

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

NOTICE OF FINAL 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; in accordance with the provisions of section 801 (a) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-608.01 (a) (2008 Supp.), hereby give notice that final rulemaking action was taken to adopt the following rules. The main purpose of these rules is to amend section 813 of the chapter, *Probationary Period*, to provide that "operations staff" in the Office of Unified Communications (OUC) first hired after the effective date of the new requirement, shall complete an eighteen-month (18-month) probationary period, and list the positions within the OUC considered *operations staff* to which the new requirement shall apply; and provide that an agency head may submit a request to the personnel authority to impose a probationary period longer than one (1) year for certain classes of positions, and include factors or conditions that would warrant the establishment of a longer probationary period requirement. Additionally, various provisions in sections 800, 801, 802, 804, 810, 819, 820, 821, 830, 849, 870, 873, and 876 of the chapter are being amended to update references to the D.C. Official Code and change references to the "Director of Personnel," "DCOP," "D.C. Office of Personnel," and "Office of Personnel;" section 870.1 is being amended to add the definition of the term "probationary;" and the definitions to the terms "Career Appointment (Probational)," "Career Service," "personnel authority," "probationary period," and "supervisor," in section 899 of the chapter are being amended, and the terms "Director of Personnel" and "Office of Personnel" deleted from that section. No comments were received and no changes were made under the Notice of Proposed Rulemaking published on February 6, 2009. Final rulemaking action was taken on March 10, 2009.

CHAPTER 8

CAREER SERVICE

Chapter 8 of the D.C. Personnel Regulations, Title 6 of the DCMR, is amended as follows:

Section 800 is amended as follows:

800 APPLICABILITY

Section 800.1 is amended to read as follows:

800.1 This chapter applies to the Career Service, which consists of all positions in the District government, except the following:

- (a) The Mayor and members of the Council of the District of Columbia;
- (b) The President and members of the Board of Education;

- (c) The members of the Board of Trustees of the University of the District of Columbia;
- (d) Members of boards and commissions as specified in section 202 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 § 1-602.02 (c));
- (e) Chief Judges, Associate Judges, and non-judicial personnel of the Superior Court of the District of Columbia and the D.C. Court of Appeals;
- (f) Positions in the Educational Service pursuant to section 801a of the CMPA (D.C. Official Code § 1-608.01a);
- (g) Positions in the Legal Service pursuant to sections 851 through 861 of the CMPA (D.C. Official Code §§ 1-608.51 through 1-608.61);
- (h) Positions in the Excepted Service pursuant to sections 901 through 908 of the CMPA (D.C. Official Code §§ 1-609.01 through 1-609.08);
- (i) Positions in the Management Supervisory Service pursuant to section 951 through 958 of the CMPA (D.C. Official Code §§ 1-609.51 through 1-609.58);
- (j) Positions in the Executive Service pursuant to sections 1051 through 1063 of the CMPA (D.C. Official Code §§ 1-610.51 through 1-610.63); and
- (j) Any other employee excluded by law.

Section 800.2 is deleted.

Section 800.3 is amended to read as follows:

800.3 In the case of a conflict between this chapter and provisions of a collective bargaining agreement, subject to the limitations set forth in section 1708 of the CMPA (D.C. Official Code § 1-617.08), the provisions of the collective bargaining agreement shall take precedence.

Section 800.4 is deleted.

Section 801.1 is amended to read as follows:

801.1 In accordance with the requirements of section 801 (a) of the CMPA (D.C. Official Code § 1-608.01 (a)), the regulations in this chapter are indexed and cross-referenced to the incumbent classification system, as follows:

- (a) The incumbent classification system in effect on December 31, 1978 has been continued in effect without substantial change. Accordingly, these regulations

apply in the same manner to all positions in the Career Service, and to all incumbents of the Career Service, except as specifically set forth herein; and

- (b) All distinctions in applicability of these regulations, to incumbents transferred to the Career Service on January 1, 1980, and those employees hired on or after that date, are specified herein.

Section 802.1 is amended to read as follows:

- 802.1 As provided in section 801 (a) of the CMPA (D.C. Official Code § 1- 608.01 (a)), and except as otherwise provided by law or regulation, all initial appointments to the Career Service and all subsequent assignments and promotions of employees in the Career Service shall be made by open competition, involving positive recruitment and examining procedures designed to achieve maximum objectivity, reliability, and validity. All such initial appointments and subsequent assignments and promotions shall be made on the basis of merit by selection from the highest qualified available eligibles based on specific job requirements with appropriate regard for affirmative action goals, veterans preference, and residency preference.

The definition of the term “relative” in section 803.6 is amended to read as follows:

Relative – as defined in section 801 (c) of the CMPA (D.C. Official Code § 1-608.01 (c)(1)), an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

Sections 804.1 through 804.7 are amended to read as follows:

- 804.1 As applicable, the Director of the D.C. Department of Human Resources (DCHR) or independent personnel authority, shall establish standards with respect to education, training, experience, suitability, physical and mental fitness, or other requirements that will be used to evaluate applicants and employees for placement in the Career Service, consistent with all applicable laws and regulations.
- 804.2 The Director of the DCHR or independent personnel authority may adopt new qualification standards under section 804.1 of this section. Until such adoption, the federal qualification standards as set forth in the *X-118* and *X-118C* series of handbooks and applicable supplementary publications shall remain applicable.
- 804.3 Whenever the practice of certain occupations and professions is subject to licensure requirements (as established by District, State, or federal law), the possession of a license shall constitute a qualification requirement. Positions subject to licensure requirements shall be listed in the District Personnel Manual by the DCHR.
- 804.4 As applicable, the Mayor and independent personnel authorities shall establish employee selection procedures for the Career Service. Such procedures shall be consistent with the standards established by these regulations and applicable law,

including section 801 of the CMPA (D.C. Official Code § 1-608.01), and federal issuances pursuant to the Civil Rights Act of 1964, as amended, professionally developed standards for examination and selection, and the requirements of agreements with labor organizations entered into in accordance with Chapter XVII of the CMPA (D.C. Official Code § 1-617.01 *et seq.*)

- 804.5 The applicant evaluation and qualification standards, and the employee selection procedures for the Career Service developed by the Director of the DCHR or independent personnel authority as required by sections 804.1 through 804.4 of this section shall be incorporated in their entirety, or by reference, in the District Personnel Manual; and human resources manuals developed by independent personnel authorities, respectively. Each other personnel authority with Career Service employees may adopt the provisions of the District Personnel Manual applicable to the Career Service or incorporate them in a personnel manual developed by the personnel authority.
- 804.6 All personnel actions appointing employees to the Career Service, or affecting employees within the Career Service, shall comply with the standards and selection procedures established by the Director of the DCHR or independent personnel authority, and applicable rules as set forth in these regulations.
- 804.7 The authority to take personnel actions appointing employees to or affecting employees within the Career Service shall be as follows:
- (a) For employees subject to the Mayor's personnel authority, the Director of the DCHR, except as otherwise provided by the Mayor or the City Administrator; and
 - (b) Other personnel authorities specified in section 406 of the CMPA (D.C. Official Code § 1-604.06).

Section 810.8 is amended to read as follows:

- 810.8 The Director of the D.C. Department of Human Resources shall publish instructions and procedures in the District Personnel Manual which set forth the basic rating and ranking plan requirements, and all other requirements of the unassembled examination process to be followed by subordinate agencies.

Section 813 is amended to read as follows:

- 813.1 An agency shall utilize the probationary period as fully as possible to determine the employee's suitability and qualifications as demonstrated by the employee's knowledge, skills, and abilities as well as his or her conduct.
- 813.2 A person hired to serve under a Career Service Appointment (Probational), including initial appointment with the District government in a supervisory position in the Career Service, shall be required to serve a probationary period of one (1) year, except in the case of individuals appointed on or after the effective date of this provision to the positions listed below, who shall serve a probationary period of eighteen (18) months:

- (a) Individuals hired into entry-level police officer positions in the Metropolitan Police Department;
- (b) Individuals hired into entry-level correctional officer positions in the Department of Corrections or the Department of Youth Rehabilitation Services; and
- (c) Individuals hired into emergency or non-emergency operations positions in the Office of Unified Communications.

813.3 For the purposes of subsection 813.2 (c) of this section, “operations positions” in the Office of Unified Communications shall consist of the following positions:

Position Title	Pay Plan, Series, and Grade Level
Telephone Equipment Operator	CS-390-07, 08, and 09
Telephone Equipment Operator (Bilingual)	CS-390-07, 08, and 09
Communications Report Writer	CS-392-05
Telecommunications Transcriptionist	CS-392-05
Customer Service Representative	CS-392-06, 07, and 08
Customer Service Representative (Bilingual)	CS-392-06, 07, and 08
Dispatcher	CS-2151-10, 11, and 12

813.4 In addition to the positions listed in sections 813.2 (a) through (c) and 813.3 of this section, and on a case-by-case basis, an agency head may submit a request and justification to the personnel authority to impose a probationary period requirement longer than one-year (1-year) for certain classes of positions within the agency. Among the factors or conditions that would warrant a probationary period requirement longer than one-year (1-year) for a specific class of positions are:

- (a) Whenever the agency must provide new hires with formal classroom or field training (or a combination of both) with a specific content and duration; the training is germane to the position; and the agency has designed a standardized training evaluation system applicable to all participants (new hires). Additionally, the agency must have determined, and demonstrated, that successful completion of the particular training is a pre-requisite for a new hire to be able to perform the duties of the position; or
- (b) Whenever the new hire must complete specific courses or training and receive certification upon completion of such training, and the agency has determined and can demonstrate that attainment of such certification is a pre-requisite to successfully performing the duties of the position.

813.5 The justification submitted by the agency head in requesting a probationary period requirement longer than one-year (1-year) shall include information to demonstrate how the factors or conditions listed in section 813.4 of this section will be met, such as types of courses and curriculum information, certification information, best practices research and data, etc.

- 813.6 (a) An employee who is transferred under this chapter, or promoted or reassigned under this chapter before he or she completes probation, shall be required to complete the remaining portion of the probationary period in the new position.
- (b) An employee who enters on military duty before he or she completes probation shall be required to complete the remaining portion of the probationary period upon the employee's return from active military duty, provided that he or she has restoration rights in accordance with section 827 of this chapter.
- 813.7 Except when the appointment is effected with a break in service of one (1) workday or more, or as specified in sections 812.2 (a) of this chapter or section 813.9 of this section, an employee who once satisfactorily completed a probationary period in the Career Service shall not be required to serve another probationary period.
- 813.8 An employee who once satisfactorily completed a probationary period in the Career Service shall be required to serve another probationary period when the employee:
- (a) Is appointed as a result of open competition to a position with a positive educational requirement from a position with no positive educational requirement or a different educational requirement;
- (b) Is appointed as a result of open competition to a position with licensure, certification, or other such requirement, in addition to a positive educational requirement, from a position without such requirements; or
- (c) Is appointed as a result of open competition to a position in a different line of work, as determined by the appropriate personnel authority based on the employee's actual duties and responsibilities.
- 813.9 The probationary period required by section 813.2 of this section shall be extended for an equal amount of workdays in each of the following circumstances:
- (a) For each workday that the employee is placed in a non-pay status for any reason;
- (b) In the case of an entry-level police officer serving an eighteen-month (18-month) probationary period, for each workday that the employee is not performing the full range of the police duties of the position to which assigned, including, but not limited to, periods of sick leave or non-contact status; and
- (c) In the case of an entry-level Firefighter/Emergency Medical Technician (EMT), Firefighter/Paramedic, Paramedic, and EMT in the Fire and Emergency Medical Services Department, for each workday that the employee is unable to perform the full range of duties of the position to which assigned, including but not limited to periods of limited duty, sick leave, or non-contact status.
- 813.10 The extension of the probationary period under section 813.9 of this section shall be for an equitable period of time in increments of full workdays.

- 813.11 For an individual serving an eighteen-month (18-month) probationary period, the extension of the probationary period as provided for in section 813.9 (b) of this section may not exceed an additional eighteen (18) months.
- 813.12 Service credit toward completion of the probationary period shall be given for the following periods of absence:
- (a) Absence on leave with pay during which an employee is carried on the rolls, except as provided in section 813.9 (b) of this section;
 - (b) Absence in a non-pay status while on the rolls because of compensable injury or military duty; and
 - (c) Absence following separation, suspension, or furlough during the probationary period, when any of the foregoing is found upon timely appeal or administrative determination to have been unjustified or unwarranted, and the employee is restored retroactively as of the effective date of the original action.
- 813.13 When a decision has been made to terminate an employee during the probationary period and the employee has been so notified in accordance with section 814.2 of this chapter, and an action taken by the employee results in a stay, the period during which the effective date of such action is stayed shall not be credited toward completion of the probationary period.
- 813.14 Prior service in the Career Service under a term, temporary, or TAPER appointment and in the Excepted Service under a special appointment pursuant to section 904 (2) of the CMPA (D.C. Official Code § 1-609.04 (2)) (2006 Repl.), shall be creditable toward completion of the probationary period under this section if:
- (a) It was rendered immediately preceding a Career Appointment (Permanent) or a Career Appointment (Probational) or a conversion; and
 - (b) It was in the same competitive level, as provided in Chapter 24 of these regulations.
- 813.15 Satisfactory completion of the probationary period is a prerequisite to continued employment in the Career Service.
- 813.16 Upon initial appointment, a probationary employee shall be informed of the performance expectations for his or her position.
- 813.17 The performance of a probationary employee shall be evaluated as specified in Chapter 14 of these regulations.

Section 817.2 is deleted.

Section 819.1 is amended to read as follows:

- 819.1 Pursuant to section 801 (c)(4) of the CMPA (D.C. Official Code § 1-608.01(c)(4)), a personnel authority may make noncompetitive emergency appointments for not more than thirty (30) days to provide for maintenance of essential services in situations determined to be natural disasters or similar unforeseen events or circumstances.

Section 820.1 is amended to read as follows:

- 820.1 As provided by the Volunteer Services Act of 1977, effective June 28, 1977 (D.C. Law 2-12; D.C. Official Code § 1-319.01), and section 4000 of these regulations, it is the policy of the District government to utilize volunteer citizens in as many governmental programs as is practicable to serve the interest of the community.

Section 821.3 is amended to read as follows:

- 821.3 An employee serving in a position in a program established under section 821.1 of this section or section 904 (b) of the CMPA (D.C. Official Code § 1-609.04 (b)), may be converted to a Career Appointment (Probational) based upon competition limited to participants in the respective program.

Section 830.1 (h) is amended to read as follows:

- 830.1 (h) Consideration of a candidate not given proper consideration in a competitive promotion action; or promotion of an employee who was denied promotion as a result of other error, on order of the D.C. Department of Human Resources or independent personnel authority;

Sections 849.2, 849.4 (b), 849.5, 849.8 through 849.15, 849.17 through 849.21, and 849.23 are amended to read as follows:

- 849.2 Not later than December 15 of each year, or as specified in sections 849.18 and 849.19 of this section, each attorney as described in section 849.1 of this section shall file with the D.C. Department of Human Resources (DCHR) a certificate of good standing from the Committee on Admissions, D.C. Court of Appeals.
- 849.4 (b) Submitting a list of agency attorneys subject to the filing requirement to the Director of the DCHR every year, not later than the December 15 deadline.
- 849.5 Notwithstanding the procedures in section 849.2 of this section, each subordinate agency or independent personnel authority may elect to submit every year to the Committee on Admissions, D.C. Court of Appeals, a consolidated listing requesting certificates of good standing (certificates) for each agency attorney subject to the filing requirement, and file the original individual certificates with the DCHR on behalf of each attorney.
- 849.8 Nothing in this section shall prevent an attorney subject to the filing requirement from individually applying for the certificate of good standing (certificate) from the Committee on Admissions, D.C. Court of Appeals, and filing the certificate directly with the DCHR by December 15 of each year.

- 849.9 Each subordinate agency head or independent personnel authority that elects to submit a consolidated listing to the Committee on Admissions, D.C. Court of Appeals (Court) pursuant to section 849.5 of this section shall provide every year to the Director of the DCHR:
- (a) Each original individual certificate of good standing received;
 - (b) The name of each attorney who is not in good standing and any documentation from the Court to that effect; and
 - (c) A copy of the consolidated listing submitted to the Court.
- 849.10 Upon receipt of the original individual certificate of good standing (certificate) from each attorney, or subordinate agency or independent personnel authority on his or her behalf, the Director of the DCHR (or designee) shall:
- (a) File the original individual certificates in a place designated for that purpose; and
 - (b) In the case of an attorney who is not in compliance with the filing requirement, forward the name to the appropriate agency head.
- 849.11 Notwithstanding any other provision in this section, the Director of the DCHR may establish internal procedures to identify every year each attorney as described in section 849.1 of this section who is subject to the filing requirement and subsequently identify any attorney who did not comply with the filing requirement.
- 849.12 Failure of any attorney as described in section 849.1 of this section, either individually, or through his or her employing subordinate agency or independent personnel authority, to file the certificate of good standing with the DCHR by December 15 of each year, or as specified in section 849.18 or 849.19 of this section, shall result in forfeiture of employment.
- 849.13 Upon written request from an attorney subject to the filing requirement, the Director of the DCHR or independent personnel authority may grant a temporary waiver of the filing requirement to the attorney if compliance with the filing requirement by December 15 is inordinately difficult due to circumstances beyond his or her control or other good cause.
- 849.14 Any request for a temporary waiver of the filing requirement shall be submitted by the attorney to the Director of the DCHR or independent personnel authority not later than December 1.
- 849.15 The Director of the DCHR or independent personnel authority shall grant a temporary waiver of the filing requirement to an attorney who has exercised due diligence in applying to be waived in to the D.C. Bar from another jurisdiction but does not anticipate being waived in by December 15.

- 849.17 The Director of the DCHR or independent personnel authority shall promptly determine whether to grant the request for a temporary waiver of the filing requirement and notify the attorney in writing. A notification granting the request shall inform the attorney of the deadline to file prescribed in section 849.18 of this section. A notification denying the request shall inform the attorney of the following:
- (a) The reason or reasons for the denial of the request;
 - (b) That he or she has thirty (30) days from the receipt of the notification denying the request to attempt to file the certificate of good standing (certificate) with the DCHR;
 - (c) That he or she shall be terminated at the end of the prescribed thirty-day (30-day) period if unable to file the certificate with the DCHR within the prescribed period; and
 - (d) The effective date of termination in the event that he or she is unable to file the certificate with the DCHR within the prescribed period.
- 849.18 An attorney granted a temporary waiver of the filing requirement (waiver) shall file a certificate of good standing (certificate) with the Director of the DCHR within thirty (30) days of being admitted to the D.C. Bar. A certificate filed pursuant to this subsection shall not be dated earlier than the date of the written request for the waiver submitted by the employee.
- 849.19 When a personnel action placing an employee in an attorney position subject to the filing requirement, such as in the case of a promotion to a grade DS-13 or equivalent, becomes effective on or after the December 15 deadline, the attorney shall file a certificate of good standing (certificate) with the DCHR within thirty (30) days of the effective date of such personnel action. A certificate filed pursuant to this subsection shall not be dated earlier than the effective date of the personnel action that placed the employee in the attorney position subject to the filing requirement.
- 849.20 Upon establishing the effective date of a personnel action as described in section 849.19 of this section and processing the action, the Director of the DCHR or independent personnel authority shall promptly inform the affected employee, in writing, of the deadline to file prescribed in section 849.19 of this section.
- 849.21 Each subordinate agency or independent personnel authority shall provide a written notice of the intent to terminate employment to any covered attorney who is not in compliance with the filing requirement. The notice shall inform the attorney:
- (a) That he or she has thirty (30) days from the receipt of the notice to attempt to file the certificate of good standing (certificate) with the DCHR;
 - (b) That he or she shall be terminated at the end of the prescribed thirty-day (30-day) period if unable to file the certificate with the DCHR within the prescribed period; and

- (c) The effective date of termination in the event that he or she is unable to file the certificate with the DCHR within the prescribed period.

849.23 Not later than March 1 of each year after the December 15 filing deadline for the preceding year, the Director of the DCHR shall publish in the *D.C. Register* the list of attorneys who have not met the filing requirement.

Section 870.1 is amended to add the definition of the term “probationary:”

Probationary – an entry-level Firefighter/Emergency Medical Technician (EMT) and entry-level Firefighter/ Paramedic shall be required to serve a probationary period of eighteen (18) months, during which time he or she shall be terminated whenever performance or conduct fail to demonstrate the individual’s fitness or qualifications for continued employment.

Sections 870.2, 870.7, 870.8, 870.13 through 870.16, 870.25, 870.35, 870.39, 870.44 through 870.49, 870.51 through 870.53, and 870.57 are amended to read as follows:

- 870.2 Appropriate staff within the personnel authority will establish a Register of eligible candidates for the positions of Firefighter/EMT and Firefighter/Paramedic. Each Register will include the numerical rank, name, and social security number of all eligible candidates.
- 870.7 The Certificate will include a sufficient number of candidates to fill available vacancies, and the numerical rank, name, and social security number of qualified candidates on the Register. In the case of a Register established by written examination, the candidates will be listed on the Register in order of their position on the written examination.
- 870.8 Appropriate staff within the personnel authority will transmit the Certificate and D.C. 2000 Employment Applications to the Agency Recruiting Officer (ARO) within the FEMSD. The ARO will review the D.C. 2000 Employment Applications and indicate the final status of each candidate in the “Disposition” column of the Certificate, using the following codification system:
- 870.13 As needed because of unusual circumstances, the personnel authority may authorize telephone contacts of candidates to arrange expedited scheduling of medical examinations or other processing steps.
- 870.14 Candidates who do not respond to the letter within ten (10) workdays of the date of the letter will be sent a second (2nd) letter and enclosures, by certified mail. Candidates who do not respond to the certified letter within ten (10) workdays of the mailing date will be coded “A” or “B,” as appropriate, in the “Disposition” column on the Certificate (see also sections 870.8(a) and (b) of this section). The names of these individuals will be placed at the bottom of the Register in position order following the name of the last candidate. The personnel authority will determine whether to consider such candidates, as specified in section 870.45 of this section.

- 870.15 The names of candidates who have indicated that they wish to be considered at a later date shall be coded "C" in the "Disposition" column of the Certificate, and the specific date placed to the right of the code. These candidates may be processed on the date requested in order of their position on the register if the register has not been terminated by the personnel authority prior to this date.
- 870.16 The names of candidates who have declined consideration for the position will be coded "D" in the "Disposition" column of the Certificate. Their names shall be placed at the bottom of the Register in position order following the name of the last candidate. The personnel authority may approve their consideration at a later date (see also section 870.8 (d) of this section).
- 870.25 Decisions of the Board will be effected by majority vote. In making its determination as to the suitability of a candidate for further consideration, the Board may use as reference material the guidelines found within the District Personnel Manual (DPM) (or any other procedural manual developed) and any other procedures issued by the Director, D.C. Department of Human Resources (DCHR).
- 870.35 The names of candidates who have a suspended or revoked drivers license, or charges pending to that effect will be coded "N" on the Certificate by the ARO. (See section 870.8 (n) of this section). Depending upon the nature and seriousness of the charge, candidates who have criminal charges pending may be coded "N" on the Certificate by the ARO. The ARO will inform the candidates in writing of their temporary suspension from further processing, and will advise such candidates to notify the ARO when these impediments have been removed, as well as provide the ARO with appropriate evidence of such removal. Candidates will also be advised that they may be processed at the time of such notification if the Register has not been terminated prior to that date. These candidates would then be processed in order of their original position number on the Register.
- 870.39 Upon completion, termination, or suspension from further processing, the ARO will transmit each candidate's file to appropriate staff person.
- 870.44 The Fire Chief may require candidates to complete an updated medical examination or background investigation if more than one hundred and twenty (120) days have elapsed between the date either the medical examination or background investigation were completed and the date of appointment.
- 870.45 Appropriate staff within the personnel authority will contact selectees in writing to tender offers of appointment. Every effort will be made to ensure that appointments are tendered in the order of original position on the Register, with the exception of variances caused by the occurrence of disposition categories "A," "B," "C," "D," "J," "K," and "N" (candidates placed within disposition categories "E," "F," "G," "H," "I," and "M" would not be tendered an offer of appointment), and subject to processing delays not within the control of the FEMSD. The selectees will be informed of all of the following:
- (a) That the selection is tentative pending completion of the background investigation, if applicable;

- (b) The components of the background investigation that have not been completed, if applicable;
 - (c) That a report resulting in a determination of unsuitability will result in termination of employment;
 - (d) Where and when to report for appointment; and
 - (e) The procedures for declining or deferring the appointment.
- 870.46 Delays in processing caused by a candidate's action or inaction may result in the candidate being offered an appointment after other candidates who were initially placed in a lower position on the Certificate. Appropriate staff within the personnel authority will be responsible for documenting the reasons for all such offers of appointment, and for providing the Director of the DCHR, with such documentation upon request.
- 870.47 Appropriate staff within the personnel authority will prepare all candidate appointment forms for those candidates who have accepted offers of appointment and will secure the necessary signatures as specified on the forms. A code of "L" will be placed in the disposition column of the Certificate by the names of candidates who have been appointed.
- 870.48 A code of "J" will be placed in the disposition column of the Certificate by the names of candidates who have declined appointment. Their names will be placed at the bottom of the Register in position order following the name of the last candidate. The personnel authority may approve their consideration at a later date.
- 870.49 A code of "K" will be placed in the disposition column of the Certificate by the names of candidates who have requested deferral of their appointment, with the date indicated in the space to the right. These candidates may be appointed on the date requested in the order of their position on the Register if the Register has not been terminated by the personnel authority prior to this date.
- 870.51 Appropriate staff within the personnel authority will provide the ARO with the names of the candidates who have accepted appointment, declined appointment, or deferred appointment, so that the ARO may make the appropriate notations on the Certificate.
- 870.52 The ARO will return the Certificate to the human resources (HR) staff within the FEMSD before requesting another Certificate.
- 870.53 When each name has been certified and the last Certificate returned to the HR staff within the personnel authority, the following actions may be taken:
- (a) Terminate the Register; or
 - (b) If there is a need for any entry-level Firefighter/EMT or Firefighter/Basic Paramedic to be hired, prior to the time that a new Register will be available, instruct the appropriate staff to arrange for consideration of those candidates who

are still eligible and have been placed at the bottom of the Register in accordance with this section, by the same procedure as was used with the candidates previously considered.

870.57 When each name has been certified and the last Certificate returned to the personnel authority, the appropriate staff shall do either of the following:

- (a) Terminate the register; or
- (b) If there is a need for entry-level firefighters to be hired, prior to the time that a new register will be available, arrange for consideration of those candidates who are still eligible and have been placed at the bottom of the register in accordance with these regulations, by the same procedure as was used with the previously considered candidates, as set forth in this section.

Section 873.1 (c) is amended to read as follows:

873.1 (c) Intrafamily offense – As that term is defined in D.C. Official Code § 16-1001 (5).

Sections 876.3, 876.7, and 876.53 are amended to read as follows:

876.3 The personnel authority shall establish a register of eligible candidates who complete the written examination phase of the selection process for Fire Sergeant, Lieutenant, and Captain positions.

876.7 The register shall be in compliance with any applicable provisions of the Affirmative Action Plan of the Department.

876.53 At any time during the selection process, the Director of Personnel may request the Chief to review the findings of the Promotion Board in regard to the qualifications of a candidate. Such review and any resultant appeal by the candidate shall be conducted in accordance with §§ 876.26 through 876.29 and §§ 876.46 through 876.50.

Section 899 is amended as follows:

899 DEFINITIONS

The definitions of the terms “Career Appointment (Probational)” and “Career Service” are amended to read as follows:

Career Appointment (Probational) – an appointment of an employee to a continuing position in the Career Service subject to satisfactory completion of a probationary period of at least one-year (1-year) probationary period.

Career Service – all positions, including part-time positions, of the District government that are not included in the Educational Service, Excepted Service, Management Supervisory Service, or Executive Service, or otherwise excluded by section 800 of this chapter.

The definitions of the terms “Director of Personnel” and “Office of Personnel” are deleted.

The definitions of the terms “personnel authority;” “probationary period;” “supervisor;” and “Temporary Appointment Pending Establishment of a Register” are amended to read as follows:

Personnel authority – an individual or entity authorized by section 406 of the CMPA (D.C. Official Code § 1-604.06) to implement personnel rules and regulations for employees of an agency or group of agencies of the District of Columbia; or persons delegated such authority by such an individual or entity.

Probationary period – except otherwise specified in this chapter, a one-year (1-year) trial period during which an employee must demonstrate his or her qualification and ability for the position.

Supervisor – at grade levels CS-10 and below, a position that accomplishes work through the direction of other people and meets at least the minimum requirements for coverage in accordance with the U.S. Office of Personnel Management Supervisory Grade Evaluation Guide, or other appropriate classification standards adopted by the D.C. Department of Human Resources. Those directed may be subordinate District service employees, whether full-time, part-time, intermittent, or temporary; non-District service workers; unpaid volunteers; student trainees, or others. Supervisors exercise delegated authorities such as described in Factor 3 – Supervisory and Managerial Authority Exercised, in the Supervisory Grade Evaluation Guide. A first (1st) level supervisor personally directs subordinates without the use of other subordinate supervisors. A “full assistant” shares fully with a higher-level supervisor in all phases of work direction, contractor oversight, and delegated authority over the subordinate staff.

Temporary Appointment Pending Establishment of a Register (TAPER) – a temporary appointment pending establishment of a register when there are insufficient candidates on a register appropriate for filling a position that will last for more than one (1) year and the public interest requires that the vacancy be filled before eligibles can be certified.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FINAL RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in sections 2 and 3 of the District of Columbia Nonresident Tuition Act, approved September 8, 1960 (74 Stat. 854; D.C. Official Code §§ 38-302 and 38-303) (2008 Supp), and section 3(b)(3) of the District of Columbia State Education Office Establishment Act of 2000, October 21 , 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601 *et seq.*)(2008 Supp.), hereby gives notice of final rulemaking amending Section 2008.13 Chapter 20 of Title 5 of the *District of Columbia Municipal Regulations* (DCMR), entitled “Non-Resident Tuition Rates.”

This revision establishes non-resident tuition, which shall be equal in any given school year to the District of Columbia’s Uniform Per Student Funding Formula per pupil allocations for the same school year. The regulation establishes the tuition rate for non resident students enrolling in District of Columbia Public Schools and District of Columbia public charter schools. Accordingly, this regulation establishes the basis for determining 2009-2010 non-resident tuition and years going forward.

The proposed regulation was approved by the State Board of Education and was published for public comment on June 27, 2008 at 55 *D.C. Register* 7125. No public comments were received and the rule being adopted is substantially the same as proposed. As part of the ongoing revision to Title 5, Section 2008.13 of Chapter 20 is being deleted. The final rule will be transferred out of Chapter 20 and adopted in final in a new Format under Chapter A51, entitled “ Non Residents Attending District of Columbia Public Schools and Public Charter Schools.”

A new chapter A51 entitled “Non Residents Attending District of Columbia Public Schools and Public Charter Schools” to read as follows:

**Chapter A51 Non Residents Attending District of Columbia Public Schools
and Public Charter Schools**

A5100 Non-resident tuition rates.

A5100.1 The rates for non-resident students attending a District of Columbia Public School, including a Public Charter School, shall be equal to the District of Columbia’s Uniform Per Student Funding Formula per pupil allocations, including any applicable supplemental allocations, that are applied to operating budget appropriations for District of Columbia Public Schools and Public Charter Schools.

A5100.2 The rates may be pro-rated to reflect the portion of the school year during which the non-resident student will be enrolled.

A5100.3 The rates in this regulation apply to non-resident students enrolled in a regular school program of the District of Columbia Public Schools or a Public Charter

School in the District of Columbia. Some schools may offer services that are not considered part of the regular school program, and participation in such programs may require payment of additional fees.

Section 2008.13 of Chapter 20 of Title 5 DCMR is deleted

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

Z. C. ORDER No. 08-03/8-03-1

(Map Amendment – 11 DCMR)

(Portions of Squares 5228, 5253, 5254, 5262, 5263, 5264, and 5265)

December 22, 2008

The Zoning Commission for the District of Columbia (the "Commission") pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03), and having referred the proposed amendments to the National Capital Planning Commission ("NCPC") for a 30-day period of review pursuant to § 492 of the District Charter, hereby gives notice of the adoption of the following amendments to the Zoning Map of the District of Columbia:

Amend the Zoning Map of the District of Columbia to rezone the following lots from C-1 and R-2 Zone Districts to the C-2-A Zone District.

Square	Lots	Zone District
5228	44	R-2 to C-2-A
5253	23, 811, 813, 814 and 821	C-1 to C-2-A
5254	813	R-2 to C-2-A
5262	14, 802 - 804, 821, 822 and 824	R-2 to C-2-A
5263	5 -10, 39, 41, 809, 817	R-2 to C-2-A
5264	31 - 34, 45- 53 and 807	R-2 to C-2-A
5265	28, 31 - 34, 45, 46, 805 and 806	R-2 to C-2-A

Hereafter, these properties shall be referred to as the "Subject Properties." They are located on the north and south sides of Dix Street, N.E., between 57th and 60th Streets.

The purpose of this rezoning is to adopt a zoning designation for the Subject Properties that is not inconsistent with the District Elements of the Comprehensive Plan for the National Capital: ("Comprehensive Plan"), adopted through the Comprehensive Plan Amendment Act of 2006, effective March 8, 2007 (D.C. Law 16-300).

Setdown Proceeding

Zoning Commission Case No. 08-03 was initiated by a petition filed by Beulah Baptist Church of Deanwood Heights, Inc. ("Beulah"). The District of Columbia Office of Planning ("OP") recommended that the Commission schedule a public hearing to decide the case through reports dated April 29, 2008 and May 12, 2008. The Commission set the case down for a public hearing at its May 12, 2008, public meeting as a rulemaking case.

Z.C. ORDER NO. 08-03/08-03-1
Z.C. CASE NOS. 08-03 & 08-03-1
PAGE 2

OP's May 12, 2008 report also recommended that the Commission rezone additional properties in Squares 5253, 5254, 5262, 5264, and 5265 that were not included in Beulah's petition. The Commission set those additional properties down for a public hearing at the May 12, 2008 public meeting as rulemaking case, assigned the case number Zoning Commission Case No. 08-03-1, and designated OP as the petitioner.

The Commission also indicated that it would schedule the hearings for both cases on the same night.

Public Hearing, Proposed Action, and NCPC Report

The Commission held properly noticed public hearings on October 6, 2008 to consider both cases.

In advance of the hearings, OP submitted reports stating that the map amendments were not inconsistent with the Comprehensive Plan, citing several provisions of the Comprehensive Plan that supported the map amendments, and recommending that the Commission approve the cases. The report OP submitted in support of Case No. 08-03 also stated that the map amendments were consistent with the Deanwood/Great Streets Strategic Development Plan, a small area plan adopted in June 2008, that recommended zoning changes along the Dix Street corridor to support moderate density mixed uses.

OP testified in support of the cases, noting that the C-2-A Zone District is more consistent with the Comprehensive Plan's Future Land Use Map than the Subject Properties' current zoning.

At the conclusion of the public hearings, the Commission took proposed action to approve both cases by a vote of 3-0-2.

Notices of Proposed Rulemaking were published in the *D.C. Register* for a 30-day notice and comment period on October 31, 2008 at 55 *DCR* 11361 (Case No. 08-03) and 55 *DCR* 11362 (Case No. 08-03-1). No comments were received.

By report dated October 31, 2008, NCPC found that the proposed map amendments would not would not adversely impact federal interests, nor be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

Relationship to the Comprehensive Plan

The C-2-A Zone District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside the central core. It allows a mixture of low density development, including office, retail and residential uses, at a maximum lot occupancy of 60%, and with a maximum density of 2.5 FAR for residential uses and 1.5 FAR for other permitted uses. The maximum height permitted in the C-2-A Zone District is 50 feet.

Z.C. ORDER NO. 08-03/08-03-1
Z.C. CASE NOS. 08-03 & 08-03-1
PAGE 3

The Comprehensive Plan's Future Land Use Map calls for the Subject Properties to be a mixed-use area with low density commercial and moderate density residential uses. The range of land uses allowed under the C-2-A Zone District would not be inconsistent with the Future Land Use Map, and it would support a number of other policies in the Comprehensive Plan.

Great Weight to Advisory Neighborhood Commission ("ANC")

The Commission is required under D.C. Official Code § 1-309.10(d) to give great weight to issues and concerns expressed in the affected ANC's written recommendation. The affected ANC, ANC 7C, submitted a letter to the Commission dated May 10, 2008 in support of the application. The Commission concurs in this recommendation and has given the ANC the great to which it is entitled.

Final Action

The Office of the Attorney General reviewed this Order and found it met its standards of legal sufficiency.

Based on the above, the Commission finds that the amendments to the Zoning Map are in the best interests of the District of Columbia, consistent with the intent and purpose of the Zoning Act and Zoning Regulations, and is not inconsistent with the Comprehensive Plan for the National Capital.

On October 6, 2008, upon the motion of Vice Chairman Jeffries, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the application at the close of its public hearing by a vote of 3-0-2 (Gregory N. Jeffries, Peter G. May, and Michael G. Turnbull to approve; Anthony J. Hood and Curtis J. Etherly, Jr., not present, not voting).

On December 22, 2008, upon a motion of Vice Chairman Jeffries, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** the Order at its public meeting by a vote of 3-0-2 (Gregory N. Jeffries and Michael G. Turnbull to approve; Peter May to approve by absentee ballot; Anthony J. Hood, not having participated, not voting; the third Mayoral appointee position vacant, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*.