

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS**

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Board of Elections and Ethics pursuant to the authority set forth in D.C. Code § 1-1001.05 (a)(14) hereby gives notice of proposed rulemaking action to adopt the following amendments to 3 DCMR Chapter 1, "Organization of the Board of Elections and Ethics."

The proposed amendments: 1) reflect the Board's authority to appoint the Director of the Office of Campaign Finance; 2) elaborate on the procedure for Board meetings, and; 3) clarify matters that may be discussed during Board executive sessions.

The Board gives notice of its intent to take final rulemaking action to adopt these amendments in not less than 30 days from the date of publication of this notice in the D.C. Register.

Section 101 of Chapter 1 of 3 DCMR, "Office of Campaign Finance," shall be amended as follows:

1) Subsection 101.1 is amended by striking the phrase "the Mayor with the advice and consent of the Council" and inserting the phrase, ", and serves at the pleasure of, the Board".

Section 102 of Chapter 1 of 3 DCMR, "Meetings of the Board of Elections," shall be amended by adding new subsections 102.14 through 102.22 to read as follows:

"102.14 All meetings of the Board, with the exception of executive sessions, as that term is defined in section 103 of this chapter, shall be open to the public.

102.15 The proposed agenda for each Board meeting shall be posted in the office of the Board and on its website at least twenty-four (24) hours prior to a meeting.

102.16 Copies of the agenda shall be available to the public at the meeting.

102.17 Nothing in this section shall preclude the Board from amending the agenda at the meeting.

102.18 A meeting of the Board shall be held once each month in accordance with a schedule to be established by the Board, and additional meetings may be called as needed by the Board.

102.19 Meetings shall be held at the time and place the Board or the Chairman designates.

- 102.20 Meetings may be adjourned from time-to-time.
- 102.21 If the time and place of resumption is publicly announced when the adjournment is ordered, no further notice shall be required.
- 102.22 Any individual who is deemed by the Board Chairman to be disruptive to the meeting may be removed therefrom.”

Section 103 of Chapter 1 of 3 DCMR, “Executive Sessions ,” shall be amended as follows:

- 1) Paragraph 103.2 (a) is amended by deleting the phrase “and recruitment” and inserting the phrase “matters, including the recruitment, appointment, employment, assignment, promotion, discipline, compensation, removal, or resignation of employees, or other individuals over whom it has jurisdiction” in its place.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments no later than thirty (30) days after the publication of this notice in the D.C. Register. Comments should be sent to Kenneth J. McGhie, General Counsel, D.C. Board of Elections and Ethics, 441 4th Street, NW, Suite 270N, Washington, DC 20001. Copies of the proposed rules may be obtained at cost from the Board at the same address between the hours of 9:00 a.m. and 4:45 p.m.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in Sections 3(a) and 3(b)(12) of the District of Columbia the State Education Office Establishment Act of 2000 (D.C. Law 13-176; as amended, D.C. Official Code §38-2602(a) and §38-2602(b)(12) (2008 Supp.)) hereby gives notice of her intent to add a new chapter A23 to Title 5 of the *District of Columbia Municipal Regulations* (DCMR), entitled “State-wide Academic Assessments” in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The State Superintendent of Education requires District-wide testing annually for the assessment and evaluation of student achievement in District of Columbia Public Schools and public charter schools, including students receiving educational services funded by the District of Columbia, who are enrolled in nonpublic schools or public schools located outside the District of Columbia. The annual academic assessment is currently administered through the District of Columbia Comprehensive Assessment System (DC-CAS). The State Superintendent of Education publishes the results of the DC-CAS annual assessments to inform parents, guardians and community members about District-wide student achievement and progress which is referred to herein as a State-wide program for academic assessments.

CHAPTER A23 STATE-WIDE ACADEMIC ASSESSMENTS**A2300 ADMINISTRATION OF STATE-WIDE ACADEMIC ASSESSMENTS**

- A2300.1** The State Superintendent shall establish and implement an annual State-wide program for academic assessments.
- A2300.2** The State Superintendent shall publicize the schedule for State-wide academic assessments prior to the beginning of each school year. All schools shall follow the schedule announced by the State Superintendent.
- A2300.3** The State-wide assessment program shall be administered each spring in conformance with guidelines established by the State Superintendent to include, at a minimum, the testing and reporting of results for all students enrolled in grades three (3) through eight (8) and grade ten (10), in the District of Columbia Public Schools system and public charter schools.
- A2300.4** The State-wide assessment program shall be aligned to the District of Columbia state-level content standards, including without limitation, content standards in English language arts, mathematics, and science.

A2301 PARTICIPATION IN STATE-WIDE ACADEMIC ASSESSMENTS

- A2301.1** All students enrolled in grades three (3) through eight (8) and grade ten (10) shall participate in the State-wide math and English language arts assessments.
- A2301.2** All students enrolled in grades five (5) and eight (8) shall participate in the State-wide science assessment.
- A2301.3** All students enrolled in grades nine (9) through twelve (12) shall participate in the state-wide biology assessment. Students shall take the assessment at the end of the school year in which the student is enrolled in biology.
- A2301.4** All District of Columbia residents enrolled in nonpublic schools and public schools outside the District of Columbia receiving educational services funded by the District of Columbia shall participate in the annual assessments administered by the District of Columbia in conformance with this chapter.
- A2301.5** The State Superintendent shall issue guidance to prescribe how students with disabilities and English language learners are to be assessed under this chapter, including the use of appropriate testing accommodations.

A2302 **REPORTING OF ASSESSMENT RESULTS**

- A2302.1** The State Superintendent shall publish annually the results of the State-wide testing based upon the assessment data.
- A2302.2** Summary reports of State-wide testing results shall be prepared and distributed by the Office of the State Superintendent of Education.
- A2302.3** Individual student test results shall be available to the parent or guardian of a student, and to an adult student.
- A2302.4** Any data that identifies individual student information shall be reported or made public in conformance with District and federal laws.

A2399 **DEFINITIONS**

State Superintendent means the State Superintendent of Education for the District of Columbia.

Public school means a school within the District of Columbia Public School system or a public charter school in the District of Columbia.

Public Charter School means a public school in the District of Columbia approved by an eligible chartering authority including the District of Columbia Public Charter School Board or any entity authorized as an eligible chartering authority in the District of Columbia.

State-wide means District-wide.

The following provisions in Title 5 shall be deleted:

Section 2310.1

Section 2310.2

Section 2312.3

Section 2312.7

Persons wishing to comment on this proposed rule should submit their comments in writing to Deborah Gist, State Superintendent of Education, 441 4th Street, NW, Room 350N, Washington, D.C. 20001, Attn: Kristin Yochum. All comments must be received by the Office of the State Superintendent of Education not later than thirty (30) days after publication of this notice in the D.C. Register. Copies of this rulemaking amendment and related information may be obtained by writing to the above address, by calling the Office of the State Superintendent of Education at (202) 727-6436, or on the OSSE website at www.osse.dc.gov.

THE OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED 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) and section 2203(j)(2) of the District of Columbia School Reform Act, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.03(j)(2) (2008 Supp.); hereby gives notice of her intent to propose a new Chapter A54 to subchapter A of Title 5 of the *District of Columbia Municipal Regulations* (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The proposed rules set forth procedures for an Eligible Applicant to appeal a decision by a District of Columbia Eligible Chartering Authority denying a petition to establish a public charter school in the District of Columbia.

Title 5 of the DCMR is amended to add a new Chapter A54 to Subtitle A to read as follows:

**CHAPTER A54 APPEAL PROCEDURES FOR DENIAL OF A
PETITION TO ESTABLISH A DISTRICT OF
COLUMBIA PUBLIC CHARTER SCHOOL**

A5400 General Provisions

A5400.1 A final written decision issued by an Eligible Chartering Authority denying a Petition to establish a public charter school in the District of Columbia is subject to review by an appropriate court of the District of Columbia or the State Superintendent of Education.

A5400.2 These rules set forth procedures for an appeal to the State Superintendent of Education.

A5401 Filing and Notification Requirements

A5401.1 An Eligible Applicant may appeal the Eligible Chartering Authority's final written decision to the State Superintendent of Education within fifteen (15) business days after the date of the Eligible Chartering Authority's decision.

A5401.2 The notice of appeal shall contain the following information:

- (a) The name of the Eligible Applicant including the name, signature, address, and telephone number of the Eligible Applicant's representative and other relevant contact information;

- (b) The name of the Eligible Chartering Authority; and
- (c) The effective date of the Eligible Chartering Authority's final written decision denying a Petition.

- A5401.3 The OSSE shall assign a case number to each appeal and provide written confirmation of receipt of the appeal to the Eligible Applicant and the Eligible Chartering Authority.
- A5401.4 A notice of appeal filed later than fifteen (15) business days after the date of the Eligible Chartering Authority's final written decision denying a Petition shall be deemed out of time and shall be rejected by the OSSE with written notification to the Eligible Applicant and the Eligible Chartering Authority.
- A5401.5 An Eligible Applicant's notice of appeal, the record, and all submissions related to an appeal shall be delivered to the Office of the State Superintendent of Education, Attention: Office of the General Counsel, Charter School Petition Appeals, at the OSSE's main address.
- A5401.6 All documents filed with regard to an appeal under this chapter shall include a Certificate of Service, signed by the authorized representative of the party filing a document.
- A5401.7 The Certificate of Service must state the following:
- (a) The date and the method of service (e.g., mail, personal-delivery); and
 - (b) The names and addresses of the persons served in accordance with this chapter.
- A5401.8 When documents are mailed, three (3) business days shall be added to the mailing date for purposes of calculating time within this chapter.
- A5402 Appeal Record**
- A5402.1 Within fifteen (15) business days after the date of a notice of an appeal, the Eligible Chartering Authority shall deliver to the OSSE a copy of the final written decision denying the Petition and the record related to the Petition.
- A5402.2 The record shall consist of all documents relevant to the Petition and the Eligible Chartering Authority's final written decision denying the Petition including without limitation:

- (a) The Petition to establish a public charter school, including all exhibits to the Petition;
- (b) The transcript of any public hearings or testimony before the Eligible Chartering Authority with regard to the Petition subject to appeal, including all exhibits referenced in the transcript;
- (c) All other materials related to the Petition submitted by the Eligible Applicant to the Eligible Chartering Authority;
- (d) Any documents and written communications referred to or relied upon by the Eligible Chartering Authority in reaching its decision; and
- (e) The final written decision of the Eligible Chartering Authority.

A5403 Written Submissions

- A5403.1 Within fifteen (15) business days after the date an Eligible Applicant files a timely appeal with the State Superintendent, the Eligible Applicant shall submit to the OSSE a double spaced written submission in support of the appeal.
- A5403.2 The Eligible Chartering Authority shall respond within fifteen (15) business days after the date of the Eligible Applicant's submission referred to in Section A5403.1, with a double spaced written response to matters raised by the Eligible Applicant.
- A5403.3 Written submissions shall set forth precise statements in support of the position being taken on appeal with regard to challenging or supporting the Eligible Chartering Authority's written decision including as appropriate:
- (a) Specific reasons and basis for disagreeing with the Eligible Chartering Authority's final written decision; and
 - (b) How the Eligible Chartering Authority's written decision should be altered or reversed, based upon specific facts in the record supporting the written submission on appeal including any pertinent legal authority; or
 - (c) Specific reasons and basis in the record to confirm the Eligible Chartering Authority's final written decision.

A5403.4 An Eligible Applicant's failure to make a timely written submission to the State Superintendent under this Chapter shall constitute an automatic withdrawal of the notice of appeal.

A5403.5 The OSSE shall notify the parties in writing when an appeal is deemed to have been withdrawn, with no further involvement of the OSSE with regard to the appeal.

A5404 Final Decision

A5404.1 The State Superintendent's review shall be limited to the record and written submissions of the Eligible Chartering Authority and the Eligible Applicant.

A5404.2 The State Superintendent shall uphold the Eligible Chartering Authority's decision if it is based on Substantial Evidence in the record.

A5404.3 The State Superintendent's final written decision shall affirm, reverse in whole or remand for further consideration the Eligible Chartering Authority's decision.

A5404.4 If the State Superintendent reverses the Eligible Chartering Authority's decision, and grants a Petition, the State Superintendent's decision shall instruct the Eligible Chartering Authority to grant the Petition within fifteen (15) business days from the date of the State Superintendent's final written decision.

A5404.5 The State Superintendent shall provide both parties with a copy of its final written decision.

A5499 Definitions

Certificate of Service means a signed written statement indicating that documents filed with or issued by the OSSE have been either delivered or mailed to the other appropriate parties.

Eligible Applicant means a person, including a private public or quasi public entity, or an institution of higher education as defined in Section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), that seeks to establish a public charter school in the District of Columbia pursuant to the School Reform Act of 1995, (110 Stat.1321-107, P.L. 104-134) as amended, D.C. Official Code § 38-1802.02 *et seq.*

Eligible Chartering Authority means the District of Columbia Public Charter School Board or any one entity authorized as an eligible chartering authority in the District of Columbia.

OSSE means the Office of the State Superintendent of Education.

Petition means a written application by an Eligible Applicant to establish a public charter school in the District of Columbia.

State Superintendent means the State Superintendent of Education and may include the State Superintendent's designee.

Substantial Evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion or finding.

Persons wishing to comment on this proposed rule should submit their comments in writing to Deborah Gist, State Superintendent of Education, 441 4th Street, NW, Room 350N, Washington, D.C. 20001, Attn: Kristin Yochum. All comments must be received by the Office of the State Superintendent of Education not later than thirty (30) days after publication of this notice in the D.C. Register. Copies of this rulemaking amendment and related information may be obtained by writing to the above address, by calling the Office of the State Superintendent of Education at (202) 727-6436, or on the OSSE website at www.osse.dc.gov.