agency head.

Section 307.17 is renumbered as 307.15 and amended to read as follows:

307.15 A final decision by the personnel authority of noncompliance with the residency domicile requirements shall result in forfeiture of employment by the employee.

Section 307.18 is renumbered as 307.16 and amended to read as follows:

- 307.16 The Director, D.C. Department of Human Resources, shall notify a subordinate agency head, and the Mayor, when there is reasonable cause to believe that a subordinate agency head is not in compliance with the residency or domicile requirements, as applicable. Upon notification, the Mayor shall determine the appropriate course of action to be taken.

New sections 309.6 through 309.8 are added to read as follows:

- 309.6 Each subordinate agency head shall submit to the Mayor and the Council of the District of Columbia (Council) quarterly reports detailing the names of all new employees and their pay schedules, titles, and place of residence. The report shall explain the reasons for employment of non-District residents.
- 309.7 The Mayor shall integrate into each subordinate agency's annual performance objectives the rate of success in hiring District of Columbia residents.
- 309.8 The Mayor shall conduct audits of each subordinate agency's personnel records to ensure that all persons claiming a residency preference at the time of hiring comply with the provisions. Audit reports shall be submitted annually to the Council.

The definition of the terms "assembled examining procedure" and "unassembled examining procedure" are added; the definition of the terms "Director of Personnel," "entitlement," and "residency preference" are deleted; and the following definitions are amended in section 399 of the chapter:

Assembled examining procedure – a computerized or multiple-choice written examination or test which may include a typing or data-entry skills test.

Claim – completion of *Form DC-2000RP, Residency Preference for Employment*, by a bona fide District resident at the time of application for competitive employment or competitive promotion who agrees in writing that, if selected, he or she will maintain bona fide District residency for seven (7) consecutive years from the date of appointment or promotion.

Competitive promotion – the change of an employee to a position at a higher grade or class level within the same job classification system and pay schedule, or to a position with a higher representative rate in a different job classification system and pay schedule, as a result of open competitive procedures.

Immediate family – a person who is related to the appointee to a position in the Excepted Service pursuant to section 903 (a)(1) and (2) of the CMPA (D.C. Official Code § 1-609.03 (a)(1) and (2)) (2007 Supp.) or the Executive Service as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Personnel authority—an individual or entity authorized by D.C. Official Code § 1- 604.06 (2006 Repl.) to implement personnel rules and regulations for employees of an agency or group

of agencies of the District of Columbia; or persons delegated that authority by that individual or entity.

Subordinate agency – any agency under the direct administrative control of the Mayor, including, but not limited to, the agencies listed in section 301 (q) of the CMPA (D.C. Official Code § 1-603.01(17)) (2007 Supp.).

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

Comments on these proposed regulations should be submitted, in writing, to Ms. Brender L. Gregory, Director, D.C. Department of Human Resources, 441 4th Street, N.W. Suite 300S, Washington, D.C. 20001, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these proposed regulations are available from the above address.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

FORMAL CASE NO. 988, IN THE MATTER OF THE DEVELOPMENT OF UNIVERSAL SERVICE STANDARDS AND A UNIVERSAL TRUST FUND FOR THE DISTRICT OF COLUMBIA

1. The Public Service Commission of the District of Columbia (“Commission”), pursuant to its authority under D.C. Official Code § 34-802, § 34-2003, and § 2-505(c),¹ hereby gives notice of its intent to act upon the Application (“Application”)² and supplemental filing (“Supplement”)³ of NationsLine District of Columbia, Inc. (“NationsLine”) for designation as an eligible telecommunications carrier (“ETC”) in the District of Columbia. The Commission will act on the Application and Supplement in not less than 60 days after the publication of this Notice of Proposed Rulemaking (“NOPR”) in the *D.C. Register*.

2. In its Application, NationsLine seeks to be designated an ETC to be able to receive Lifeline universal service support from both the federal and District of Columbia universal service funds. NationsLine contends that it is a certificated CLEC offering basic local exchange service, intraLATA toll service, and interLATA long distance service in the District of Columbia over its own and leased facilities.⁴ NationsLine contends that it meets the federal requirements in 47 U.S.C. § 214(e) for receiving universal service support by offering the services required by 47 U.S.C. § 254(c) and by advertising the provision of these services.⁵ NationsLine avers that it provides all of the basic local exchange services required by 47 C.F.R. § 54.101.⁶ NationsLine further asserts that it has met the obligations imposed in Section 2806 of the Commission’s rules in order to be designated as an ETC.⁷ In its Supplement, NationsLine includes an amended tariff listing its Lifeline offering, which is comprised of unlimited local and regional calling, with one hour of long distance dialing and a 12-

¹ D.C. Official Code § § 2-505(c), 34-802, 34-2003 (2001 Ed.).

² *Formal Case No. 988, In The Matter Of The Development Of Universal Service Standards And A Universal Trust Fund For The District Of Columbia*, Petition Requesting Designation as an Eligible Telecommunications Carrier (“Application”), filed December 24, 2008.

³ *Formal Case No. 988*, Supplemental Filing to Petition Requesting Designation as an Eligible Telecommunications Carrier (“Supplement”), filed January 30, 2009.

⁴ Application at 2.

⁵ 47 U.S.C. § 241(e).

⁶ Application at 3.

⁷ Application at 1, 3-5.

feature package. The Lifeline price to the customer is \$10.00, discounted from \$29.99. NationsLine also provides sample advertising material promoting the Lifeline service.⁸

3. NationsLine's Application is on file with the Commission and may be reviewed at the Office of the Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., West Tower, Suite 200, Washington, DC 20005 between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of NationsLine's Application may be obtained by visiting the Commission's website at www.dcpssc.org or at cost, by contacting the Commission Secretary at the above address.

4. All persons interested in commenting on NationsLine's Application may submit written comments and reply comments not later than thirty (30) and forty-five (45) days, respectively, after publication of this notice in the *D.C. Register* with Dorothy Wideman, Commission Secretary, at the above address. After the comments have been received, the Commission will take final action on NationsLine's Application.

⁸ Supplement, Attachments 1 and 2.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia pursuant to the authority set forth under §201(a) of the District of Columbia Public Postsecondary Education Reorganization Act Amendments (“Act”) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code § 38-1202.06) hereby gives notice of its intent to amend Section 728 of Chapter 7 of Title 8, DCMR entitled “Tuition and Fees” in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The purpose of the proposed rule is to increase the schedule of tuition and fees.

The Board of Trustees of the University of the District of Columbia hereby proposes to amend Section 728 of Title 8, of the DCMR, entitled “Tuition and Fees” to increase tuition beginning in the Fall Semester, 2009, as follows:

Title 8 of the District of Columbia Municipal Regulations is amended as follows:

Section 728.1.

Delete the phrase “for Fall 2007” in the prefatory clause.

Delete the current tuition schedule listed in Section 728.1, and insert in its place:

TUITION FOR ACADEMIC YEAR 2009-2010

<u>Student/Level</u>	<u>Per Credit Hr.</u>
COMMUNITY COLLEGE (all students)	\$ 100.00
 UNIVERSITY OF THE DISTRICT OF COLUMBIA (Flagship University)	
UNDERGRADUATE PROGRAMS	
Washington, DC Residents	\$ 197.92
Metropolitan Area Residents	\$ 236.67
All Other Residents	\$ 486.67
 GRADUATE PROGRAMS	
Washington, DC Residents	\$ 421.11
Metropolitan Area Residents	\$ 476.67

All Other Residents \$ 810.00

DAVID A. CLARKE LAW SCHOOL

Washington, DC Residents \$ 490

All Other Residents \$ 980

TUITION FOR ACADEMIC YEAR 2010-2011 AND THEREAFTER

Student/Level Per Credit Hr.

COMMUNITY COLLEGE (all students) \$ 100.00

UNIVERSITY OF THE DISTRICT OF COLUMBIA (Flagship University)

UNDERGRADUATE PROGRAMS

Washington, DC Residents \$ 265.83

Metropolitan Area Residents \$ 307.50

All Other Residents \$ 557.50

GRADUATE PROGRAMS

Washington, DC Residents \$ 421.11

Metropolitan Area Residents \$ 476.67

All Other Residents \$ 810.00

DAVID A. CLARKE LAW SCHOOL

Washington, DC Residents \$ 490

All Other Residents \$ 980

Section 728.2

Delete the word “Reserved” and the period following it and insert in its place the following:

- (a) **Full-Time Students.** Any undergraduate or community student enrolled in at least twelve (12) credits hours per semester, or any graduate student enrolled in at least nine (9) credit hours per semester, shall be considered a full-time student for the purposes of calculation of tuition in accordance with this Chapter. Full-time

undergraduate and community college students shall be charged tuition for each semester in which they are enrolled in the amount of twelve (12) credit hours, regardless of the number of credit hours actually taken. Full-time graduate students shall be charged tuition for each semester in which they are enrolled in the amount of nine (9) credit hours, regardless of the number of credit hours actually taken.

(b) Metropolitan Area Residents. Any individual who can establish residency in one of the following counties shall be considered a Metropolitan Area Resident: Montgomery County, Maryland; Prince George’s County, Maryland; Arlington County, Virginia; Alexandria County, Virginia; Fairfax County, Virginia. The standards used to establish residency shall be the same standards used to establish residency for District residents.

Section 728.3.

Delete the phrase “beginning Fall Semester 2006” in subsection (a).

Following the phrase “undergraduate and graduate student” in subsection (a), insert the phrase “, not including students at the community college, ”.

Delete the phrase “Beginning Fall Semester 2006, each” in subsection (b) and insert in its place the word “Each” .

Create a new subsection (c), and insert the text:

Students at the Community College shall pay a mandatory fee of \$300.00 for each semester in which they are enrolled, including the summer term.

Section 728.4

Delete the current Section 728.4 and insert in its place a new Section 728.4:

728.4 The University shall charge the following miscellaneous fees:

- (a) Application Fee, Graduate \$50.00
- (b) Application Fee, International \$50.00
- (c) Application Fee, Undergraduate \$35.00
- (d) Change of Course Fee \$10.00
- (e) Credit by Special Exam (per credit hour) \$50.00
- (f) Duplicate I.D. Card Fee \$15.00
- (g) Enrollment/Orientation Fee \$100.00

(h) Graduate Writing Proficiency Exam	\$50.00
(i) Commencement Fee	\$125.00
(j) Laboratory Fee	\$50.00
(m) Late Application Fee	\$100.00
(n) Late Registration Fee	\$150.00
(o) Law School Graduation Fee (3 yr only)	\$325.00
(p) Returned Check Fee	\$50.00
(q) Student Health Insurance	\$175.00
(r) Transcript Fee (first transcript)	Free
(s) Transcript Fee (each subsequent)	\$5.00
(t) Tuition Management System	\$30.00

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with the Office of General Counsel, Building 39-Room 301Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W. Washington, D.C. 20008. Comments of no more than ten pages may be submitted by telecopier (FAX) to (202) 274-5320. Copies of the proposed rules may be obtained from the Office of the General Counsel at the address set forth above.